OREGON BULLETIN

Supplements the 2008 *Oregon Administrative Rules Compilation*

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Published by
BILL BRADBURY
Secretary of State

INFORMATION AND PUBLICATION SCHEDULE

General Information

The Administrative Rules Unit, Archives Division, Secretary of State publishes the *Oregon Administrative Rules Compilation* and the *Oregon Bulletin*. The Oregon Administrative Rules Compilation is an annual publication containing the complete text of the Oregon Administrative Rules at the time of publication. The *Oregon Bulletin* is a monthly publication which updates rule text found in the annual compilation and provides notice of intended rule action, Executive Orders of the Governor, Opinions of the Attorney General, and orders issued by the Director of the Department of Revenue.

Background on Oregon Administrative Rules

ORS 183.310(9) defines "rule" as "any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency." Agencies may adopt, amend, repeal or renumber rules, permanently or temporarily (up to 180 days), using the procedures outlined in the *Oregon Attorney General's Administrative Law Manual*. The Administrative Rules Unit, Archives Division, Secretary of State assists agencies with the notification, filing and publication requirements of the administrative rules process. Every Administrative Rule uses the same numbering sequence of a 3 digit agency chapter number followed by a 3 digit division number and ending with a 4 digit rule number. (000-000-0000)

How to Cite

Citation of the Oregon Administrative Rules is made by chapter and rule number. Example: Oregon Administrative Rules, chapter 164, rule 164-001-0005 (short form: OAR 164-001-0005).

Understanding an Administrative Rule's "History"

State agencies operate in a dynamic environment of ever-changing laws, public concerns and legislative mandates which necessitate ongoing rulemaking. To track the changes to individual rules, and organize the rule filing forms for permanent retention, the Administrative Rules Unit has developed a "history" for each rule which is located at the end of rule text. An Administrative Rule "history" outlines the statutory authority, statutes implemented and dates of each authorized modification to the rule text. Changes are listed in chronological order and identify the agency, filing number, year, filing date and effective date in an abbreviated format. For example: "OSA 4-1993, f. & cert. ef. 11-10-93" documents a rule change made by the Oregon State Archives (OSA). The history notes that this was the 4th filing from the Archives in 1993, it was filed on November 10, 1993 and the rule changes became effective on the same date. The most recent change to each rule is listed at the end of the "history."

Locating the Most Recent Version of an Administrative Rule

The annual, bound *Oregon Administrative Rules Compilation* contains the full text of all permanent rules filed through November 15 of the previous year. Subsequent changes to individual rules are listed in the OAR Revision Cumulative Index which is published monthly in the Oregon Bulletin. Changes to individual Administrative rules are listed in the OAR Revision Cumulative Index by OAR number and include the effective date, the specific rulemaking action and the issue of the *Oregon Bulletin* which contains the full text of the amended rule. The *Oregon Bulletin* publishes the full text of permanent and temporary administrative rules submitted for publication.

Locating Administrative Rules Unit Publications

The *Oregon Administrative Rules Compilation* and the *Oregon Bulletin* are available in electronic and printed formats. Electronic versions are available through the Oregon State Archives Website at http://arcweb.sos.state.or.us. Printed copies of these publications are deposited in Oregon's Public Documents Depository Libraries listed in OAR 543-070-0000 and may be ordered by contacting: Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, OR 97310, (503) 373-0701, Julie.A.Yamaka@state.or.us

2007–2008 Oregon Bulletin Publication Schedule

The Administrative Rule Unit accepts rulemaking notices and filings Monday through Friday 8:00 a.m. to 5:00 p.m at the Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97301. To expedite the rulemaking process agencies are encouraged file a Notice of Proposed Rulemaking Hearing specifying hearing date, time and location, and submit their filings early in the submission period to meet the following publication deadlines.

Submission Deadline — Publishing Date

December 14, 2007	January 1, 2008
January 15, 2008	February 1, 2008
February 15, 2008	March 1, 2008
March 14, 2008	April 1, 2008
April 15, 2008	May 1, 2008
May 15, 2008	June 1, 2008
June 13, 2008	July 1, 2008
July 15, 2008	August 1, 2008
August 15, 2008	September 1, 2008
September 15, 2008	October 1, 2008
October 15, 2008	November 1, 2008
November 14, 2008	December 1, 2008

Reminder for Agency Rules Coordinators

Each agency that engages in rulemaking must appoint a rules coordinator and file an "Appointment of Agency Rules Coordinator" form, ARC 910-2003, with the Administrative Rules Unit, Archives Division, Secretary of State. Agencies which delegate rulemaking authority to an officer or employee within the agency must also file a "Delegation of Rulemaking Authority" form, ARC 915-2005. It is the agency's responsibility to monitor the rulemaking authority of selected employees and to keep the appropriate forms updated. The Administrative Rules Unit does not verify agency signatures as part of the rulemaking process. Forms ARC 910-2003 and ARC 915-2005 are available from the Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97301, or are downloadable from the Oregon State Archives Website.

Publication Authority

The Oregon Bulletin is published pursuant to ORS 183.360(3). Copies of the original Administrative Orders may be obtained from the Secretary of State, Archives Division, 800 Summer Street, Salem, Oregon, 97301; (503) 373-0701. The Archives Division charges for such copies.

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EXECUTIVE ORDER NO. 08 - 03

OREGON SMALL BUSINESS ADVISORY COUNCIL

The State of Oregon is committed to promoting growth and continued development of Oregon's small businesses.

The Governor and the Oregon Economic Development Commission would benefit from the assistance and leadership of a Small Business Advisory Council, which can work through the Oregon Economic & Community Development Department (OECDD) to develop recommendations on how best to promote the growth and economic vitality of Oregon's small business sector.

IT IS HEREBY ORDERED AND DIRECTED:

1. The Oregon Small Business Advisory Council (the Council) is established.

2. The Council shall consist of small business owners and managers representing diverse interests and geographic areas. The members shall represent a balance among the manufacturing, retail, wholesale, financial and other economic sectors, as well as urban, rural and minority- and women-owned businesses.

3. The Council shall consist of eleven persons appointed by the Governor. The Council members shall select a Chair and Vice-Chair. Member terms are three years, and the terms of the initial members shall be staggered. OECDD shall provide staff and support the Council.

4. The Council shall:

a. Consistent with the Governor's policies and objectives, research, identify and recommend changes in State programs, laws, policies and services that could benefit the small business community and facilitate more efficient development of small business throughout Oregon.

b. Meet at least four times per year at various geographic locations around the State, in order to provide Oregon small business owners and representatives with a forum to discuss ideas, barriers and State policies that impact the climate for small business in Oregon.

c. Report to the Governor on an annual basis and serve as a resource to the legislature after consultation with the Governor's Office and OECDD. The report shall identify opportunities to promote the prosperity of Oregon small business, and it shall include a summary of issues and recommendations identified by the small business community around the State. The annual report will be distributed to OECDD, the Oregon Economic Development Commission and other relevant State agencies.

d. The Oregon Small Business Council shall examine and evaluate the impact of existing or proposed state regulations, legislation and administrative processes on small businesses in Oregon and include its key findings in its annual report, while maintaining a working reporting mechanism on issues and progress.

e. Evaluate existing and proposed state-funded technical and financial assistance resources available to small business and provide feedback to OECDD and other state providers.

f. Report issues relating specifically to rural small business to the Governor's Office of Rural Policy.

g. Work on special projects or assignments upon request of the Governor's Office.

5. The Council will help promote the Governor's agenda for small business around the state. The Council shall not lobby independent of the Governor's agenda.

6. The Council and its members are encouraged to participate in conferences, workshops and meetings of other business organizations around the state in order to facilitate communication and coordination of small business perspectives. The Council shall encourage participation from the applicable local Small Business Development Center and other resource providers.

7. Members of the Council may be reimbursed for travel expenses incurred in attending Council business pursuant to state travel regulations (ORS 292.495(2)), OECDD rules and policies and availability of budgeted funds.

8. This order rescinds and supersedes Executive Order 98-14

9. This order expires on January 31, 2010.

Done at Salem, Oregon, this 24th day of January, 2008.

/s/ Theodore R. Kulongoski
Theodore R. Kulongoski
GOVERNOR

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

EXECUTIVE ORDER NO. 08 - 04

DETERMINATION OF STATE OF EMERGENCY IN LAKE AND MARION COUNTIES DUE TO SEVERE WINTER STORM

Pursuant to ORS 401.055, I find that a threat to life, safety and property exists due to severe winter storms and continued snow precipitation with large accumulations that started on or about January 26, 2008, and is forecasted to continue through February 3, 2008. The storms are causing hazardous conditions for homes, businesses, public utilities, public facilities and infrastructure.

IT IS ORDERED AND DIRECTED:

1. The Office of Emergency Management shall activate the State's Emergency Operations Plan and shall coordinate access to and use of personnel and equipment of all state agencies necessary to assess, alleviate, respond to, mitigate or recover from conditions caused by this emergency.

2. All State agencies shall be prepared too provide any assistance that is deemed necessary to assist in the response to this emergency and to provide all necessary support requested by Lake and Marion Counties.

The Governor verbally proclaimed this emergency at 1:12 p.m. on January 31, 2008 and confirmed in writing by this Executive Order on February 1, 2008.

Done at Salem, Oregon, this 1st day of February, 2008.

/s/ Theodore R. Kulongoski
Theodore R. Kulongoski
GOVERNOR

ATTEST

/s/ Bill Bradbury

Bill Bradbury
SECRETARY OF STATE

EXECUTIVE ORDER NO. 08 - 05

GOVERNOR'S TASK FORCE ON CAMPUS SAFETY IN OREGON

Oregon's universities and community colleges are institutions that provide free and open access to instructors, administrators, students and visitors. The open nature of higher education campuses provides the foundation for a rich learning environment. In promoting such freedom and openness, it is incumbent upon the State to take all reasonable precautions to protect the safety and welfare of all persons who visit university and community college campuses.

Campus safety depends on the close cooperation and coordination of faculty, campus administrators, students, law enforcement personnel and mental health officials. It is critical to prevent or address dangerous situations before they result in tragedy. Oregon campuses must have appropriately equipped and trained emergency responders available and prepared. In addition, emergency responders and law enforcement personnel from multiple jurisdictions must have a framework of established procedures for coordination in order to ensure an effective response to any emergency.

Oregon universities and colleges and those who work to ensure their security could benefit from a broad analysis of safety and security on college campuses.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Governor's Task Force on Campus Safety (the "Task Force") is established.

2. The Task Force shall be comprised of no more than 15 members appointed by the Governor.

3. To improve safety, security and coordinated crisis response on Oregon university and community college campuses, the Task Force shall review and identify necessary improvements to:

a. Methods of notification during emergency situations;

b. Training of law enforcement officials and first responders to crisis situations;

c. Communication and collaboration among education, mental health, law enforcement, fire and emergency management agencies;

d. Techniques for identifying students and others who pose a risk to campus safety and procedures for sharing information about such individuals among mental health, education and law enforcement officials to the extent allowed by law and with appropriate privacy safeguards, and

e. Treatment options for students with mental health concerns.

4. The Governor will appoint a chair of the Task Force. The chair shall establish an agenda for the Task Force and provide leadership and direction for the Task Force.

5. A quorum for Task Force meetings shall consist of a majority of the appointed members. The Task Force shall strive to operate by consensus; however, the Task Force may approve measures and make recommendations based on an affirmative vote of a majority of members appointed to the Task Force.

6. The Task Force shall provide a final report to the Governor's Office, the Oregon State Board of Education and the Oregon State Board of Higher Education no later than June 30, 2008.

7. The Office of the Governor shall staff the Task Force with assistance from the Oregon University System and the Oregon Department of Community Colleges and Workforce Development. If the Task Force requires assistance of any other State agency, then such agency shall provide assistance to the Task Force upon request.

8. The members of the Task Force shall receive no compensation for their activities as members of the Task Force, but may be reimbursed for travel expenses incurred in attending Task Force business pursuant to ORS 292.495(2) and subject to availability of funds.

9. This Order expires on June 30, 2008.

Done at Salem, Oregon, this 4th day of February, 2008.

/s/ Theodore R. Kulongoski
Theodore R. Kulongoski
GOVERNOR

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

EXECUTIVE ORDER NO. 08 - 06

AMENDMENT TO EXECUTIVE ORDER NO. 08 - 04

On February 1, 2008, I issued Executive Order 08 - 04 declaring a state of emergency in Lake and Marion Counties due to severe winter storms and continued snow precipitation with large accumulations. I am informed by Oregon Emergency Management (OEM) that the same severe winter storm and continued snow participation is causing hazardous conditions for homes, businesses, public utilities, public facilities and infrastructure in a portion of Linn County in or around Marion Forks.

Based on the information I have received from OEM, I find, in accordance with my authority under ORS 401.055, that the severe winter storm noted in Executive Order 08-04 has created a threat to life, safety and property Linn County.

IT IS ORDERED AND DIRECTED:

1. Executive Order No. 08 - 04 is amended to include Linn County in the list of counties in which a State of Emergency is declared to exist.

2. The State of Emergency declared in this Executive Order and Executive Order No. 08 - 04 shall expire on April 7, 2008, unless otherwise ordered.

Done at Salem, Oregon, this 5th day of February, 2008.

/s/ Theodore R. Kulongoski
Theodore R. Kulongoski
GOVERNOR

ATTEST

/s/ Bill Bradbury
Bill Bradbury
SECRETARY OF STATE

PROPOSED APPROVAL OF REMEDIAL ACTION AT CERTAIN LOTS AT TOWNSEND FARMS AKA TOWNSEND BUSINESS PARK, LOCATED IN FAIRVIEW, OREGON

COMMENTS DUE: March 30, 2008
PROJECT LOCATION: Birtcher Center at Townsend Way, Fairview, Oregon. Formerly Lots 7,8,9,16 and 17 at 23303 NE Sandy Boulevard, Fairview, Oregon.
PROPOSAL: Pursuant to ORS 465.320 the Department of Environmental Quality (DEQ) invites public comment on the proposed No Further Action (NFA) determination for the Birtcher Center at Townsend Way located on the former lots 7, 8, 9, 16 and 17.
HIGHLIGHTS: Birtcher Development and Investments, LLC. (Birtcher) entered into a prospective purchaser agreement (PPA) with DEQ addressing lots 7, 8, 9, 16 and 17 which had been formerly used for agricultural production, including growing and processing berries. This former use involved the application of certain pesticides which remained in soil on the lots. As part of the PPA, Birtcher performed certain activities which included sampling of residual pesticide concentrations in soil prior to construction of commercial buildings, installation of a protective cap, and appropriate management of site soil. The agreed upon activities have now been completed and DEQ has determined that residual concentrations of pesticides in subsurface soil are below levels of concern for direct contact. Based on completion of agreed upon activities and proper documentation of protective residual conditions, DEQ proposes to issue a conditional NFA letter covering the subject property.
HOW TO COMMENT: The project file is available for public review. To schedule an appointment, contact Paul Seidel at 503-667-8414 x 55002. Written comments should be sent to the DEQ contact at the Department of Environmental Quality, Northwest Region, 1550 NW Eastman Parkway, Suite 290, Gresham, OR 97030 by March 30, 2008. A public meeting will be held to receive verbal comments if requested by 10 or more people or by a group with a membership of 10 or more. Please notify DEQ if you need copies of written materials in an alternative format (e.g., Braille, large print, etc.). To make these arrangements, contact DEQ Office of Communication and Outreach at 503-229-5317. Additional information is also available at: http://www.deq.state.or.us/news/publicnotices/PN.asp

RECORD OF DECISION FOR A SEDIMENT REMOVAL ACTION AT THE FORMER GLENBROOK NICKEL FACILITY COOS BAY, OREGON

PROJECT LOCATION: Former Glenbrook Nickel Facility, 63776 Mullen Street, Coos Bay, Oregon
DECISION: The Department of Environmental Quality (DEQ) has issued a Record of Decision for cleaning up contaminated sediments at the former Glenbrook Nickel facility in Coos Bay, Oregon. The remedy will include removing nickel-contaminated sediments at low tide ("in the dry") using land-based excavation equipment. This sediment cleanup is being conducted independently of any proposed future industrial developments at the site. Before such development could occur, there would be separate state and local permitting processes unrelated to DEQ's cleanup decision.
HIGHLIGHTS: Glenbrook Nickel Company, an affiliate of Teck Cominco American Incorporated, used the site for off-loading, storage, and distribution of nickel ore. The ore was dried, crushed, and shipped from the site to the Glenbrook's Nickel smelting facility in Riddle, Oregon. A number of sediment sampling efforts confirmed that nickel was present in sediments in the near-shore environment at concentrations exceeding background. Elevated nickel concentrations are found between the inside face of the dock and the shore, beneath a portion of the dock closest to shore, beneath the dock driveways, and along part of Coal Bank Slough. Excavated areas will be backfilled with material designed to resist erosion and restore the habitat to its pre-existing condition. The excavations will be sequenced such that they can be backfilled prior to tidal inundation.
FOR MORE INFORMATION: Contact Bill Mason via phone at (800) 844-8467 x7427 or via email at mason.bill@deq.state.or.us. To access site summary information and documents in DEQ's Environmental Cleanup Site Information (ECSI) database, please enter 3408 in the "Site ID" box on the following web page: http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp then click the link labeled 3408 in the Site ID/Info column.
THE NEXT STEP: Teck Cominco is preparing detailed design documents for DEQ's review and approval, and they plan to conduct the sediment removal in early June, 2008.

PROPOSED APPROVAL OF CLEANUP AT HOYT STREET RAILYARD — BLOCKS 9, 14 & 19

COMMENTS DUE: March 30, 2008
PROJECT LOCATION: NW 10th & Northrup, Portland, Oregon
PROPOSAL: Pursuant to ORS 465.320 the Department of Environmental Quality (DEQ) invites public comment on the proposed certification of completion of remedial actions for the Hoyt Street Railyard – Blocks 9, 14 and 19.
HIGHLIGHTS: In December 2000, DEQ issued a Remedial Action Record of Decision (ROD) for the Hoyt Street Railyard. Contaminants of concern at the site were petroleum hydrocarbons, polynuclear aromatic hydrocarbons and lead. Between September of 2005 and the fall of 2006, approximately 77,000 cubic yards of soil were removed from the three blocks during the course of remedial action and construction. These soils were disposed of at Hillsboro Landfill and Riverbend Landfill, and at the Tigard Sand and Gravel and the Portland Road and Driveway aggregate fill sites. In October of 2003 an Easement and Equitable Servitude was filed for Blocks 9, 14 and 19 that prohibited groundwater use and required maintenance of site caps. DEQ's review of the work completed at Blocks 9, 14 and 19 demonstrates compliance with the requirements established under the ROD for the site. The DEQ has determined that the site no longer presents a threat to human health or the environment. DEQ is proposing to issue a Certificate of Compliance for the site.
HOW TO COMMENT: The project file is available for public review. To schedule an appointment, contact Dawn Weinberger at 503-229-6729. The DEQ contact for this project is Mike Greenburg, 503-229-5153. Written comments should be sent to the DEQ contact at the Department of Environmental Quality, Northwest Region, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201 by March 30, 2008. A public meeting will be held to receive verbal comments if requested by 10 or more people or by a group with a membership of 10 or more. Please notify DEQ if you need copies of written materials in an alternative format (e.g., Braille, large print, etc.). To make these arrangements, contact DEQ Office of Communication and Outreach at 503-229-5317. Additional information is also available at: http://www.deq.state.or.us/news/publicnotices/

OPPORTUNITY TO COMMENT NO FURTHER ACTION PHASE III-VII COLD SPRINGS SUBDIVISION SISTERS, OREGON

COMMENT DUE: March 31, 2008
PROJECT LOCATION: NE Corner of Mckinney Butte Road and McKinney Ranch Road, Sisters, Oregon
PROPOSAL: The Department of Environmental Quality (DEQ) is providing notice for a public opportunity to review and comment on a draft No Further Action (NFA) finding for Phase III-VII of the Cold Springs Subdivision, which is located in Sisters, Oregon. The draft DEQ staff report details the analysis of residual risk related to investigation and cleanup of contaminated environmental media that was conducted within Phase III-VII of the Cold Springs Subdivision. More information concerning site-specific investigations and/or the proposed NFA is available by contacting Mr. Cliff Walkey, DEQ's project manager for this site.

The Administrative File for this facility is archived at the DEQ's Bend, Oregon office, and can be reviewed in person by contacting

Mr. Cliff Walkey at (541) 388-6146 extension 224 to arrange for an appointment. The DEQ draft staff report recommending the NFA for the Phase III-VII Subdivision at the Village at Cold Springs can be viewed on the Environmental Cleanup Site Inventory (ECSI) at the following internet address: http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.ashx?SourceIdType=11&SourceId=4318&Screen=Load

HOW TO COMMENT: The public comment period will extend from March 1, 2008 through March 31, 2008. Please address all comments and/or inquiries to Mr. Cliff Walkey at the following address:

Cliff Walkey
Department of Environmental Quality
300 SE Reed Market Road
Bend, Oregon 97702-2237
(541) 388-6146, ext. 224
walkey.cliff@deq.state.or.us

Upon written request by ten or more persons or by a group with a membership of 10 or more, a public meeting will be held to receive verbal comments.

THE NEXT STEP: DEQ will consider all public comments received before finalizing the NFA for Phase III-VII of the Cold Springs Subdivision. DEQ will provide written responses to all received public comments.

PROPOSED NO FURTHER ACTION DETERMINATION ODOT — FORMER MID-OREGON OIL SITE, ECSI # 4896, REDMOND, OREGON

COMMENTS DUE: March 31, 2008
PROJECT LOCATION: 2860 North Highway 97, Redmond
PROPOSAL: The Oregon Department of Environmental Quality (DEQ) proposes to issue a No Further Action determination following investigation and cleanup of soil contamination at the former Mid-Oregon Oil site. Public notification is required by ORS 465.320.
HIGHLIGHTS: This site is one of several investigated by the Oregon Department of Transportation (ODOT) as part of the reroute of Highway 97 around downtown Redmond. The six-acre site is located at 2860 North Highway 97. A portion of the site will be occupied by the rerouted highway, which is the reason ODOT purchased the property. ODOT may sell a portion of the property not occupied by the rerouted highway.

A geophysical survey was conducted using a magnetometer over the entire site in May 2007. A total of 75 anomalies were detected, of which 40 were further investigated by excavation with a backhoe. No underground drums or tanks were found. Based on this survey and past studies, five areas of potential concern were identified:

- former bulk plant area
- north tank area
- central tank/drum storage area
- debris area
- southern tank/drum storage area

Contaminated soil was excavated from three of these areas: the former bulk plant area, the north tank area and the central tank/drum storage area. The excavated soil, totaling approximately 1,400 cubic yards, was disposed of at the Crook County Landfill in Prineville, Oregon. Remaining contamination was found to be below levels of concern.

This recommendation was made following completion of a site investigation conducted under Oregon Administrative Rules (OAR) Chapter 340, Division 122, Sections 010 to 115.

HOW TO COMMENT: Comments and questions, by phone, fax, mail or email, should be directed to:

Bob Schwarz, Project Manager
Phone: 541-298-7255, ext. 30
Fax: 541-298-7330
Email: Schwarz.bob@deq.state.or.us

To schedule an appointment or to obtain a copy of the staff report, please contact Mr. Schwarz as well. Written comments should be sent by Monday, March 31, 2008.

THE NEXT STEP: DEQ will consider all comments received. A final decision concerning the proposed No Further Action determination will be made after consideration of public comments.

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION DECISION EUGENE LINEN SUPPLY, 1850 WEST 6TH AVENUE, EUGENE, OREGON

COMMENTS DUE: April 1, 2008
PROJECT LOCATION: 1850 West 6th Avenue, Eugene, Oregon
PROPOSAL: The property is located at 1850 West 6th Avenue in Eugene, Oregon, Lane County, and is currently used as a warehouse facility and parking lot. The DEQ is recommending no further cleanup action will be required at the Eugene Linen Supply site under OAR 340-122-0205 through 340-122-0360 and pursuant to Risk-Based Cleanups in accordance with OAR 340-122-0244 and 340-122-0250. In addition, the DEQ has determined that no further action is required to address environmental contamination under the Oregon Environmental Cleanup Law, ORS 465.200 et seq. The DEQ has determined that no further action is required because the site no longer poses a risk to human health and the environment as defined in ORS 465.315. The site will remain on the Confirmed Release List and the Inventory of Hazardous Substance Sites.
HIGHLIGHTS: The subject property was formerly utilized as a fuel service station, car wash, as well as a dry cleaning and laundering facility. Six tanks used to store gasoline, diesel, and Stoddard solvents were located at the property until their removal in 1987. At that time, a release from the Stoddard solvent USTs was reported to the DEQ. Based on recorded information, a consultant excavated visually contaminated soil from the Stoddard solvent UST cavity. The contaminated soil was apparently disposed of at a landfill.

In 2007, Adapt Engineering conducted additional site assessment activities and proposed closure of the USTC and Cleanup projects. Sampling completed in March and November 2007 showed that soil and groundwater do not contain petroleum or solvent-related contaminants at concentrations above DEQ's risk-based standards. The DEQ recommends that no further action be required.
HOW TO COMMENT: The project files may be reviewed by appointment at DEQ's Eugene office, 1102 Lincoln Street, Suite 210. Written comments must be received by April 1, 2008. Comments should be submitted to DEQ's Eugene office, located at 1102 Lincoln St., Suite 210, Eugene, OR 97401 or by e-mail at rodda.cathy@deq.state.or.us. Questions may also be directed to Cathy Rodda at the Eugene office or by calling her at 1-800-844-8467 ext. 7325. The TTY number for hearing-impaired callers is 541-687-5603.
THE NEXT STEP: The DEQ will consider all public comments received by the date and time stated above before making a final decision regarding the "Conditional No Further Action" determination. A public notice of the final decision will be documented in this publication.

CHANCE TO COMMENT ON… PROPOSED CONDITIONAL NO FURTHER ACTION DECISION, FORMER FRONTIER LEATHER SITE

COMMENTS DUE: April 3, 2008
PROJECT LOCATION: The site is located at 15104 SW Oregon Street (formerly1210 NE Oregon Street), Sherwood, Oregon.
Proposal: Pursuant to Oregon Revised Statute, ORS 465.320, and Oregon Administrative Rules, OAR 340-122-100, the Department of Environmental Quality (DEQ) invites public comment on its proposal to approve a remedial action and issue a "No Further Action" (NFA) determination for Tax lot (TL) 1100 of the former Frontier Leather Site. DEQ previously issued NFA determinations for TL 500, TL 900 and TL 1000, which comprise the remainder of the Frontier Leather site. Because an institutional and engineering control will be implemented the site will not be removed from the Confirmed Release and Inventory Lists.

HIGHLIGHTS: The Frontier Leather Company operated a leather tannery on the site between 1947 and 1998. They produced finished leather from animal hides using a tanning solution with 5% trivalent chromium oxide. The process generated large volumes of wastewater that was treated on-site in a primary and secondary clarifier. The tannery building and associated primary water treatment area is located on TL 1100, which covers 2.76 acres.

On January 31, 2002, DEQ entered into a Prospective Purchaser Agreement (PPA) with Pacific III LLC (Pacific) for investigation and cleanup of TLs 400 (now TL 900, 1000 and 1100) and 500 that contained the main operational areas of the Frontier Leather Site.

Cleanup has been on-going at the site since issuance of the PPA. Investigative and cleanup actions specific to TL 1100 include demolition of buildings, removal of an underground storage tank (UST) that contained waste oil and soil contamination in proximity of the tank as a result of a release, removal of wastewater sumps associated with the tannery operations, and characterization of soil in suspected contaminant source areas and removal as needed. A total of approximately 1500 tons of demolition debris and soil was disposed off-site in a DEQ-approved landfill.

During the cleanup DEQ approved disposal of approximately 500 cubic yards of soil in the bottom of the treatment pits and a UST excavation that contained levels of arsenic above estimated regional background concentrations of 7 to 10 parts per million. This material was capped with 3 feet of clean fill as a cap.

A risk assessment was conducted following completion of the interim cleanup measures. Remaining soil and groundwater contamination does not appear to present a significant threat to occupational or construction/excavation workers. In the absence of any engineering or institutional controls, levels of arsenic entombed in the treatment pit and UST excavation could present an unacceptable risk if brought to the surface during future development. Contaminated soil that does not present a risk to human health is present across the site.

To ensure that the site remains protective of human health and the environment, DEQ will require an institutional control preventing disturbance of the arsenic-impacted soil unless approved by DEQ. To address other residual contaminated soil DEQ will require future development to comply with a DEQ-approved Solid Waste Management Plan that will specify characterization requirements and identify appropriate disposal alternatives. These controls will be documented in an Equitable Easement and Servitude (EE&S) to be issued by DEQ and recorded with the deed by the County.

HOW TO COMMENT: You can review the administrative record for the proposed No Further Action at DEQ's Northwest Region located at 2020 SW Fourth Avenue, Suite 400, Portland, Oregon. For an appointment to review the files call DEQ File Clerk, Dawn Weinberger at (503)229-6729 or toll free at (800)452-4011; or TTY at (503)229-5471. Please send written comments to Mark Pugh, Project Manager, DEQ Northwest Region, 2020 SW Fourth Avenue, Suite 400, Portland, Oregon 97201 or via email at: pugh.mark@deq.state.or.us. DEQ must receive written comments by 5:00 p.m. on April 3, 2008.

DEQ will hold a public meeting to receive verbal comments if 10 or more persons, or a group with membership of 10 or more requests such a meeting. Interest in holding a public meeting must be submitted in writing to DEQ. If a public meeting is held, a separate public notice announcing the date, time, and location of any public meeting would be published.

DEQ is committed to accommodating people with disabilities at our hearings. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications and Outreach at (503) 229-5696 or toll free in Oregon at (800) 452-4011. People with hearing impairments may call DEQ's TTY number, (503)229-5471.

THE NEXT STEP: DEQ will consider all public comments received by the November 30, 2007 deadline. A final decision will be made after consideration of public comment.

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION DECISION ALBERTSONS, 3075 HILYARD STREET, EUGENE, OREGON

COMMENTS DUE: April 1, 2008

PROJECT LOCATION: 3075 Hilyard Street, Eugene, Oregon

PROPOSAL: The property is located at 3075 Hilyard Street (formerly 3091 Hilyard Street) in Eugene, Oregon, Lane County, and is currently used as a grocery store and parking lot. The DEQ is recommending no further cleanup action will be required at the Albertson's site under OAR 340-122-0205 through 340-122-0360 and pursuant to Risk-Based Cleanups in accordance with OAR 340-122-0244 and 340-122-0250. In addition, the DEQ has determined that no further action is required to address environmental contamination under the Oregon Environmental Cleanup Law, ORS 465.200 et seq. The DEQ has determined that no further action is required because the site no longer poses a risk to human health and the environment as defined in ORS 465.315. The site will remain on the Confirmed Release List and the Inventory of Hazardous Substance Sites.

HIGHLIGHTS: The property was utilized as an auto repair and fuel service station named Sunny Oil from the 1960's to the 1980's. In 1988, a site assessment was conducted that identified a petroleum release from the underground storage tank (UST) system. The USTs were removed following the assessment. In 1989, petroleum-contaminated soil was discovered during the installation of a storm sewer pipe at the southern portion of the property. Contaminants were measured in soil and groundwater at concentrations exceeding DEQ's risk-based standards. During these activities in the 1980's, approximately 1,120 cubic yards of impacted soil were removed from the property.

Additional assessment was conducted at the property in February 2007. Sampling showed that soil and groundwater do not contain petroleum or solvent-related contaminants at concentrations above DEQ's risk-based standards. The DEQ recommends that no further action be required.

HOW TO COMMENT: The project files may be reviewed by appointment at DEQ's Eugene office, 1102 Lincoln Street, Suite 210. Written comments must be received by April 1, 2008. Comments should be submitted to DEQ's Eugene office, located at 1102 Lincoln St., Suite 210, Eugene, OR 97401 or by e-mail at rodda.cathy@deq.state.or.us. Questions may also be directed to Cathy Rodda at the Eugene office or by calling her at 1-800-844-8467 ext. 7325. The TTY number for hearing-impaired callers is 541-687-5603.

THE NEXT STEP: The DEQ will consider all public comments received by the date and time stated above before making a final decision regarding the "Conditional No Further Action" determination. A public notice of the final decision will be documented in this publication.

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

The following agencies provide Notice of Proposed Rulemaking to offer interested parties reasonable opportunity to submit data or views on proposed rulemaking activity. To expedite the rulemaking process, many agencies have set the time and place for a hearing in the notice. Copies of rulemaking materials may be obtained from the Rules Coordinator at the address and telephone number indicated.

Public comment may be submitted in writing directly to an agency or presented orally or in writing at the rulemaking hearing. Written comment must be submitted to an agency by 5:00 p.m. on the Last Day for Comment listed, unless a different time of day is specified. Written and oral comments may be submitted at the appropriate time during a rulemaking hearing as outlined in OAR 137-001-0030.

Agencies providing notice request public comment on whether other options should be considered for achieving a proposed administrative rule's substantive goals while reducing negative economic impact of the rule on business.

In Notices of Proposed Rulemaking where no hearing has been set, a hearing may be requested by 10 or more people or by an association with 10 or more members. Agencies must receive requests for a public rulemaking hearing in writing within 21 days following notice publication in the *Oregon Bulletin* or 28 days from the date notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received by an agency, notice of the date and time of the rulemaking hearing must be published in the *Oregon Bulletin* at least 14 days before the hearing.

**Auxiliary aids for persons with disabilities are available upon advance request.* Contact the agency Rules Coordinator listed in the notice information.

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Appraiser Certification and Licensure Board
Chapter 161

Rule Caption: Proposed adoption of 2008 Edition of USPAP, update registration and licensing requirements, and general housekeeping.

Date:	Time:	Location:
4-30-08	9 a.m.	3000 Market St. NE, Suite 541 Salem, OR

Hearing Officer: Craig Zell
Stat. Auth.: ORS 183.355(1)(a), 674.305(7) & 674.310(2)
Other Auth.: Title XI of the Federal Financial Reform, Recovery and Enforcement Act of 1989 (12 USC 3310 et seq.)
Stats. Implemented: ORS 674.305(7) & 674.310(2)
Proposed Amendments: 161-002-0000, 161-003-0020, 161-006-0175, 161-010-0010, 161-010-0035, 161-010-0045, 161-010-0055, 161-010-0080, 161-020-0110, 161-025-0025, 161-025-0030, 161-025-0060, 161-050-0000
Last Date for Comment: 4-30-08, Close of hearing
Summary: The Board proposes amendments to Oregon Administrative Rules Ch. 161, division 2, regarding definitions; division 3 regarding fees; division 6 regarding enforcement guidelines; division 10 regarding licensure and certification requirements; division 20 regarding education requirements; division 25 regarding scope of practice, Appraisal Standards and USPAP; and division 50 regarding temporary non-resident registration.
Rules Coordinator: Karen Turnbow
Address: Appraiser Certification and Licensure Board, 3000 Market St. NE, Suite 541, Salem, OR 97301
Telephone: (503) 485-2555

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Board of Examiners for Speech-Language Pathology and Audiology
Chapter 335

Rule Caption: Person requesting a hearing must respond in writing; defines requirements for reconsideration/rehearing of cases.

Date:	Time:	Location:
4-4-08	10–10:15 a.m.	Conference Rm. 1C 800 NE Oregon St. Portland, OR 97232

Hearing Officer: Nancy Dunn
Stat. Auth.: ORS 681
Stats. Implemented: ORS 681
Proposed Adoptions: 335-001-0008
Proposed Amendments: 335-001-0005, 335-001-0011
Last Date for Comment: 4-3-08, 12 p.m.
Summary: New rule requires that a person requesting an administrative hearing to respond in writing stating claims and defenses. Amended rules define the requirements for reconsideration and rehearing of contested cases and adopts specific Attorney General's Model Rules in Oregon Administrative Rules Chapter 137.
Rules Coordinator: Brenda Carley
Address: Board of Examiners for Speech-Language Pathology and Audiology, 800 NE Oregon St. - Suite 407, Portland, OR 97232-2162
Telephone: (971) 673-0220

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Rule Caption: Defines sexual harassment, requirements for reporting a change of address, clarifies reference in 070-0040.

Date:	Time:	Location:
4-4-08	10–10:15 a.m.	Conference Rm. 1C 800 NE Oregon St. Portland, OR 97232

Hearing Officer: Nancy Dunn
Stat. Auth.: ORS 681
Stats. Implemented: ORS 681
Proposed Amendments: 335-005-0010, 335-005-0020, 335-070-0040
Last Date for Comment: 4-3-08, 12 p.m.
Summary: Proposed rules add new definition of sexual harassment. Division 5 rule revision adds a requirement for licensees to report changes of mailing address within 30 days. Division 70 rule revision clarifies reference from "above" to the actual rule number being referenced.
Rules Coordinator: Brenda Carley
Address: Board of Examiners for Speech-Language Pathology and Audiology, 800 NE Oregon St. - Suite 407, Portland, OR 97232-2162
Telephone: (971) 673-0220

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Rule Caption: Revises many rules governing speech-language pathology assistants and increases Permit fee.

Date:	Time:	Location:
4-4-08	10–10:15 a.m.	Conference Rm. 1C 800 NE Oregon St. Portland, OR 97232

Hearing Officer: Nancy Dunn
Stat. Auth.: ORS 681
Stats. Implemented: ORS 681
Proposed Amendments: 335-060-0010, 335-095-0010, 335-095-0030, 335-095-0040, 335-095-0050, 335-095-0055, 335-095-0060, 335-095-0065
Last Date for Comment: 4-3-08, 12 p.m.
Summary: Amends most rules in Division 95, Speech-Language Pathology Assistants. Distinguishes qualifications for being a supervisor of speech assistants from the requirements for supervising licensed assistants. Clarifies what is required for direct and indirect supervision and the documentation of. Revises scope of duties for the speech assistant.

Sets the expiration for annual permits for July 31 of each school year. Raises the annual fee from $60 to $80.
Rules Coordinator: Brenda Carley

Address: Board of Examiners for Speech-Language Pathology and Audiology, 800 NE Oregon St. - Suite 407, Portland, OR 97232-2162
Telephone: (971) 673-0220

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Board of Examiners of Licensed Dietitians
Chapter 834

Rule Caption: Makes late renewal fee applicable one month sooner.
Stat. Auth.: ORS 691
Stats. Implemented: ORS 691
Proposed Amendments: 834-010-0030
Last Date for Comment: 3-29-08, Close of Business
Summary: Makes late renewal fee applicable one month sooner.
Rules Coordinator: Doug Van Fleet
Address: 800 NE Oregon St., Suite 407, Portland, OR 97232
Telephone: (503) 758-5904

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Board of Medical Examiners
Chapter 847

Rule Caption: Require documentation of military enlistment and completion of reactivation process prior to practice.
Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.172, 677.265
Proposed Adoptions: 847-008-0018
Proposed Amendments: 847-008-0015, 847-008-0022, 847-008-0023, 847-008-0037
Last Date for Comment: 3-28-08
Summary: Proposed rules create a separate section for the Active — Military/Public Health status and requires documentation of the licensee's enlistment in the military prior to granting this status. Amended rules clarify that the reactivation process must be satisfactorily complete before a licensee can begin active practice in Oregon.
Rules Coordinator: Diana M. Dolstra
Address: Board of Medical Examiners, 1500 SW 1st Ave., Suite #620, Portland, OR 97201
Telephone: (971) 673-2713

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Rule Caption: Change reference from Material Risk Notice to PARQ conference document.
Stat. Auth.: ORS 677.265
Other Auth.: SB 880 (2007)
Stats. Implemented: ORS 677.470–485
Proposed Amendments: 847-015-0030
Last Date for Comment: 3-28-08
Summary: Proposed rule amendment brings the language used in OAR 847-015-0030 in line with changes made to ORS 677.470-485 as a result of SB 880 (2007), changing reference from "Material Risk Notice" to "Procedure, Alternatives, Risks and Questions (PARQ) Conference" document.
Rules Coordinator: Diana M. Dolstra
Address: Board of Medical Examiners, 1500 SW 1st Ave., Suite #620, Portland, OR 97201
Telephone: (971) 673-2713

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Rule Caption: Allow maxillofacial procedures under OAR Chapter 818, Division 026 for medical/dental dual-degree holders.
Stat. Auth.: ORS 677.265, 679.255
Stats. Implemented: ORS 677.060, 677.265, 679.255
Proposed Amendments: 847-017-0010
Last Date for Comment: 3-28-08
Summary: Proposed rule amendment adds the Oregon Society of Oral Maxillofacial Surgeons (OSOMS) to the list of Board recognized accrediting organizations, and adds an allowance for licensees who hold a MD/DO degree as well as a DDS/DMD degree and who are active members of the OSOMS to perform maxillofacial procedures under the administrative rules of the Oregon Board of Dentistry, OAR Chapter 818, Division 026.
Rules Coordinator: Diana M. Dolstra
Address: Board of Medical Examiners, 1500 SW 1st Ave., Suite #620, Portland, OR 97201
Telephone: (971) 673-2713

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Rule Caption: Specify administration of analgesics for acute pain only for EMT-Intermediates.
Stat. Auth.: ORS 682.245
Stats. Implemented: ORS 682.245
Proposed Amendments: 847-035-0030
Last Date for Comment: 3-28-08
Summary: Proposed rule amendment specifies that EMT-Intermediates (EMT-Is) may administer analgesics for acute pain only.
Rules Coordinator: Diana M. Dolstra
Address: Board of Medical Examiners, 1500 SW 1st Ave., Suite #620, Portland, OR 97201
Telephone: (971) 673-2713

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Rule Caption: Amend requirement to take Part III of podiatric national licensing exam.
Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.825, 677.830
Proposed Amendments: 847-080-0018
Last Date for Comment: 3-28-08
Summary: Proposed rules change the requirement regarding the date after which podiatric physician applicants must pass Part III of the National Board of Podiatric Medical Examiners (NBPME) examination to be eligible for licensure, from taking the exam on or after 01/01/1987 to graduation on or after 01/01/2001. The rule amendment also adds two waivers for the requirement to take NBPME Part III: licensure in another state and board certification.
Rules Coordinator: Diana M. Dolstra
Address: Board of Medical Examiners, 1500 SW 1st Ave., Suite #620, Portland, OR 97201
Telephone: (971) 673-2713

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Board of Nursing
Chapter 851

Rule Caption: Nursing Education Rules Revised.

Date:	Time:	Location:
4-10-08	9 a.m.	17983 SW Upper Boones Ferry Rd. Portland, OR 97224

Hearing Officer: James McDonald, Board President
Stat. Auth.: ORS 678.150 & 678.340
Stats. Implemented: ORS 678.150 & 678.340
Proposed Amendments: 851-021-0005, 851-021-0010, 851-021-0015, 851-021-0020, 851-021-0025, 851-021-0040, 851-021-0045, 851-021-0050, 851-021-0055, 851-021-0060, 851-021-0065, 851-021-0070, 851-021-0090, 851-021-0120
Last Date for Comment: 4-8-08, 5 p.m.
Summary: These rules cover the standards for the approval of educational program in nursing preparing candidates for licensure as practical or registered nurses. These amendments are part of a periodic review.
Rules Coordinator: KC Cotton
Address: Board of Nursing, 17938 SW Upper Bones Ferry Rd., Portland, OR 97224
Telephone: (971) 673-0638

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Rule Caption: Standards and Scope of Practice for RNs and LPNs Updated.

Date:	Time:	Location:
4-10-08	9 a.m.	17983 SW Upper Boones Ferry Rd. Portland, OR 97224

Hearing Officer: James McDonald, Board President.
Stat. Auth.: ORS 678.150
Stats. Implemented: ORS 678.010, 678.111, 678.117 & 678.150
Proposed Adoptions: 851-045-0030, 851-045-0040, 851-045-0050, 851-045-0060, 851-045-0070, 851-045-0080, 851-045-0090, 851-045-0100
Proposed Repeals: 851-045-0000, 851-045-0005, 851-045-0010, 851-045-0015, 851-045-0016, 851-045-0020, 851-045-0025
Last Date for Comment: 4-8-08, 5 p.m.
Summary: These rules cover the standards and scope of practice for the Licensed Practical Nurse and registered Nurse. The amendments are part of a periodic review.

PLEASE NOTE: This hearing was originally scheduled for February 14, 2008 and was published in the January 2008 issue of the Oregon Bulletin.
Rules Coordinator: KC Cotton
Address: Board of Nursing, 17938 SW Upper Bones Ferry Rd., Portland, OR 97224
Telephone: (971) 673-0638

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Rule Caption: Advanced Practice Formulary Updated.

Date:	Time:	Location:
4-10-08	9 a.m.	17983 SW Upper Boones Ferry Rd. Portland, OR 97224

Hearing Officer: James McDonald, Board President
Stat. Auth.: ORS 678.385 & 678.390
Stats. Implemented: ORS 678.370, 678.372, 678.375, 678.380, 678.385 & 678.390
Proposed Amendments: 851-056-0012
Last Date for Comment: 4-8-08, 5 p.m.
Summary: The Board is authorized by ORS 678.385 and 678.390 to determine by rule and revise periodically the drugs and medicines to be included in the formulary that may be prescribed by a nurse practitioner or clinical nurse specialist under ORS 678.375, including controlled substances listed in Schedules II, III, III N, IV and V. This amendment adds the March and April 2008 updates to Drug Facts and Comarisons to the formulary, with specific drugs proposed for inclusion or deletion. The Board may also petition to add currently excluded drugs to the Nurse Practitioner Formulary.
Rules Coordinator: KC Cotton
Address: Board of Nursing, 17938 SW Upper Bones Ferry Rd., Portland, OR 97224
Telephone: (971) 673-0638

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Board of Psychologist Examiners
Chapter 858

Rule Caption: Rule corrections and updates; addition of criminal background & pain management check rules.

Date:	Time:	Location:
3-17-08	9 a.m.	3218 Pringle Rd SE #130 First Flr. Conference Rm. Salem, OR 97302-6309

Hearing Officer: Debra Orman McHugh
Stat. Auth.: ORS 675.010–675.150 & 183.425
Stats. Implemented: ORS 675.030, 675.040, 675.045, 675.050, 675.063, 675.065, 675.110, 675.115, 675.130, 183.425
Proposed Adoptions: 858-010-0031
Proposed Amendments: 858-010-0001, 858-010-0005, 858-010-0007, 858-010-0010, 858-010-0015, 858-010-0020, 858-010-0025, 858-010-0030, 858-010-0036, 858-010-0041, 858-010-0050, 858-010-0055, 858-010-0075, 858-020-0015, 858-020-0045, 858-020-0075, 858-030-0005, 858-040-0015, 858-040-0025, 858-040-0035, 858-040-0036, 858-040-0055, 858-040-0065, 858-040-0075, 858-040-0085, 858-040-0095, 858-050-0100, 858-050-0105, 858-050-0110, 858-050-0120, 858-050-0125, 858-050-0140, 858-050-0150
Last Date for Comment: 3-17-08
Summary: Incorporates criminal background checks of applicants and licensees; incorporates new pain management continuing education requirement; changes the oral jurisprudence examination construct for licensure by moving from an oral exam format to a written format; exempts CPQ holders and senior psychologists from ethics coursework requirement; requires five years licensure for National Registry holders; provides Board discretion to delay voting on the examination results of an examinee having a complaint under investigation until the complaint has been resolved; clarifies supervised work experience requirement; adds requirement for temporary permit holders with less than five years of licensure to consult with a Oregon licensed psychologist; deletes language referencing obsolete standards of professional conduct; requires contested case hearings be conducted by administrative law judge rather than hearings officer or member of the Board; removes requirement of home study and study group documentation to be appended to CE form; increases psychologist associate educational requirements; minor housekeeping items.
Rules Coordinator: Debra Orman McHugh
Address: Board of Psychologist Examiners, 3218 Pringle Rd. SE, Suite 130, Salem, OR 97302-6309
Telephone: (503) 378-4154, ext. 21

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Construction Contractors Board
Chapter 812

Rule Caption: Modifying requirements for license application information — corporate officer identifiers.
Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 25.270, 25.785, 25.990, 701.035, 701.056, 701.068, 071.073, 701.088 & 701.122
Proposed Amendments: 812-003-0260
Last Date for Comment: 3-10-08, 5 p.m.
Summary: OAR 812-003-0260 is amended to exempt small-, mid-, large- and mega-cap companies from the requirement that they provide identifiers for their many corporate officers.
Rules Coordinator: Catherine Dixon
Address: Construction Contractors Board, 700 Summer St. NE, Suite 300, Salem, OR 97310
Telephone: (503) 378-4621, ext. 4077

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Department of Agriculture
Chapter 603

Rule Caption: Proposal to raise nursery license fees to cover projected deficit.

Date:	Time:	Location:
3-17-08	10 a.m.	North Willamette Research Center 15210 NE Miley Rd. Aurora, OR 97002

Hearing Officer: Helmouth Rogg
Stat. Auth.: ORS 561 & 571
Stats. Implemented: ORS 561.057, 571.145 & 571.045
Proposed Amendments: 603-054-0016, 603-054-0017, 603-054-0018
Last Date for Comment: 3-24-08
Summary: The proposed amendment to the nursery license fee rule would raise the cost of a nursery license by 12%. These fees have not been adjusted since 2003. The cumulative impact of inflation and the new state employees compensation package will result in a deficit in the nursery program within a year. The proposed fee increase will cover the immediate projected deficit for 2008. Additionally, the proposed amendment would correct an error in the millage rate for greenhouse growers and dealers with annual sales between $500,001 and $2,000,000.
Rules Coordinator: Sue Gooch
Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301
Telephone: (503) 986-4583

Department of Consumer and Business Services,
Division of Finance and Corporate Securities
Chapter 441

Rule Caption: Mortgage lending deceptive practices, including advertising and transactions with borrowers.

Date:	Time:	Location:
3-20-08	9 a.m.	Conf. Rm. 260, Labor & Industries Bldg., 350 Winter St. NE Salem, Oregon

Hearing Officer: Patricia A. Locnikar
Stat. Auth.: ORS 59.900 & 59.945
Stats. Implemented: ORS 59.865, 59.930 & 59.945
Proposed Adoptions: 441-870-0080
Proposed Amendments: 441-860-0010, 441-870-0030
Last Date for Comment: 3-27-08, 5 p.m.
Summary: Existing language in two rules concerning deceptive advertising practices would be moved to a new rule specifically about advertising. Additional deceptive advertising practices would be described in this new rule. Failure to disclose relationships with builders or realtors to borrowers would be a deceptive practice.
Rules Coordinator: Shelley Greiner
Address: Department of Consumer and Business Services, Finance and Corporate Securities, 350 Winter St. NE, Rm. 410, Salem, OR 97301
Telephone: (503) 947-7484

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Department of Consumer and Business Services,
Insurance Division
Chapter 836

Rule Caption: Rulemaking Relating to Health Insurance and Association Groups.

Date:	Time:	Location:
4-3-08	2 p.m.	Conf. Rm. F (Basement) 350 Winter St. NE, Salem, OR

Hearing Officer: Lewis Littlehales
Stat. Auth.: ORS 731.244 & 743.748
Stats. Implemented: ORS 731.296, 743.522, 743.734 & 743.748
Proposed Adoptions: 836-053-0007, 836-053-0081
Proposed Amendments: 836-053-1400
Last Date for Comment: 4-10-08
Summary: This rulemaking implements 2007 legislation that exempts small groups covered by association health plans from small employer health insurance requirements and requires DCBS to monitor association health plan data. This rulemaking also establishes compliance procedures for statutory requirements relating to associations and group health insurance coverage.
Rules Coordinator: Sue Munson
Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Rm. 440, Salem, OR 97301
Telephone: (503) 947-7272

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Rule Caption: Rulemaking Relating to Establishment of a Registration Program for Warrantors of Vehicle Protection Product Warranties.

Date:	Time:	Location:
3-25-08	9 a.m.	Conf. Rm. F (Basment) Labor & Industries Bldg. 350 Winter St. NE Salem, OR

Hearing Officer: Lewis Littlehales
Stat. Auth.: ORS 731.244; Section 1–11, Ch. 685, OL 2007 (Enrolled HB 3386)
Stats. Implemented: Section 1–11, Ch. 685, OL 2007 (Enrolled HB 3386)
Proposed Adoptions: 836-200-0105, 836-200-0110, 836-200-0120, 836-200-0130, 836-200-0140
Last Date for Comment: 4-1-08
Summary: This rulemaking implements HB 3386 (2007 Regular Session), which establishes a warrantor registration program for vehicle protection product warranties.
Rules Coordinator: Sue Munson
Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Rm. 440, Salem, OR 97301
Telephone: (503) 947-7272

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Rule Caption: Discount Medical Plan Organizations, Implementation of Licensing Program.

Date:	Time:	Location:
3-25-08	2 p.m.	Conf. Rm. F (Basment) 350 Winter St. NE Salem, OR

Stat. Auth.: ORS 731.244 & Sec. 5, Ch. 272, OL 2007 (Enrolled HB 2221)
Stats. Implemented: Ch. 272, OL 2007
Proposed Adoptions: 836-200-0200, 836-200-0210, 836-200-0215, 836-200-0220
Last Date for Comment: 4-4-08
Summary: This proposed rulemaking implements the licensing program established for discount medical plan organizations by legislation enacted in 2007. (Ch. 272, OL 2007 (Enrolled HB 2221)).
Rules Coordinator: Sue Munson
Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Rm. 440, Salem, OR 97301
Telephone: (503) 947-7272

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Rule Caption: Workers' Compensation Insurance; Unit Statistical Plan; Policy Cancellation.
Stat. Auth.: ORS 656.427, 656.730, 731.244 & 737.225
Stats. Implemented: ORS 656.427, 656.730, 731.225 & 737.265
Proposed Amendments: 836-042-0045, 836-043-0068
Last Date for Comment: 3-24-08
Summary: This rulemaking proposes to amend the Insurance Division rule adopting the Unit Statistical Plan by reference, in order to incorporate NCCI changes relating to fraudulent claims reporting, access to data and compensation for medical services, and to amend the Division rule relating to notification by a servicing carrier of cancellation of a workers' compensation insurance policy issued under the Workers' Compensation Insurance Plan, to decrease the notice period in accordance with 2007 legislation.
Rules Coordinator: Sue Munson
Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Rm. 440, Salem, OR 97301
Telephone: (503) 947-7272

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Department of Consumer and Business Services,
Oregon Medical Insurance Pool Board
Chapter 443

Rule Caption: Establish a policy for OMIP to adjust assessments of insurers retroactively to account for changes in their annual counts of covered lives.
Stat. Auth.: ORS 735.610(6)
Stats. Implemented: ORS 735.610
Proposed Amendments: 443-002-0030
Last Date for Comment: 3-17-08
Summary: Amend rule 443-002-0030 by adding a subsection to retroactively allow OMIP to adjust assessments retroactively up to three years based on corrections to annual counts of covered lives that companies report to OMIP.
Rules Coordinator: Linnea Saris
Address: Department of Consumer and Business Services, Oregon Medical Insurance Pool, 250 Church St. SE, Suite 200, Salem, OR 97302
Telephone: (503) 378-5672

Department of Corrections
Chapter 291

Rule Caption: Suicide Prevention of Inmates in Correctional Facilities.
Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Proposed Adoptions: 291-076-0040
Proposed Amendments: 291-076-0010 – 291-076-0030
Last Date for Comment: 3-31-08
Summary: These rule modifications are necessary to update department policy and processes to more effectively manage the inmate population with mental health issues. These modifications provide greater response to and assessment of incidents when an inmate has exhibited behavior indicative of suicide warning signs or has attempted suicide.
Rules Coordinator: Janet R. Worley
Address: Department of Corrections, 2575 Center St. NE, Salem, OR 97301-4667
Telephone: (503) 945-0933

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Department of Environmental Quality
Chapter 340

Rule Caption: Proposal to Increase Oregon's Title V Operating Permit Fees.

Date:	Time:	Location:
3-27-08	6 p.m.	DEQ, Flr 10, Rm. EQC A 811 SW 6th Ave Portland, OR

Hearing Officer: Gregg Dahmen
Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040, 468A.310 & 468A.315
Stats. Implemented: ORS 468A.315
Proposed Amendments: 340-200-0020, 340-218-0050, 340-220-0010, 340-220-0020, 340-220-0030, 340-220-0040, 340-220-0050, 340-220-0060, 340-220-0070, 340-220-0090, 340-220-0100, 340-220-0110, 340-220-0120, 340-220-0150, 340-220-0170
Last Date for Comment: 3-31-08, 5 p.m.
Summary: This rulemaking aligns Oregon's Title V Operating Permit fees in rule with the amounts authorized in Oregon statute (ORS 468A.315) for 2007 and 2008. This includes the fees set by Senate Bill 107 (passed by the 2007 Oregon Legislature), the change in the 2006 consumer price index (CPI) (for 2007 fees), and the change in the 2007 CPI (for 2008 fees). Revenue from the proposed fees will fund the Title V program in the 2007-2009 biennium (July 1, 2007 to June 30, 2009). This rulemaking also implements a correction to the formula that DEQ uses to calculate the change in the CPI and changes the regulated pollutants assessed emission fees and the emissions fee cap to comply with requirements of Senate Bill 107.

This rulemaking affects the Annual Base Fee, Emission Fee, and Specific Activity Fees. If approved by the Environmental Quality Commission (EQC), the fees will be effective upon filing and will apply to the 2007 and 2008 fee schedules. The Specific Activity Fees will apply to applications received on or after August 21, 2007. This rulemaking will not require retroactive collection of fees. In August 2007, the EQC adopted temporary rule amendments that increased fees for 2007 by the amounts proposed in this rulemaking. This allowed DEQ to issue invoices to Title V permittees in accordance with the normal billing schedule and avoid the need for a supplemental billing.

To submit comments or request additional information, please contact Andrea Curtis at the Department of Environmental Quality (DEQ), 811 S.W. Sixth Avenue, Portland, OR 97204, phone (503) 229-6866 or toll free in Oregon at (800) 452-4011, e-mail curtis.andrea@deq.state.or.us, or fax (503) 229-5675, or visit DEQ's website http://www.deq.state.or.us/news/publicnotices/PN.asp
Rules Coordinator: Larry McAllister
Address: Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204
Telephone: (503) 229-6412

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Rule Caption: Establishes a voluntary clean diesel upgrade program through grants, loans, and tax credits.

Date:	Time:	Location:
3-26-08	6 p.m.	811 SW 6th Ave, Rm. EQC A — 10th Flr. Portland, OR

Hearing Officer: Sue Gries
Stat. Auth.: OL 2003, Ch. 618, Sections 28–30 (reprinted in a note following ORS 315.356), OL 2007, Ch. 855 (HB 2172 (2007)) & OL 2007, Ch. 843 (HB 3201 (2007))
Stats. Implemented: OL 2003, Ch. 618, Sections 28–30 (reprinted in a note following ORS 315.356), OL 2007, Ch. 855 (HB 2172 (2007)) & OL 2007, Ch. 843 (HB 3201 (2007))
Proposed Adoptions: 340-259-0005, 340-259-0010, 340-259-0015, 340-259-0020, 340-259-0025, 340-259-0030, 340-259-0035, 340-259-0040, 340-259-0045, 340-259-0050, 340-259-0055, 340-259-0060, 340-259-0065, 340-259-0070, 340-016-0270, 340-016-0280, 340-016-0290, 340-016-0300, 340-016-0310, 340-016-0320, 340-016-030, 340-016-0340
Proposed Amendments: 340-016-0210, 340-016-0220, 340-016-0230, 340-016-0250
Last Date for Comment: 4-1-08, 5 p.m.
Summary: The goal of this rulemaking is to initiate a clean diesel upgrade program through grants, loans and tax credits as provided in HB 2172 and HB 3201 and to extend the existing tax credit for new truck purchases in order to reduce excess lifetime cancer risk from diesel exhaust exposure in Oregon to one in a million by 2017. This rulemaking establishes procedures for issuing grants and tax credits, establishes a cost effectiveness threshold and other standards for qualifying projects, establishes project preferences, establishes application fees for tax credits, specifies a simplified application process for applicants with a small number of diesel engines, and specifies a target for school buses. Projects eligible for the tax credits, grants, and loans can include the scrapping of a pre-1994 truck engine, retrofitting a diesel engine, or repowering a non-road diesel engine. This rulemaking also describes the process DEQ will use to recognize third party Clean Diesel Service Providers. This rulemaking also extends the existing Tax Credit for new truck engine purchases to 2011, increases the application fee from $15 to $50, and decreases the program limitation from $3 million to $500,000.

To submit comments or request additional information, please contact Kevin Downing at the Department of Environmental Quality (DEQ), 811 SW 6th Avenue, Portland, OR 97204-1390, toll free in Oregon at 800-452-4011 or 503-229-6549, or at cleandiesel@deq.state.or.us, or by fax 503-229-5675, or visit DEQ's website http://www.deq.state.or.us/news/publicnotices/PN.asp
Rules Coordinator: Larry McAllister
Address: Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204
Telephone: (503) 229-6412

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Department of Fish and Wildlife
Chapter 635

Rule Caption: Adopt commercial and Sport fishing Seasons for the Pacific Ocean, Estuaries, Columbia River and Tributaries.

Date:	Time:	Location:
4-18-08	8 a.m.	3406 Cherry Ave NE Salem, OR

Hearing Officer: Fish and Wildlife Commission
Stat. Auth.: ORS 496.138, 496.146, 506.036, 506.119, 506.129, 506.750, et. Seq
Other Auth.: Magnusson-Stevens Sustainable Fisheries Act
Stats. Implemented: ORS 496.162, 506.036, 506.109, 506.129, 506.750, et. Seq

Proposed Adoptions: Rules in 635-003, 635-013, 635-014, 635-016, 635-017, 635-018, 635-023
Proposed Amendments: Rules in 635-003, 635-013, 635-014, 635-016, 635-017, 635-018, 635-023
Proposed Repeals: Rules in 635-003, 635-013, 635-014, 635-016, 635-017, 635-018, 635-023
Last Date for Comment: 4-18-08
Summary: Amend rules relating to commercial and sport salmon fishing in the Pacific Ocean; salmon fishing in specific near-shore ocean waters, bays and coastal streams; sport sturgeon fishing in the Willamette River, and sport salmon fishing in the Columbia River and tributaries.

Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.
Rules Coordinator: Casaria Tuttle
Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303
Telephone: (503) 947-6033

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Rule Caption: Amendments to the Klamath and Ladd Marsh Wildlife Area management plans.

Date:	Time:	Location:
4-18-08	8 a.m.	3406 Cherry Ave N Salem, OR

Hearing Officer: Fish and Wildlife Commission
Stat. Auth.: ORS 495.012, 496.138 & 496.146
Stats. Implemented: ORS 495.012, 496.138 & 496.146
Proposed Amendments: Rules in 635-008
Last Date for Comment: 4-18-08
Summary: Amendments to Oregon Administrative Rules for the Klamath and Ladd Marsh Wildlife Area Management Plans. Amendments will guide management activities for the next 10 years.
Rules Coordinator: Casaria Tuttle
Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303
Telephone: (503) 947-6033

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Rule Caption: Amend Rule to Authorize Ceremonial Wildlife Harvest Permits for use by the Tribes of the Grande Ronde Indian Reservation.

Date:	Time:	Location:
4-18-08	8 a.m.	3406 Cherry Ave N Salem, OR

Hearing Officer: Fish and Wildlife Commission
Stat. Auth.: ORS 496
Stats. Implemented: ORS 496
Proposed Amendments: Rules in 635-043
Last Date for Comment: 4-18-08
Summary: Amend rule to authorize ceremonial wildlife harvest permit for use by the Confederated Tribes of the Grande Ronde Indian Reservation.
Rules Coordinator: Casaria Tuttle
Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303
Telephone: (503) 947-6033

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Rule Caption: Amend Rules related to the take of eggs where necessary to address depredation.

Date:	Time:	Location:
4-18-08	8 a.m.	3406 Cherry Ave N Salem, OR

Hearing Officer: Fish and Wildlife Commission
Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162 & 498.002
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162 & 498.002
Proposed Amendments: Rules in 635-051
Last Date for Comment: 4-18-08
Summary: Amend rule to permit the department to authorize destruction of eggs to the extent consistent with federal law and where necessary to address depredation.
Rules Coordinator: Casaria Tuttle
Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303
Telephone: (503) 947-6033

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Rule Caption: Amend rules related to Holding of Cervids.

Date:	Time:	Location:
4-18-08	8 a.m.	3406 Cherry Ave N Salem, OR

Hearing Officer: Fish and Wildlife Commission
Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162, 497.228, 498.002, 498.019, 498.052 & 174.106
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162, 497.228, 498.002, 498.019, 498.052 & 174.106
Proposed Amendments: Rules in 635-045, 635-049, 635-200
Last Date for Comment: 4-18-08
Summary: Amend rules that govern holding and propagation of cervids in Oregon, and related issues (including the sale of elk meat).
Rules Coordinator: Casaria Tuttle
Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303
Telephone: (503) 947-6033

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Rule Caption: Establishes Procedures for Criminal Offender record Checks for Aplicants, Employees, Volunteers, and Contractors.

Date:	Time:	Location:
4-18-08	8 a.m.	3406 Cherry Ave N Salem OR

Hearing Officer: Fish and Wildlife Commission
Stat. Auth.: ORS 181.534 & 496.121
Stats. Implemented: ORS 181.534, 496.121 & 469.118
Proposed Adoptions: 635-600-0000, 635-600-0005, 635-600-0010, 635-600-0015, 635-600-0020, 635-600-0025, 635-600-0030, 635-600-0035, 635-600-0040, 635-600-0050, 635-600-0055, 635-600-0065
Last Date for Comment: 4-18-08
Summary: The proposed rules establish procedures for the Oregon Department of Fish and Wildlife to perform criminal background checks and use the information obtained to evaluate the fitness of job applicants, employees, volunteers, and contractors (collectively, "applicants") of the Department.Criminal records checks under this rule include name-based checks through the Law Enforcement data System (LEDS) and fingerprint-based checks for certain positions and classifications. The rules require applicants to provide personal information to facilitate criminal records checks and establish procedures to keep criminal history information confidential. The rules specify the crimes that the Department will consider when making determinations about the fitness of applicants to hold a posistion within, or provide services to, the Department and establish procedural rules for challenges to the Department's fitness determinations. The rules permit the Department to require applicants to pay the actual cost of criminal records checks.
Rules Coordinator: Casaria Tuttle
Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303
Telephone: (503) 947-6033

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Department of Forestry
Chapter 629

Rule Caption: Describes the boundary of the Northwest Oregon Forest Protection District.

Date:	Time:	Location:
3-19-08	1 p.m.	Oregon Dept. of Forestry 801 Gales Creek Rd. Forest Grove, OR

Hearing Officer: Richard Gibson
Stat. Auth.: ORS 477.225
Other Auth.: ORS 526.016
Stats. Implemented: ORS 477.225
Proposed Amendments: 629-041-0555
Last Date for Comment: 3-19-08, 5 p.m.
Summary: Describes the boundary of the Northwest Oregon Forest Protection District.
Rules Coordinator: Gayle Birch
Address: Department of Forestry, 2600 State St., Salem, OR 97310
Telephone: (503) 945-7210

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Rule Caption: Amends the boundary of the South Cascade Forest Protection District.

Date:	Time:	Location:
3-17-08	4 p.m.	Oregon Dept. of Forestry 3150 Main St. Springfield, OR

Hearing Officer: Richard Gibson
Stat. Auth.: ORS 477.225
Other Auth.: ORS 526.016
Stats. Implemented: ORS 477.225
Proposed Amendments: 629-041-0557
Last Date for Comment: 3-17-08, 5 p.m.
Summary: Makes a minor amendment to the boundary of the South Cascade Forest Protection District.

Send comments to Gayle Birch at gbirch
Rules Coordinator: Gayle Birch
Address: Department of Forestry, 2600 State St., Salem, OR 97310
Telephone: (503) 945-7210

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Department of Human Services,
Addictions and Mental Health Division:
Mental Health Services
Chapter 309

Rule Caption: Add a rule allowing variances to the "Community treatment Services For Children" rules.
Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.010 & 430.630
Proposed Adoptions: 309-032-1095
Last Date for Comment: 3-21-08, 5 p.m.
Summary: The Addictions and Mental Health Division is adding a rule to the "Alternative to State Hospitalization Standards for Community Treatment Services for Children" to allow the Division to grant variances to conditions of the rules.
Rules Coordinator: Richard Luthe
Address: Department of Human Services, Addictions and Mental Health Division: Mental Health Services, 500 Summer St. NE, Salem, OR 97301-1118
Telephone: (503) 947-1186

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Department of Human Services,
Children, Adults and Families Division:
Self-Sufficiency Programs
Chapter 461

Rule Caption: Changing OARs affecting public assistance, medical assistance or food stamp clients.

Date:	Time:	Location:
3-17-08	8:30 a.m.	Rm. 254, Summer St. NE Salem, OR

Hearing Officer: Annette Tesch
Stat. Auth.: ORS 410.070, 411.060, 411.795 & 414.105
Other Auth.: 42 USC 1396p
Stats. Implemented: ORS 411.708, 411.795, 414.105, 416.310 & 416.340
Proposed Amendments: 461-135-0832, 461-135-0835
Last Date for Comment: 3-18-08
Summary: OAR 461-135-0832 about definitions used in the Department's Estate Administration rules, OAR 461-135-0832 to 461-135-0845, is being amended to clarify key terms used in the Department's estate administration process. This amendment adds definitions for "blind child", "child under age 21" and "date of request". This rule is also being amended to change the definition of "estate" to include certain inter-spousal transfers of assets for public assistance recipients who die on or after April 1, 2008. This rule is also being amended to change the definition of "living trust" to include an irrevocable trust. This rule is also being amended to replace old terminology with new terminology, to add cross-references to other rules and laws and to follow standard formatting.

OAR 461-135-0835 about claims against the estates of recipients of public assistance is being amended to identify new recovery claim criteria for recipients who die on, or after, April 1, 2008. This rule is being amended to make an inter-spousal transfer of assets subject to estate recovery if such transfer occurs no earlier than 60 months prior to the first date of request for assistance. This rule is also being amended to clarify that any assistance payments, made at any age, are recoverable if they are payments made under the General Assistance provisions of ORS Chapter 411, or categorized as GA. This rule is also being amended to replace old terminology with new terminology, to add cross-references to other rules and laws and to follow standard formatting.

These two rules were originally included in the January 15, 2008 Notice of Proposed Rulemaking Hearing. Due to various changes, including changes in the fiscal impact statement, these rules are refiled with this notice, and there is a later comment deadline.
Rules Coordinator: Annette Tesch
Address: Department of Human Services, Children, Adults and Families Division: Self-Sufficiency Programs, 500 Summer St. NE, E-48, Salem, OR 97301-1066
Telephone: (503) 945-6067

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Department of Human Services,
Division of Medical Assistance Programs
Chapter 410

Rule Caption: Technical changes to the October 1, 2005 (–07) Health Services Commission's Prioritized List of Health Services Purposes.

Date:	Time:	Location:
3-21-08	10:30 a.m.	HRB Rm. 137A 500 Summer St. Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: SB 163 (2007), OL 2007, Ch. 798; ORS 409.010 & 409.050
Stats. Implemented: ORS 414.065, 417.727, 414.050, 414.010 & 192.518–192.526
Proposed Amendments: 410-141-0520
Last Date for Comment: 3-25-08
Summary: The Oregon Health Plan (OHP–Division 141) administrative rules govern payment for the Division of Medical Assistance Programs' payments for services provided to clients. DMAP will amend rule 410-141-0520 to adopt by reference the interim modifications and technical changes made to the January 1, 2006 Oregon Health Services Commission's Prioritized List of Health Services (Prioritized List) based on approval from Centers for Medicare and Medicaid Services (CMS) on October 1, 2007; and to adopt by reference the current biennial Prioritized List effective January 1, 2008 for January 1, 2008 through December 31, 2009, including interim modifications and technical changes made for 2008 national code sets, based on CMS approval dated October 31, 2007.
Rules Coordinator: Darlene Nelson

Address: Department of Human Services, Division of Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301
Telephone: (503) 945-6927

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Rule Caption: Federal requirement for tamper resistant prescription pads, and changes to prior authorization for below the line conditions.

Date:	Time:	Location:
3-21-08	10:30 a.m.	HSB Bldg. Rm. 137C 500 Summer St. Salem, OR 97301

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.010 & 409.110
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-121-0040, 410-121-0145, 410-121-0147
Last Date for Comment: 3-25-08
Summary: The Pharmaceutical Services administrative rules govern the Division of Medical Assistance Programs (DMAP) payment for certain services. Rule 410-121-0040 will be amended for prior authorization changes adopted by DMAP from Drug Utilization Review (DUR) Board recommendations, prior authorization for Lupron, and some clarification of existing prior authorization policy, DMAP is required to implement federal rules for the use of tamper resistant prescription pads for written, non-electronic prescriptions. Rule 410-121-0145 will be amended to specify the new federal requirements for tamper resistant prescription pads for outpatient medications. Rule 410-121-0147 will be amended to eliminate reimbursement for written non-electronic prescriptions that do not meet the federal requirements for tamper resistant prescription pads.
Rules Coordinator: Darlene Nelson
Address: Department of Human Services, Division of Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301
Telephone: (503) 945-6927

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Department of Justice
Chapter 137

Rule Caption: Modify OAR to align with HB 2131 and includes revisions that clarify actions of state agencies.

Date:	Time:	Location:
3-17-08	2 p.m.	4035 12th St. SE Salem, OR 97302

Hearing Officer: Karen Heywood
Stat. Auth.: ORS 192.860
Stats. Implemented: ORS 192.860–192.868
Proposed Amendments: 137-079-0170, 137-079-0200
Last Date for Comment: 3-17-08, 5 p.m.
Summary: Modify rule to align with HB 2131. Includes revisions that clarify actions of state agencies in their handling of ACP cards as well as removal of redundant language.
Rules Coordinator: Carol Riches
Address: Department of Justice, 1162 Court St. NE, Salem, OR 97301
Telephone: (503) 947-4700

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Rule Caption: Amends Notice of Garnishment Model Forms to Respond to Increase in Federal Disposable Earnings Exemption.
Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.600–18.857
Proposed Amendments: 137-060-0150, 137-060-0160, 137-060-0350, 137-060-0360
Last Date for Comment: 3-31-08
Summary: Amends existing model garnishment forms for notices of garnishment issued by state agencies and county tax collectors.
Rules Coordinator: Carol Riches
Address: Department of Justice, 1162 Court St. NE, Salem, OR 97301
Telephone: (503) 378-6313

Department of Public Safety Standards and Training
Chapter 259

Rule Caption: Adopt Civil Penalty Rules.

Date:	Time:	Location:
3-24-08	10 a.m.–12 p.m.	DPSST 4190 Aumsville Hwy. SE Salem, OR 97317

Hearing Officer: Bonnie Salle
Stat. Auth.: ORS 181.679
Stats. Implemented: ORS 181.679
Proposed Adoptions: 259-008-0200
Last Date for Comment: 3-24-08, 5 p.m.
Summary: Adopt new rules to identify process to impose a civil penalty on public safety agencies for violations of ORS 181.644, 181.652, 181.653 and 181.665. These statutes primarily outline the requirements for Basic certification for all individuals working in the criminal justice disciplines.
Rules Coordinator: Bonnie Salle
Address: 4190 Aumsville Highway SE Salem, OR 97317
Telephone: (503) 378-2431

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Rule Caption: Revise rules relating to private security services, private investigators, instructors and credit card payments.

Date:	Time:	Location:
3-24-08	1–2 p.m.	DPSST 4190 Aumsville Hwy. SE Salem, OR 97317

Hearing Officer: Bonnie Salle
Stat. Auth.: ORS 181.870, 181.873–181.878, 181.883–181.885, 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480
Stats. Implemented: ORS 181.870, 181.873–181.878, 181.883–181.885 & 703.401–703.995
Proposed Amendments: 259-060-0010, 259-060-0060, 259-060-0120, 259-060-0130, 259-060-0135, 259-060-0450, 259-060-0500, 259-061-0015
Last Date for Comment: 3-24-08, Close of Hearing
Summary: Amends rule relating to eight-hour basic classroom instruction;

Allows private security and private investigator sections to make payments by credit card rather than certified check, bank draft, cashier's check or postal money order;

Amends rule relating to certification of private security instructors regarding refresher training requirements and clarifies "military police" experience rather than military experience.
Rules Coordinator: Bonnie Salle
Address: 4190 Aumsville Highway SE, Salem, OR 97317
Telephone: (503) 378-2431

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Rule Caption: Amend Rules relating to Denial or Revocation of Certification, Moral Fitness and Arbitration.

Date:	Time:	Location:
3-24-08	2:30–3:30 p.m.	DPSST 4190 Aumsville Hwy. SE Salem, OR 97317

Hearing Officer: Bonnie Salle
Stat. Auth.: ORS 181.640, 181.661, 181.662, 181.664 &183.341
Stats. Implemented: ORS 181.640, 181.661, 181.662 & 181.664
Proposed Amendments: 259-008-0010, 259-008-0011, 259-008-0070
Last Date for Comment: 3-24-08, Close of Hearing
Summary: Amends definition of Moral Fitness for law enforcement officers, telecommunicators and emergency medical dispatchers;

Amends denial and revocation procedure to include provision for misconduct cases in which there has been an arbitrator's opinion; and

Amends rules generally relating to grounds for mandatory denial or revocation of certification as well as discretionary disqualifying

misconduct as grounds for denying or revoking certification and establishes periods of ineligibility.
Rules Coordinator: Bonnie Salle
Address: 4190 Aumsville Highway SE, Salem OR 97317
Telephone: (503) 378-2431

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Rule Caption: Amend multi-discipline recall rule.
Stat. Auth.: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654 & 181.665
Stats. Implemented: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654 & 181.665
Proposed Amendments: 259-008-0060
Last Date for Comment: 3-24-08, 5 p.m.
Summary: Allows for a certification recall by the Department when individuals holding multi-discipline certification fail to complete, or timely report, annual maintenance training. This is a housekeeping measure to reflect the same process currently governing the recall process for telecommunications, emergency medical dispatchers and police officers who fail to complete mandatory training requirements.
Rules Coordinator: Bonnie Salle
Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97301
Telephone: (503) 378-2431

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Department of Transportation,
Driver and Motor Vehicle Services Division
Chapter 735

Rule Caption: Release of a Non-Mandatory Report Submitted to DMV.

Date:	Time:	Location:
3-18-08	1 p.m.	355 Capitol St. NE, Rm. 122 Salem, OR

Hearing Officer: Liz Woods
Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.340 & 809.419
Stats. Implemented: ORS 807.340
Proposed Amendments: 735-076-0005
Last Date for Comment: 3-21-08
Summary: The proposed amendment to OAR 735-076-0005 clarifies that a police report submitted to DMV to report a physical or mental impairment affecting driving ability or dangerous or unsafe driving behaviors is not confidential and a copy may be released pursuant to a public record request.

Text of proposed and recently adopted ODOT rules can be found at web site http://oregon.gov/ODOT/CS/RULES/
Rules Coordinator: Lauri Salsbury
Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301
Telephone: (503) 986-3171

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Rule Caption: Early Renewal of Driver Licenses and Identification Cards for Persons who are Deployed.
Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.012 & 807.040
Stats. Implemented: ORS 802.012, 802.540, 807.040–807.060, 807.100, 807.150 & 807.400
Proposed Amendments: 735-062-0090
Last Date for Comment: 3-21-08
Summary: To tighten security in the process for issuance of driver licenses and identification cards, DMV amended OAR 735-062-0090 to shorten the time period within which a person may apply for renewal to within four months of the expiration date. This has created a hardship for some members of the Oregon National Guard or military reservists when the person's driver license or identification card expires while the person is deployed.

Because the length of a deployment oversees is approximately 400 days, or just over 13 months, DMV is amending OAR 735-062-0090 to authorize renewal up to 14 months prior to expiration of the current license or identification card for a member of the Oregon National Guard or military reservist deployed in defense of our country.

Text of proposed and recently adopted ODOT rules can be found at web site http://www.oregon.gov/ODOT/CS/RULES/
Rules Coordinator: Lauri Salsbury
Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301
Telephone: (503) 986-3171

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Department of Transportation,
Highway Division
Chapter 734

Rule Caption: Allows adequate time for an informal reconsideration process within the relocation appeal process.
Stat. Auth.: ORS 184.616 & 184.619
Other Auth.: Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (P.L. 91-646)
Stats. Implemented: ORS 35.520
Proposed Amendments: 734-001-0025
Last Date for Comment: 3-21-08
Summary: The current rule requires timelines for the Relocation Appeal Process that are extremely restrictive and nearly impossible to meet. The OAR requires that a contested case hearing take place before a hearings board or hearings officer within 45 days of receiving a relocation appeal request. There is also a provision that within 30 days of receipt of a relocation appeal request, a pre-hearing conference will take place with the Region Right of Way Manager, the Project Administration Manager and the State Relocation Reviewer or their designees.

In addition to being more restrictive than necessary, these procedures do not allow a reasonable amount of time to investigate the appeal and possibly resolve the issues without going to the formal hearing process. It has been our experience that most issues can be resolved without going to an actual hearing. These procedures also can create a hardship for the appellant who may not have adequate time to gather new information to be considered. The statutory process for contested case hearings does not require the timelines stated in the current OAR.

Text of proposed and recently adopted ODOT rules can be found a web site http://www.oregon.gov/ODOT/CS/RULES/
Rules Coordinator: Lauri Salsbury
Address: Department of Transportation, Highway Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301
Telephone: (503) 986-3171

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Department of Transportation,
Public Transit Division
Chapter 732

Rule Caption: Oregon Streetcar Fund Program.

Date:	Time:	Location:
3-21-08	2 p.m.	355 Capitol St. NE, Rm. 122 Salem OR

Hearing Officer: Michael Ward
Stat. Auth.: ORS 184.616, 184.619 & OL 2007, Ch. 746 (HB 5036)
Stats. Implemented: OL 2007, Ch. 746 (HB 5036)
Proposed Adoptions: 732-035-0010, 732-035-0020, 732-035-0030, 732-035-0040, 732-035-0050, 732-035-0060, 732-035-0070, 732-035-0080
Last Date for Comment: 3-21-08
Summary: Chapter 746, Oregon Laws 2007 requires ODOT to adopt rules specifying the process by which a municipality may apply for a grant from the Oregon Streetcar Project Fund. The law authorizes the State Treasurer to issue lottery bonds to finance grants for purchase of streetcars from an Oregon based and Oregon owned company. These proposed rules establish the Oregon Streetcar Project Fund Program, definitions, eligibility standards and application requirements.
Rules Coordinator: Lauri Salsbury

Address: Department of Transportation, Public Transit Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301
Telephone: (503) 986-3171

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Department of Veterans' Affairs
Chapter 274

Rule Caption: Updating the Effective date of the Referenced Oregon Attorney General's Administrative Law Manual.
Stat. Auth.: ORS 183.341 & 406.030
Stats. Implemented: ORS 183.341 & 406.030
Proposed Amendments: 274-001-0005
Last Date for Comment: 3-21-08
Summary: The proposed changes are to reflect the current Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure under the Administrative Procedures Act (Manual) which is dated January 1, 2008. This rule is also being amended to correct the references to the Department of Veterans' Affairs as established in HB 2932 of the 2005 Regular Session.
Rules Coordinator: Herbert D. Riley
Address: Department of Veterans' Affairs, 700 Summer St. NE, Salem, OR 97301-1285
Telephone: (503) 373-2055

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Education and Workforce Policy Advisor, Office of Education and Workforce Policy
Chapter 151

Rule Caption: Update and Amend Model Rules for Rulemaking, and Procedures for Resolving Non-Criminal Allegations against CCWD.

Date:	Time:	Location:
3-25-08	9 a.m.	200A, Public Service Bldg. 225 capitol St. NE Salem, OR 97310

Hearing Officer: James Sager
Stat. Auth.: ORS 183.341 & 660.312
Stats. Implemented:
Proposed Amendments: 151-001-0005, 151-001-0010, 151-001-0015, 151-020-0045
Last Date for Comment: 3-25-08, 5 p.m.
Summary: Amends rulemaking rules of the Education and Workforce Policy Advisor by deleting unnecessary reference, and adopts the January 1, 2006 version of the Attorney General's Model Rules of Procedure, in place of the 1997 version. Amends rules by clarifying procedures that apply to resolution of complaints against the Department of Community Colleges and Workforce Development, and incorporates time lines for resolution of complaints set by federal regulation.
Rules Coordinator: James Sager
Address: Education and Workforce Policy Advisor, 255 Capitol St. NE, Suite 126, Salem, OR 97310-1338
Telephone: (503) 378-3921

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Land Conservation and Development Department
Chapter 660

Rule Caption: Conform LCDC goals and rules to legislation and court decisions; other "housekeeping" rule amendments.

Date:	Time:	Location:
3-20-08	8:30 a.m.	City of Asland Council Chambers 1175 E Main St. Ashland, OR

Hearing Officer: LCDC
Stat. Auth.: ORS 197.040 & 197.235(4)
Stats. Implemented: ORS 195.034, 197.445, 215.203, 215.213, 215.283, 215.780 & 215.783
Proposed Amendments: Rules in 660-004, 660-006, 660-007, 660-008, 660-011, 660-015, 660-018, 660-033
Proposed Repeals: Rules in 660-026, 660-033-0030(5)
Last Date for Comment: 3-20-08, Close of Hearing
Summary: Agency rules under OAR Ch. 660, divisions 4, 6, 7, 8, 11, 18 and 33, and Statewide Planning Goal definitions and Goal 8 (OAR Ch. 660, division 15), will be amended to conform to state laws, to respond to Land Use Board of Appeals or other court opinions, or to update or clarify existing rule provisions. All rules under OAR 660, division 26, regarding regional urban growth boundaries will be repealed due to the invalidation of the rules by the Oregon Court of Appeals (*City of West Linn v. LCDC*, 200 Or App 269; 113 P3d 935 (2005)).

Proposed amendments to OAR 660, divisions 4 and 11, would respond to the Land Use Board of Appeals opinion in *Todd v. City of Florence*, 52 Or LUBA 445 (2006), and would clarify Goal 11 exceptions requirements with respect to sewer system outside urban growth boundaries.

Proposed amendments to Statewide Planning Goal 8 would conform to ORS 197.455 as amended by the 2007 legislature (Or Laws 2007, Ch. 593) concerning destination resorts, overnight lodging within those resorts, and mapping of lands eligible for destination resorts. (ORS 197.235(4) authorizes LCDC to amend a statewide planning goal after only one public hearing provided the amendment is necessitated by new or amended state laws).

Proposed amendments to OAR Ch. 660, divisions 6 and 33, administrative rules implementing Statewide Planning Goals 3 and 4 regarding Agricultural Lands and Forest Lands, would conform these rules to 2007 legislation that amended ORS Chapter 215 regarding land divisions for conservation purposes in forest and mixed farm/forest zones and regarding the production of biofuel in EFU zones (Or Laws 2007, Ch. 143 and Or Laws 2007, Ch. 739). In addition, amendments or repeal are proposed to rules under Chapter 660, division 33, in order to respond to the Oregon Supreme Court decision in *Wetherell v. Douglas County*, 342 OR 666 (2007), which invalidated OAR 660-033-030(5) regarding the identification of "agricultural land" under Statewide Goal 3. In addition, amendments are proposed to clarify what on-farm composting operations are allowed on high-value farmland and the type of forest productivity information needed for evaluating forest land.

Amendments to OAR Ch. 660, division 7 (Metropolitan Housing) and 8 (Interpretation of Goal 10 Housing), are proposed to conform definitions of terms in these rules to definitions in ORS Ch. 197.

Amendments to OAR Ch. 660, division 18 (Plan and Land Use regulation Amendment Review Rules) are necessary to conform the rules to statutory provisions under ORS Ch. 197, to modernize these rules to reflect current methods of electronic communication, and to clarify certain requirements in the rules. These amendments would update, clarify, and conform the rules to statutes enacted or amended since adoption of these rules, and would also address to the land Use Board of Appeals opinion *Medford Neighbors v. Medford* (LUBA 2006-132).

Proposed amendments to OAR Ch. 660, division 11 (rural sewer and water rules), and related rules under OAR Ch. 660, division 4, (Goal exceptions) would respond to a 2006 interpretation by LUBA (*Todd v. City of Florence*; LUBA 2996-068) regarding goal exceptions for extension of sewer systems outside UGBs. Proposed amendments to OAR 660-024-0030 regarding population forecasts would conform this rule to 2007 legislation (Or Laws 2007, Ch. 689) codified as ORS 195.034.

The Commission may consider other minor amendments to rules in the divisions specified above based on testimony and comments received during the public comment period, and may adopt other minor clarifications or technical corrections and amendments to these divisions that may be proposed during the public comment period.
Rules Coordinator: Sarah Watson
Address: Land Conservation and Development Department, 635 Capitol St. NE, Salem, OR 97301
Telephone: (503) 373-0050, ext. 271

Oregon Department of Education
Chapter 581

Rule Caption: Prescribes requirements for modified diploma and alternative certificate for high school students.
Stat. Auth.: ORS 329.451
Stats. Implemented: ORS 329.451
Proposed Adoptions: 581-022-1134, 581-022-1135
Last Date for Comment: 3-26-08, 5 p.m.
Summary: The rules direct district school boards and public charter school governing boards with jurisdiction over high school programs to award modified diplomas to qualifying students who meet state requirements. The rules prescribe the required academic content areas, courses, numbers of credits, notification and other requirements. The rules also direct school districts and public charter schools to make an alternative certificate available to students who do not meet the requirements for a diploma or modified diploma.
Rules Coordinator: Paula Merritt
Address: 255 Capital St NE, Salem 97310
Telephone: (503) 947-5746

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Rule Caption: Prohibits discrimination based on sexual orientation and color in schools, programs, services and activities.
Stat. Auth.: ORS 326.051, 345.010 & 659.850
Other Auth.: SB 2 (2007)
Stats. Implemented: ORS 659.850
Proposed Amendments: 581-021-0045, 581-021-0046, 581-024-0205, 581-024-0245, 581-045-0001, 581-049-0020
Last Date for Comment: 3-26-08, 5 p.m.
Summary: Senate Bill 2 (2007) prohibits discrimination against persons based on sexual orientation. Specifically the bill amends a couple of education related statutes: ORS 338.125 (charter schools) and 659.850 (public education generally). The proposed rule amendments updates state board rules relating to protections from discrimination to reflect the requirements of SB 2.

The amendments to the rules also include inserting color into the state board rules relating to prohibitions on discrimination and changing the word "handicap" to "disability" as needed to reflect preferred terminology. Both of these changes brings the rules into compliance with state statute relating to prohibitions on discrimination.

The rule amendments would apply to schools, school districts, education services districts, private vocational schools and other education programs, services and activities.
Rules Coordinator: Paula Merritt
Address: 255 Capital St NE, Salem 97310
Telephone: (503) 947-5746

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Oregon Liquor Control Commission
Chapter 845

Rule Caption: Adopt, amend & repeal rules creating new Direct Shipper Permit & Wine Self-Distribution Permit.

Date:	Time:	Location:
3-25-08	10 a.m.–12 p.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Jennifer Huntsman
Stat. Auth.: ORS 471, including 471.030, 471.040, 471.730(1) & (5)
Stats. Implemented: ORS 471.155, 471.272, 471.274, 471.282, 471.305, 471.404, 471.740, 471.750 & 473
Proposed Adoptions: 845-005-0416, 845-005-0417, 845-005-0425, 845-005-0426, 845-006-0391, 845-006-0392, 845-006-0400, 845-006-0401, 845-015-0141
Proposed Amendments: 845-005-0420, 845-005-0424, 845-006-0396
Proposed Repeals: 845-005-0422, 845-005-0423, 845-006-0395, 845-006-0398
Last Date for Comment: 4-8-08
Summary: These rules need adoption, amendment and repeal in order to comply with statutory changes regarding the creation of the new Direct Shopper Permit and Wine Self-Distribution Permit. Staff is further proposing amendments to the current alcoholic beverage delivery rules so as to streamline the rules and make the malt beverage rules parallel to the wine and cider delivery rules. The rules amendments need to be made to comply with the 2007 legislature's HB 2171 and HB 2677.
Rules Coordinator: Jennifer Huntsman
Address: Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222
Telephone: (503) 872-5004

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Oregon Patient Safety Commission
Chapter 325

Rule Caption: Re-establishes a permanent Notice Rule for the Oregon Patient Safety Commission.
Stat. Auth.: ORS 442.820–442.835
Other Auth.: Sec. 9, Ch. 686, OL 2003
Stats. Implemented: ORS 183.341(4)
Proposed Adoptions: 325-001-0000
Proposed Amendments: 325-001-0001
Last Date for Comment: 4-10-08
Summary: Retroactively adopts a rule that was previously submitted to the Secretary of State's Office. That rule, submitted September 26, 2005, established a procedure to give interested parties a reasonable opportunity to be notified of the Patient Safety Commission's intent to adopt, amend, or repeal a rule.

This permanent rule replaces a temporary rule and is needed to correct a filing error. With the exception of the effective date, this rule is identical to the one filled in 2005.
Rules Coordinator: Jim Dameron
Address: Oregon Patient Safety Commission, 1020 SW Taylor St., Suite 375, Portland, OR 97205
Telephone: (503) 224-9226

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Oregon Public Employees Retirement System
Chapter 459

Rule Caption: Modifications to permit creditable service for certain retroactive payments and revise provisions regarding retroactive payments.

Date:	Time:	Location:
3-25-08	2–4 p.m.	Boardroom PERS Headquaters 11410 SW 68th Parkway Tigard, OR

Hearing Officer: Carolyn Waterfall
Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.650 & 238.200
Proposed Amendments: 459-010-0014, 459-010-0042
Last Date for Comment: 4-15-08
Summary: Modification of rules to establish standards under which creditable service may be awarded incident to a dispute resolution resulting in a retroactive salary payment. Modifications will also update and revise provisions of 459-010-0042 regarding terminated members and clarify interaction with 459-010-0014.
Rules Coordinator: Carolyn Waterfall
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281-3700
Telephone: (503) 603-7713

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Oregon State Marine Board
Chapter 250

Rule Caption: Amend speed restrictions on Diamond Lake.
Stat. Auth.: ORS 830
Stats. Implemented: ORS 830.110, 830.175 & 830.185
Proposed Amendments: 250-020-0102

Last Date for Comment: 3-31-08, 5 p.m.
Summary: As defined in ORS 830.185, OSMB will amend speed restrictions on Diamond Lake when it is determined that the health of the lake is restored and can be restocked for fishing.
Rules Coordinator: June LeTarte
Address: 435 Commercial Street NE #400, PO Box 14145, Salem OR 97309
Telephone: (503) 378-2617

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Oregon Student Assistance Commission,
Office of Degree Authorization
Chapter 583

Rule Caption: Oversight of postsecondary accrediting bodies.

Date:	Time:	Location:
3-28-08	9:30 a.m.	Student Assistance Commission 1500 Valley River Dr., Suite 100 Eugene, OR 97401

Hearing Officer: Bridget Burns, Commission Chair
Stat. Auth.: SB 198 (2007)
Stats. Implemented:
Proposed Adoptions: Rules in 583-070
Last Date for Comment: 3-28-08
Summary: This proposed rule implements the portion of SB 198 (2007) that requires the Office of Degree Authorization to regulate certain entities that claim to be postsecondary accreditors, if those entities operate in Oregon. The language defines and classifies accreditors and establishes a process through which the state will oversee their operations.
Rules Coordinator: Susanne D. Ney
Address: Student Assistance Commission, Office of Degree Authorization, 1500 Valley River Dr., Suite 100, Eugene, OR 97401
Telephone: (541) 687-7394

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Oregon University System,
Portland State University
Chapter 577

Rule Caption: Amend Portland State University's Rule Regarding Student Procedure to Challenge Content of Student Record.
Stat. Auth.: ORS 351 & 352
Stats. Implemented: ORS 351.070 & 20 USC 1232g
Proposed Amendments: 577-030-0035
Last Date for Comment: 4-10-08
Summary: This rule making action will make permanent a temporary rule currently in place regarding the procedure for a student to challenge the content of the student's education record. Portland State University is required to comply with the federal Family Educational Rights and Privacy Act of 1974, 20 USC 1232g, and the Department of Education's rules regarding student records. This new permanent rule mirrors the federal requirements found in 34 CFR 99.22.
Rules Coordinator: Tanja Dill
Address: Oregon University System, Portland State University, PO Box 751, Portland, OR 97207
Telephone: (503) 725-3701

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Oregon University System,
Southern Oregon University
Chapter 573

Rule Caption: Special Fees.

Date:	Time:	Location:
3-31-08	10 a.m.	Churchill Rm. Southern Oregon Univ. 1250 Siskiyou Blvd. Ashland, OR 97520

Hearing Officer: Staff
Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070
Proposed Amendments: 573-040-0005
Last Date for Comment: 3-31-08
Summary: The proposed rule amendments eliminate fees that are no longer necessary and establish, increase, or decrease fees to more accurately reflect actual costs of instruction for certain courses and special services not otherwise funded through the institution's operating budget.
Rules Coordinator: Treasa Sprague
Address: Oregon University System, Southern Oregon University, 1250 Siskiyou Blvd., Ashland, OR 97520
Telephone: (541) 552-6319

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Oregon University System,
University of Oregon
Chapter 571

Rule Caption: Amend special fees, fines, penalties and service charges — specifically for Family Housing Rental Rates.

Date:	Time:	Location:
4-8-08	4 p.m.	UO EMU – Owyhee Rm. Eugene, OR
4-9-08	4 p.m.	UO EMU – Owyhee Rm. Eugene, OR

Hearing Officer: Deb Eldredge
Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Proposed Amendments: 571-060-0005
Last Date for Comment: 4-10-08, 12 p.m.
Summary: Increase in family housing rental rates to cover projected operating costs for 2008–2009.
Rules Coordinator: Deb Eldredge
Address: Oregon University System, University of Oregon, 1226 University of Oregon, Eugene, OR 97403-1226
Telephone: (541) 346-3082

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Rule Caption: Amend special fees, fines, penalties and service charges.

Date:	Time:	Location:
3-31-08	5–6 p.m.	Metolius/Owyhee Rm. Erb Memorial Union, UO Eugene, OR

Hearing Officer: Laura Hubbard
Stat. Auth.: ORS 351.070 & 352
Stats. Implemented: ORS 351.070
Proposed Amendments: 571-060-0005
Last Date for Comment: 4-1-08, 12 p.m.
Summary: The University administration has determined that the adoption of the amendments to the fee list will be necessary in order to provide the basis for funding to cover the expenses of the services rendered and to maintain a current schedule of fees, fines and penalties.
Rules Coordinator: Deb Eldredge
Address: Oregon University System, Office of the President, 1226 University of Oregon, Eugene, OR 97403
Telephone: (541) 346-3082

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Parks and Recreation Department
Chapter 736

Rule Caption: Designation of Oregon Scenic Bikeways.

Date:	Time:	Location:
3-24-08	6–8 p.m.	Deschutes Co. Library, 601 NW Wall St Bend, OR 97701
3-26-08	6–8 p.m.	Gold Hill LIbrary 202 Dardanelles St. Gold Hill, OR 97525

Hearing Officer: Iris Riggs
Stat. Auth.: ORS 390.124
Stats. Implemented: ORS 390.950–390.989
Proposed Adoptions: 736-009-0015
Last Date for Comment: 4-1-08

Summary: This rule will establish criteria and a procedure for the establishment of Oregon Scenic Bikeways. The Oregon Parks and Recreation Department will coordinate the process, hold public hearings and facilitate signing of the Scenic Bikeways.
Rules Coordinator: Joyce Merritt
Address: Parks and Recreation Department, 725 Summer St. NE, Suite C, Salem, OR 97301
Telephone: (503) 986-0756

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Rule Caption: Amendment of OAR 736-018-0045 to Adopt the Luckiamute State Natural Area Master Plan.

Date:	Time:	Location:
3-25-08	6 p.m.	Monmouth Public Library 168 S Ecols Monmouth, OR 97361

Hearing Officer: Ron Campbell
Stat. Auth.: ORS 390.180(1)
Stats. Implemented: ORS 390.180(1)
Proposed Amendments: 736-018-0045
Last Date for Comment: 4-24-08
Summary: ORS 390.180(1) authorizes the Director of the Oregon Parks and Recreation Department (OPRD) to adopt administrative rules that establish a master plan for each state park. Accordingly, OPRD is adopting a master plan for Luckiamute State Natural Area. Master plans for state parks are adopted as state rules under OAR 736-018-0045. The purpose of amending OAR 736-018-0045 is to adopt the new master plan as a state rule.

The master plan responds to the most current information on park resource conditions and public recreation needs as they pertain to the park. The plan was formulated through OPRD's mandated master planning process involving meetings with the general public, an advisory committee, recreation user groups, and affected federal agencies and local governments.
Rules Coordinator: Joyce Merritt
Address: Parks and Recreation Department, 725 Summer St. NE, Suite C, Salem, OR 97301
Telephone: (503) 986-0756

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Public Utility Commission
Chapter 860

Rule Caption: In the Matter of Addictions, Deletions and Revisions to OAR Chapter 860, Division 036.

Date:	Time:	Location:
4-21-08	9:30 a.m.	550 Capitol St. NE Main Hearing Rm., 1st Flr. Salem, OR

Hearing Officer: Sarah Wallace
Stat. Auth.: ORS 183, 756, 757 & 758
Stats. Implemented: ORS 98.316, 183.090, 756.040, 756.105, 756.310, 756.320, 756.350, 756.500, 756.512, 756.990, 757.005–757.495 & 758.300–758.320
Proposed Adoptions: 860-036-0243, 860-036-0247, 860-036-0364, 860-036-0401, 860-036-0408, 860-036-0712, 860-036-0713, 860-036-0714
Proposed Amendments: 860-036-0001 – 860-036-0930
Proposed Repeals: 860-036-0340, 860-036-0410, 860-036-0810
Last Date for Comment: 4-21-08, 5 p.m.
Summary: The primary purpose of this rulemaking is to clarify the applicability to each different water utility regulatory classification. Due to the differing rule requirements for water utilities classified at different levels of regulation it is necessary in each rule to identify the water utility classification subject to the rule. In addition to these clarifications, the proposed rules update and add definitions, make housekeeping changes, remove or simplify rules where appropriate, make language more consistent with other Commission rules, update the Commission's regulatory threshold, and update a reporting threshold.

The proposed new rules are:

• 860-036-0243 Disconnect Visit Charge: This rule is proposed to clarify what a disconnect visit charge is and when it can be charged to the customer.

• 860-036-0247 Reconnection of Residential Water Service: This rule is proposed to be consistent with the reconnect rule for other industry utilities. This is not a new requirement; it ensures customers' and water utilities' rights and responsibilities are defined concerning connection of water utility service.

• 860-036-0364 Emergency Jurisdiction Due to Inadequate Water Service: This rule is proposed to clarify the Commission's authority to declare emergency jurisdiction for water service posing a safety or health hazard pursuant to ORS 757.061.

• 860-036-0401 Relating to Water Utility Notification Requirements and Rate Regulation of a Water Utility by Customer Petition: This proposed rule replaces 860-0336-0410. The proposed rule contains the water utility notification requirements and the customer petition process information.

• 860-036-0408 Notice of a Customer's Right to Petition for Rate Regulation When an Otherwise Exempt Public Utility Proposes a Rate Change: This proposed rules addresses the customer petition process for an otherwise - exempt water utility; i.e. a water utility that previously went through the petition process but for which the Commission did not receive the required number of customer petitions.

• 860-036-0710 originally contained the requirements for abandoning, terminating, disposing of, selling, transferring, or merging a water utility. The proposed rules separate these requirement into four rules:

860-036-0710 relates to terminating or abandoning water service or disposing of a water utility,

860-036-0712 relates to sales, transfers or mergers of rate-regulated water utilities,

860-036-0713 relates to sales, transfers, or mergers of public water utilities (excluding rate-regulated and otherwise - exempt water utilities), and

860-036-0714 relates to sales, transfers, or mergers of otherwise-exempt water utilities.

Proposed amendments to OAR 860-036-0030 and 860-036-0805 affect regulatory or reporting thresholds. The proposed changes to 860-036-0030 raise the Commission's existing regulatory thresholds to higher levels and add a new threshold of $30 for the average annual monthly water service rate for small commercial customers. These changes could reduce the number of water systems coming under Commission regulation, but there is no reasonable method to estimate the number of water systems that might exceed the thresholds, and therefore, no reliable basis to determine the effect. The proposed changes to 860-036-0805 lower the gross operating revenue requirement, from $500,000 to $200,000, for rate-regulated water utilities filing annual Budget of Expenditures. Data shows that only 3 of the 32 rate-regulated utilities that were not previously required to file budget report are approaching the proposed threshold for required reporting. Staff estimates that the affect would be minimal because the report should take no more than two hours to complete.

The proposed changes may reduce the workload on water utility personnel, Commission staff, and the Department of Justice. However, many immeasurable variables contribute to staff's workload and the use of the Department of Justice to regulate water utilities. These variables include the unknown number of systems that will be regulated, and the unknown number of system failures, water contaminations, weather related supply concerns, customer complaints, and legal issues that will emerge requiring staff investigations. No reasonable means exists to establish a benchmark to measure the effect of the proposed rules.
Rules Coordinator: Diane Davis
Address: Public Utility Commission of Oregon, 550 Capitol St. NE, Salem, OR 97301
Telephone: (503) 378-4372

Racing Commission
Chapter 462

Rule Caption: Administration of certain drugs within 24 hours prior to post time.
Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.270 & 462.415
Proposed Amendments: 462-160-0110, 462-160-0120, 462-160-0130
Last Date for Comment: 3-17-08, Close of Business
Summary: Prohibits an animal from participating in a race if the animal was administered certain drugs within 24 hours prior to post time.
Rules Coordinator: Carol N. Morgan
Address: Oregon Racing Commission, 800 NE Oregon St., Suite 310, Portland, OR 97232
Telephone: (971) 673-0208

Secretary of State,
Corporation Division
Chapter 160

Rule Caption: Business Registry copy and data extract fees.
Stat. Auth.: ORS 56.140
Stats. Implemented: ORS 56.140
Proposed Amendments: 160-005-0005
Last Date for Comment: 3-31-08, Close of Business
Summary: This rule updates fees for certain copy and data extracts of business registry records. It adds two new copy types: paper copies of inactive records and a decorative certificate memorializing the incorporation of an entity.
Rules Coordinator: Tom Wrosch
Address: 255 Capitol St. NE, Ste. 151 Salem, OR 97310
Telephone: (503) 986-2371

Board of Medical Examiners
Chapter 847

Rule Caption: Add reference to COMVEX exam in fees rules.
Adm. Order No.: BME 1-2008
Filed with Sec. of State: 1-22-2008
Certified to be Effective: 1-22-08
Notice Publication Date: 12-1-2007
Rules Amended: 847-005-0005
Subject: Proposed rule amendment adds reference to the Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX) wherever the Special Purpose Examination (SPEX) is referenced, as the Board has added the COMVEX as an exam that may be required of Doctors of Osteopathy to demonstrate current medical competency.
Rules Coordinator: Diana M. Dolstra—(503) 673-2713

847-005-0005
Fees

(1) Fees to be effective upon adoption:

(a) Doctor of Medicine/Doctor of Osteopathy (MD/DO) Initial License Application — $375

(b) MD/DO Registration: Active, Active — Military/Public Health; and Active — Teleradiology, Inactive, Locum Tenens, and Telemedicine — $219/year**

(c) MD/DO Emeritus Registration — $50/year.

(d) Limited License, Institutional Practice, Public Health, SPEX/COMVEX, Visiting Professor, Fellow, Medical Faculty, Postgraduate, Special — $185

(e) Acupuncture Initial License Application — $245

(f) Acupuncture Registration: Active, Inactive, and Locum Tenens — $140/year**

(g) Acupuncture Limited License, Special, Visiting Professor, Postgraduate — $75

(h) Physician Assistant Initial License Application — $245

(i) Physician Assistant Registration: Active, Inactive, and Locum Tenens — $165/year**

(j) Physician Assistant Limited License, Special, Postgraduate — $75

(k) Podiatrist Initial Application — $340

(l) Podiatrist Registration: Active, Inactive, and Locum Tenens — $219/year**

(m) Podiatrist Emeritus Registration — $50/year.

(n) Podiatrist Limited License, Special, Postgraduate — $185

(o) Miscellaneous: All Fines and Late Fees:

(A) MD/DO Registration Renewal Late Fee — $150

(B) Acupuncture Registration Renewal Late Fee — $75

(C) Physician Assistant Registration Renewal Late Fee — $75

(D) Podiatrist Registration Renewal Late Fee — $150

(p) Dispensing MD/DO/DPM Failure to Register — $150

(q) Oral Specialty or Competency Examination ($1,000 deposit required) Actual costs.

(r) Affidavit Processing Fee for Reactivation — $50

(s) Licensee Information Requests:

(A) Verification of Licensure-Individual Requests (1-4 Licenses) — $10 per license.

(B) Verification of Licensure-Multiple (5 or more) — $7.50 per license.

(C) Verification of MD/DO License Renewal — $150 Biennially.

(D) Malpractice Report — Individual Requests — $10 per license.

(E) Malpractice Report - Multiple (monthly report) — $15 per report.

(F) Disciplinary — Individual Requests — $10 per license.

(G) Disciplinary Report - Multiple (quarterly report) — $15 per report.

(t) Base Service Charge for Copying — $5 + .20/page.

(u) Record Search Fee (+ copy charges see section (z) of this rule):

(A) Clerical — $20 per hour*

(B) Administrative — $40 per hour*

(C) Executive — $50 per hour*

(D) Medical — $75 per hour*

(v) Data Order:

(A) Standard Data License Order — $150 each.

(B) Custom Data License Order — $150.00 + $40.00 per hour Administrative time

(C) Address Label Disk — $100 each.

(D) Active and Locum Tenens MD/DO list — $75 each.

(E) DPM, PA, or AC list — $10 each.

(F) Quarterly new MD/DO, DPM, PA, or AC list — $10 each

(2) All Board fees and fines are non-refundable, and non-transferable.

*Plus photocopying charge above, if applicable.

**Collected biennially except where noted in the Administrative Rules. All active registration fees include annual assessments of $33.00 for the Diversion Program for Health Professionals and all active MD/DO registration fees include $10.00 for the Oregon Health and Sciences University Library, and are collected biennially.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265
Hist.: ME 7-1984, f. & ef. 1-26-84; ME 17-1984, f. & ef. 11-5-84; ME 6-1985, f. & ef. 7-30-85; ME 3-1986(Temp), f. & ef. 4-23-86; ME 4-1986, f. & ef. 4-23-86; ME 9-1986, f. & ef. 7-31-86; ME 2-1987, f. & ef. 1-10-87; ME 7-1987(Temp), f. & ef. 1-26-87; ME 9-1987, f. & ef. 4-28-87; ME 25-1987, f. & ef. 11-5-87; ME 9-1988, f. & cert. ef. 8-5-88; ME 14-1988, f. & cert. ef. 10-20-88; ME 1-1989, f. & cert. ef. 1-25-89; ME 5-1989 (Temp), f. & cert. ef. 2-16-89; ME 6-1989, f. & cert. ef. 4-27-89; ME 9-1989(Temp), f. & cert. ef. 8-1-89; ME 17-1989, f. & cert. ef. 10-20-89; ME 4-1990, f. & cert. ef. 4-25-90; ME 9-1990, f. & cert. ef. 8-2-90; ME 5-1991, f. & cert. ef. 7-24-91; ME 11-1991(Temp), f. & cert. ef. 10-21-91; ME 6-1992, f. & cert. ef. 5-26-92; ME 1-1993, f. & cert. ef. 1-29-93; ME 13-1993, f. & cert. ef. 11-1-93; ME 14-1993(Temp), f. & cert. ef. 11-1-93; ME 1-1994, f. & cert. ef. 1-24-94; ME 6-1995, f. & cert. ef. 7-28-95; ME 7-1996, f. & cert. ef. 10-29-96; ME 3-1997, f. & cert. ef. 11-3-97; BME 7-1998, f. & cert. ef. 7-22-98; BME 7-1999, f. & cert. ef. 4-22-99; BME 10-1999, f. 7-8-99, cert. ef. 8-3-99; BME 14-1999, f. & cert. ef. 10-28-99; BME 4-2000, f. & cert. ef. 2-22-00; BME 6-2001(Temp), f. & cert. ef. 7-18-01 thru 11-30-01; BME 10-2001, f. & cert. ef. 10-30-01; BME 8-2003, f. & cert. ef. 4-24-03; BME 16-2003, f. & cert. ef. 10-23-03; BME 17-2004, f. & cert. ef. 9-9-04; BME 6-2005, f. & cert. ef. 7-20-05; BME 15-2006, f. & cert. ef. 7-25-06; BME 1-2007, f. & cert. ef. 1-24-07; BME 1-2008, f. & cert. ef. 1-22-08

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Rule Caption: Add podiatric physician to Administrative Medicine status and delete requirement for reactivation.
Adm. Order No.: BME 2-2008
Filed with Sec. of State: 1-22-2008
Certified to be Effective: 1-22-08
Notice Publication Date: 12-1-2007
Rules Amended: 847-008-0037, 847-008-0055
Subject: Proposed rule amendments add podiatric physicians to the Administrative Medicine status and delete a requirement for reactivation of licensure that corresponds with a previous administrative rules amendment regarding streamlining of initial licensure.
Rules Coordinator: Diana M. Dolstra—(503) 673-2713

847-008-0037
Administrative Medicine

(1) A physician or podiatric physician who proposes to practice Administrative Medicine within the State shall apply for and obtain a license.

(2) A physician or podiatric physician with an Administrative Medicine license may not examine, care for or treat patients. A physician or podiatric physician with an Administrative Medicine license may advise organizations, both public and private, on healthcare matters; authorize and deny financial payments for care; organize and direct research programs; review care provided for quality; and other similar duties that do not require direct patient care.

(3) Physicians or podiatric physicians granted Active — Administrative Medicine status must register and pay a biennial active registration fee.

(4) The licensee with Active — Administrative Medicine status desiring to have Active status to practice in Oregon must file an Affidavit of Reactivation.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265
Hist.: BME 2-2007, f. & cert. ef. 1-24-07; BME 21-2007(Temp), f. & cert. ef. 10-24-07 thru 4-7-08; BME 2-2008, f. & cert. ef. 1-22-08

847-008-0055
Reactivation from Active-Military or Public Health/Locum Tenens/Inactive/Emeritus to Active/Locum Tenens Status

(1) A licensee who wishes to reactivate from an active — military or public health, inactive or emeritus status to an active or locum tenens status, or from locum tenens status to active status must provide the Board with the following:

(a) Completed affidavit form provided by the Board, describing activities during the period of active — military or public health, locum tenens, inactive or emeritus registration:

(b) Completed application(s) for registration; and

(c) Appropriate fees for processing of affidavit and registration.

(d) A completed "Reports for Disciplinary Inquiries" (MD/DO/DPM) sent to the Board from the Federation of State Medical Boards or Federation of Podiatric Medical Boards and the results of the Practitioner

Request for Information Disclosure (Self-Query) from the National Practitioners Data Bank and the Healthcare Integrity and Protection Data Bank, sent to the Board by the applicant;

(e) Verification of current licensure sent directly from each of the State Boards in the United States or Canada where the licensee has been practicing during the past 5 years, or from the date the license to practice in Oregon changed to active — military or public health, inactive, locum tenens or emeritus status, whichever is the shorter period of time, showing license number, date issued, and status;

(f) An official letter sent directly to the Board from the director, administrator, dean, or other official of each hospital, clinic, office, or training institute where the licensee was employed, practiced, had hospital privileges (MD/DO/DPM), or trained in the United States or foreign countries during the past 5 years, or from the date the license to practice in Oregon changed to active — military or public health, locum tenens, inactive or emeritus status, whichever is the shorter period of time. The letter shall include an evaluation of overall performance, and specific beginning and ending dates of practice/employment/training.

(2) A personal appearance before the Board may be required.

(3) If, in the judgment of the Board, the conduct of the licensee has been such, during the period of active—military or public health, locum tenens, inactive or emeritus registration, that the licensee would have been denied a license if applying for an initial license to practice medicine, the Board may deny active registration.

(4) If a licensee has ceased the practice of medicine for 12 or more consecutive months, the licensee may be required to take an examination to demonstrate medical competency.

(5) The above registration process and fee for processing the Affidavit of Reactivation shall be waived for licensees practicing in Oregon whose status was changed to active—military or public health because they were called to active duty service, were deployed/reassigned, or received change of duty orders to out-of-state or out-of-country in a branch of the armed forces. Upon returning to practice in Oregon the licensee shall provide the Board with the following:

(a) A completed Affidavit of Reactivation form;

(b) A copy of the Order to Active duty, Change of Duty Orders, or Reassignment Orders; and

(c) A copy of the Discharge from Active Duty, Change of Duty Orders or Reassignment Orders.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265
Hist.: ME 5-1990, f. & cert. ef. 4-25-90; ME 2-1997, f. & cert. ef. 7-28-97; BME 6-2000, f. & cert. ef. 7-27-00; BME 7-2002, f. & cert. ef. 7-17-02; BME 2-2004, f. & cert. ef. 1-27-04; BME 14-2004, f. & cert. ef. 7-13-04; BME 25-2006, f. & cert. ef. 10-23-06; BME 2-2008, f. & cert. ef. 1-22-08

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Rule Caption: Add reference to COMVEX exam and amend reporting requirements per SB 337.
Adm. Order No.: BME 3-2008
Filed with Sec. of State: 1-22-2008
Certified to be Effective: 1-22-08
Notice Publication Date: 12-1-2007
Rules Amended: 847-010-0060, 847-010-0064, 847-010-0070, 847-010-0073
Subject: Proposed rule amendments add reference to the Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX) wherever the Special Purpose Examination (SPEX) is referenced, as the Board has added the COMVEX as an exam that may be required of Doctors of Osteopathy to demonstrate current medical competency. Proposed amendments to OAR 847-010-0073 were drafted to reflect statutory changes to ORS 677.415, as the result of SB 337 becoming law on July 17, 2007 when the Governor signed the bill.
Rules Coordinator: Diana M. Dolstra—(503) 673-2713

847-010-0060
Limited License, Special, Limited License, SPEX/COMVEX, and Limited License, Postgraduate

A physician who is granted a Limited License, Special, Limited License, SPEX/COMVEX, or Limited License, Postgraduate in the State of Oregon is entitled to apply for and obtain a federal narcotic stamp.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.132
Hist.: ME 17, f. 5-2-68; ME 10-1986, f. & ef. 7-31-8; ME 3-1988(Temp), f. & cert. ef. 1-29-88; ME 6-1988, f. & cert. ef. 4-20-88; BME 11-1999, f. & cert. ef. 7-23-99; BME 3-2008, f. & cert. ef. 1-22-08

847-010-0064
Limited License, SPEX/COMVEX

(1) An applicant for a license to practice medicine, who, being otherwise qualified for the unlimited license, but who must take a Competency Examination (Special Purpose Examination-SPEX or Comprehensive Osteopathic Medical Variable-Purpose Examination-COMVEX), may be issued a Limited License, SPEX/COMVEX provided the applicant has completed an application under ORS 677.100 to 677.132 which is satisfactory to the Board.

(2) A Limited License, SPEX/COMVEX may be granted for a period of 6 months and permits the licensee to practice medicine only until grade results are available, and the applicant completes the initial registration process. The Limited License, SPEX/COMVEX would become invalid should the applicant fail the SPEX or COMVEX examination and the applicant, upon notification of failure of the examination, must cease practice in this state as expeditiously as possible, but not to exceed two weeks after the applicant receives notice of failure of the examination.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.120 & 677.132
Hist.: ME 10-1989(Temp), f. & cert. ef. 8-4-89; ME 18-1989, f. & cert. ef. 10-20-89; ME 8-1996, f. & cert. ef. 10-29-96; ME 4-1997, f. & cert. ef. 11-3-97; BME 3-2008, f. & cert. ef. 1-22-08

847-010-0070
Competency Examination

(1) Whenever the Board of Medical Examiners orders a medical competency examination pursuant to ORS 677.420, it may require or administer one, all, or any combination of the following examinations:

(a) The Special Purpose Examination (SPEX);

(b) The Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX);

(c) Oral examination;

(d) Any other examination that the Board determines appropriate.

(2) Failure to achieve a passing grade on any examination shall constitute grounds for suspension or revocation of examinee's license on the grounds of Manifest Incapacity to Practice Medicine as provided by ORS 677.190(15).

(3) If an oral examination is ordered by the Board, an Examination Panel shall be appointed. The examination shall include questions which test basic knowledge and also test for knowledge expected of a physician with a practice similar in nature to that of the examinee's. The panel shall establish a system for weighing the score for each question in the examination. After it is prepared, the examination shall be submitted to the Board for review and approval.

(4) Appointment of an Examination Panel is required only when administering an oral examination.

(5) The examinee shall be given no less than two weeks' notice of the date, time and place of any examination to be administered.

(6) The medical competency examination shall be paid for by the licensee.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.110
Hist.: ME 34, f. & ef. 5-10-77; ME 3-1979, f. & ef. 5-1-79; ME 8-1982, f. & ef. 10-27-82; ME 3-1985, f. & ef. 5-6-85; BME 12-2000, f. & cert. ef. 10-30-00; BME 9-2003, f. & cert. ef. 5-2-03; BME 3-2008, f. & cert. ef. 1-22-08

847-010-0073
Reporting Incompetent or Impaired Physicians to the Board

(1) ORS 677.415 requires health care facilities and Board licensees to report to the Board of Medical Examiners any official action, incident or event taken against or involving a Board licensee, based on a finding of medical incompetence, unprofessional conduct, or licensee impairment, within ten working days of their occurrence. For the purposes of the statute, the terms medical incompetence, unprofessional conduct, and impaired licensee have the following meanings:

(a) Medical Incompetence: A licensee who is medically incompetent is one who is unable to practice medicine with reasonable skill or safety due to lack of knowledge, ability, or impairment. Evidence of medical incompetence shall include:

(A) Gross or repeated acts of negligence involving patient care.

(B) Failure to achieve a passing score or satisfactory rating on a competency examination or program of evaluation when the examination or evaluation is ordered or directed by a health care facility.

(C) Failure to complete a course or program of remedial education when ordered or directed to do so by a health care facility.

(b) Unprofessional conduct: Unprofessional conduct includes the behavior described in ORS 677.188 (4) and is conduct which is unbecom-

ing to a person licensed by the Board of Medical Examiners or detrimental to the best interest of the public and includes:

(A) Any conduct or practice contrary to recognized standards of ethics of the medical, podiatric or acupuncture professions or any conduct which does or might constitute a danger to the public, to include a violation of patient boundaries.

(B) Willful performance of any surgical or medical treatment which is contrary to acceptable medical standards.

(C) Willful and repeated ordering or performance of unnecessary laboratory tests or radiologic studies, administration of unnecessary treatment, employment of outmoded, unproved, or unscientific treatments, except as allowed in ORS 677.190 (1)(b), failing to obtain consultations when failing to do so is not consistent with the standard of care, or otherwise utilizing medical service for diagnosis or treatment which is or may be considered unnecessary or inappropriate.

(D) Committing fraud in the performance of, or the billing for, medical procedures.

(E) Sexual misconduct: Licensee sexual misconduct is behavior that exploits the licensee-patient relationship in a sexual way. The behavior is non-diagnostic and non-therapeutic, may be verbal or physical, and may include expressions of thoughts and feelings or gestures that are sexual or that reasonably may be construed by a patient as sexual. Sexual misconduct includes but is not limited to:

(I) Sexual violation: Licensee-patient sex, whether or not initiated by the patient, and engaging in any conduct with a patient that is sexual or may be reasonably interpreted as sexual, including but not limited to:

(i) Sexual intercourse;

(ii) Genital to genital contact;

(iii) Oral to genital contact;

(iv) Oral to anal contact;

(v) Genital to anal contact;

(vi) Kissing in a romantic or sexual manner;

(vii) Touching breasts, genitals, or any sexualized body part for any purpose other than appropriate examination or treatment, or where the patient has refused or has withdrawn consent;

(viii) Encouraging the patient to masturbate in the presence of the licensee or masturbation by the licensee while the patient is present;

(ix) Offering to provide practice-related services, such as medications, in exchange for sexual favors.

(II) Sexual impropriety: Behavior, gestures, or expressions that are seductive, sexually suggestive, or sexually demeaning to a patient

(c) Licensee Impairment: A licensee who is impaired is a licensee who is unable to practice medicine with reasonable skill or safety due to factors which include, but are not limited to:

(A) The use or abuse of alcohol, drugs, or other substances which impair ability.

(B) Mental or emotional illness.

(C) Physical deterioration or long term illness or injury which adversely affects cognition, motor, or perceptive skills.

(2) For the purposes of the reporting requirements of this rule and ORS 677.415, licensees shall be considered to be impaired if they refuse to undergo an evaluation for mental or physical competence or chemical impairment, or if they resign their privileges to avoid such an evaluation, when the evaluation is ordered or directed by a health care facility or by this Board.

(3) A report made by a board licensee or the Oregon Medical Association or other health professional association, to include the Osteopathic Physicians and Surgeons of Oregon, Inc, or the Oregon Podiatric Medical Association to the Board of Medical Examiners under ORS 677.415 shall include the following information:

(a) The name, title, address and telephone number of the person making the report;

(b) The information that appears to show that a licensee is or may be medically incompetent, is or may be guilty of unprofessional or dishonorable conduct or is or may be a licensee with an impairment.

(4) A report made by a health care facility to the Board under ORS 677.415 (5) and (6) shall include:

(a) The name, title, address and telephone number of the health care facility making the report;

(b) The date of an official action taken against the licensee or the licensee's voluntary action withdrawing from practice, voluntary resignation or voluntary limitation of licensee staff privileges; and

(c) A description of the official action or the licensee's voluntary action, as appropriate to the report, including:

(A) The specific restriction, limitation, suspension, loss or denial of the licensee's medical staff privileges and the effective date or term of the restriction, limitation, suspension, loss or denial; or

(B) The fact that the licensee has voluntarily withdrawn from the practice of medicine or podiatry, voluntarily resigned from the staff of a health care facility or voluntarily limited the licensee's privileges at a health care facility and the effective date of the withdrawal, resignation or limitation.

(5) A report made under ORS 677.415 Section 2 may not include any information that is privileged peer review data, see ORS 41.675.

(6) All required reports shall be made in writing.

(7) Any person who reports or provides information to the board under ORS 677.205 and 677.410 to 677.425 and who provides information in good faith shall not be subject to an action for civil damages as a result thereof.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265, 677.415
Hist.: BME 5-2004, f. & cert. ef. 4-22-04; BME 9-2006, f. & cert. ef. 5-8-06; BME 3-2007, f. & cert. ef. 1-24-07; BME 3-2008, f. & cert. ef. 1-22-08

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Rule Caption: Require fingerprints of licensees reactivating and add reference to COMVEX exam.
Adm. Order No.: BME 4-2008
Filed with Sec. of State: 1-22-2008
Certified to be Effective: 1-22-08
Notice Publication Date: 12-1-2007
Rules Amended: 847-020-0155, 847-020-0183
Subject: Proposed rule amendment adds requirement that licensees reactivating their license submit a fingerprint card to determine their fitness to practice. Current rule regarding criminal records checks includes applicants for initial licensure, licensees renewing their license, and licensees under investigation. Proposed rule amendment also adds reference to the Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX) wherever the Special Purpose Examination (SPEX) is referenced, as the Board has added the COMVEX as an exam that may be required of Doctors of Osteopathy to demonstrate current medical competency.
Rules Coordinator: Diana M. Dolstra—(503) 673-2713

847-020-0155
State and Nationwide Criminal Records Checks, Fitness Determinations

(1) The purpose of these rules is to provide for the reasonable screening of applicants and licensees in order to determine if they have a history of criminal behavior such that they are not fit to be granted or renewed a license that is issued by the Board.

(2) These rules are to be applied when evaluating the criminal history of an applicant or licensee and conducting fitness determinations based upon such history. The fact that an applicant or licensee has cleared the criminal history check does not guarantee the granting or renewal of a license.

(3) The Board may require fingerprints of all applicants for a medical (MD/DO), podiatric (DPM), physician assistant (PA), and acupuncturist (LAc) license, licensees reactivating their license, licensees renewing their license and licensees under investigation to determine the fitness of an applicant or licensee. These fingerprints will be provided on prescribed forms made available by the Board. Fingerprints may be obtained at a law enforcement office or at a private service acceptable to the Board; the Board will submit fingerprints to the Oregon Department of State Police to conduct a Criminal History Check and a National Criminal History Check. Any original fingerprint cards will subsequently be destroyed by the Oregon Department of State Police.

(4) The Board shall determine whether an applicant or licensee is fit to be granted a license based on the criminal records background check, any false statements made by the applicant or licensee regarding the criminal history of the individual, any refusal to submit or consent to a criminal records check including fingerprint identification, and any other pertinent information obtained as part of an investigation. If an applicant is determined to be unfit, the applicant may not be granted a license. If the licensee is determined to be unfit, the licensee's license may not be reactivated or renewed. The Board may make a fitness determination conditional upon applicant's or licensee's acceptance of probation, conditions, limitations, or other restrictions upon licensure.

(5) Except as otherwise provided in section (2), in making the fitness determination the Board shall consider:

(a) The nature of the crime;

(b) The facts that support the conviction or pending indictment or that indicate the making of the false statement;

(c) The relevancy, if any, of the crime or the false statement to the specific requirements of the applicant's or licensee's present or proposed license; and

(d) Intervening circumstances relevant to the responsibilities and circumstances of the license. Intervening circumstances include but are not limited to:

(A) The passage of time since the commission of the crime;

(B) The age of the applicant or licensee at the time of the crime;

(C) The likelihood of a repetition of offenses or of the commission of another crime:

(D) The subsequent commission of another relevant crime;

(E) Whether the conviction was set aside and the legal effect of setting aside the conviction; and

(F) A recommendation of an employer.

(6) All background checks shall be requested to include available state and national data, unless obtaining one or the other is an acceptable alternative.

(7) In order to conduct the Oregon and National Criminal History Check and fitness determination, the Board may require additional information from the licensee or applicant as necessary, such as but not limited to, proof of identity; residential history; names used while living at each residence; or additional criminal, judicial or other background information.

(8) Criminal offender information is confidential. Dissemination of information received under HB 2157 is only to people with a demonstrated and legitimate need to know the information. The information is part of the investigation of an applicant or licensee and as such is confidential pursuant to ORS 676.175(1).

(9) The Board will permit the individual for whom a fingerprint-based criminal records check was conducted to inspect the individual's own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual's own state and national criminal offender records.

(10) The Board may consider any conviction of any violation of the law for which the court could impose a punishment and in compliance with ORS 670.280. The Board may also consider any arrests and court records that may be indicative of an individual's inability to perform as a licensee with care and safety to the public.

(11) If an applicant or licensee is determined not to be fit for a license, the applicant or licensee is entitled to a contested case process pursuant to ORS 183.414-470. Challenges to the accuracy or completeness of information provided by the Oregon Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Oregon Department of State Police, Federal Bureau of Investigation, or reporting agency and not through the contested case process pursuant to ORS 183.

(12) If the applicant discontinues the application process or fails to cooperate with the criminal history check process, the application is considered incomplete.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265
Hist. BME 20-2006(Temp), f. & cert. ef. 9-14-06 thru 3-12-07; BME 4-2007, f. & cert. ef. 1-24-07; BME 4-2008, f. & cert. ef. 1-22-08

847-020-0183
SPEX or COMVEX Examination and Personal Interview

(1) The applicant may also be required to pass the Special Purpose Examination (SPEX) or Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX). This requirement may be waived if:

(a) The applicant has within ten years of filing an application with the Board, completed one year of an accredited residency, or an accredited or Board approved clinical fellowship; or

(b) The applicant has within ten years of filing an application with the Board, been certified or recertified by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association; or

(c) The applicant has received an appointment as Professor or Associate Professor at the Oregon Health and Science University; and

(d) Has not ceased the practice of medicine for a period of 12 or more consecutive months. The SPEX or COMVEX examination may be waived if the applicant, after ceasing practice for a period of 12 or more consecutive months, has subsequently:

(A) Completed one year of an accredited residency; or

(B) Completed one year of an accredited or Board approved clinical fellowship; or

(C) Been certified or recertified by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association; or

(D) Obtained continuing medical education to the Board's satisfaction.

(2) The applicant who fails the SPEX or COMVEX examination three times, whether in Oregon or other states, shall successfully complete one year of an accredited residency or an accredited or approved clinical fellowship before retaking the SPEX or COMVEX examination.

(a) After the first or second failed attempt, the Board may allow the applicant to take an oral specialty examination, at the applicant's expense, to be given by a panel of physicians in such specialty. The applicant shall remit the cost of administering the oral examination prior to the examination being scheduled.

(b) If an oral specialty examination is requested by the applicant, an Examination Panel of at least three physicians shall be appointed.

(c) The examination shall include questions which test basic knowledge and also test for knowledge expected of a physician with a practice similar in nature to the examinee's practice. The panel shall establish a system for weighing their score for each question in the examination. After it is prepared, the examination shall be submitted to the Board for review and approval.

(d) The Board shall require a passing grade of 75 on the oral specialty examination.

(e) If such oral examination is passed, the applicant would be granted a license limited to the applicant's specialty. If failed, the license would be denied and the applicant would not be eligible for licensure.

(3) The Limited License, SPEX/COMVEX may be granted for a period of 6 months and permits the licensee to practice medicine only until the grade results of the SPEX or COMVEX examination are available, and the applicant completes the initial registration process. The Limited License, SPEX/COMVEX would become invalid should the applicant fail the SPEX or COMVEX examination and the applicant, upon notification of failure of the examination, must cease practice in this state as expeditiously as possible, but not to exceed two weeks after the applicant receives notice of failure of the examination.

(4) After the applicant has met all requirements for licensure, the applicant may be required to appear before the Board for a personal interview regarding information received during the processing of the application. The interview shall be conducted during a regular meeting of the Board.

(5) All of the rules, regulations and statutory requirements pertaining to the medical school graduate shall remain in full effect.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.190, 677.265
Hist.: BME 20-2007, f. & cert. ef. 10-24-07; BME 4-2008, f. & cert. ef. 1-22-08

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Rule Caption: Add reference to COMVEX exam in Volunteer Emeritus physician rules.
Adm. Order No.: BME 5-2008
Filed with Sec. of State: 1-22-2008
Certified to be Effective: 1-22-08
Notice Publication Date: 12-1-2007
Rules Amended: 847-023-0005
Subject: Proposed rule amendment adds reference to the Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX) wherever the Special Purpose Examination (SPEX) is referenced, as the Board has added the COMVEX as an exam that may be required of Doctors of Osteopathy to demonstrate current medical competency.
Rules Coordinator: Diana M. Dolstra—(503) 673-2713

847-023-0005
Qualifications

(1) The Board of Medical Examiners may issue a license, with emeritus registration, to a physician who volunteers at a health clinic provided that the physician:

(a) Has a current license to practice medicine in another state or territory of the United States or the District of Columbia; and

(b) Has obtained certification by the National Board of Medical Examiners (NBME), the National Board of Osteopathic Medical

Examiners (NBOME), the Federation Licensing Examination (FLEX), or the United States Medical Licensing Examination (USMLE).

(2) A physician applying for a license to volunteer in health clinics who has not practiced medicine for more than twenty-four (24) months immediately prior to filing the application for licensure with the Board, may be required to take and pass the Special Purpose Examination (SPEX) or Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX). This requirement may be waived if the applicant has:

(a) Within ten years of filing an application with the Board, completed an accredited one year residency, or an accredited or Board approved one year clinical fellowship;

(b) Within ten years of filing an application with the Board, been certified or recertified by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association; or

(c) Obtained continuing medical education to the Board's satisfaction.

(3) The Limited License, SPEX/COMVEX may be granted for a period of 6 months and permits the licensee to practice medicine only until the grade results of the SPEX or COMVEX examination are available and the applicant completes the initial registration process. The Limited License, SPEX/COMVEX would become invalid should the applicant fail the SPEX or COMVEX examination and the applicant, upon notification of failure of the examination, must cease practice in this state as expeditiously as possible, but not to exceed two weeks after the applicant receives notice of failure of the examination.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265
Hist.: BME 16-2006, f. & cert. ef. 7-25-06; BME 5-2008, f. & cert. ef. 1-22-08

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Rule Caption: Establish attempt limits for the PANCE exam.
Adm. Order No.: BME 6-2008
Filed with Sec. of State: 1-22-2008
Certified to be Effective: 1-22-08
Notice Publication Date: 12-1-2007
Rules Amended: 847-050-0020
Subject: The proposed rule amendment establishes attempt limits for the Physician Assistant National Certifying Examination (PANCE).
Rules Coordinator: Diana M. Dolstra—(503) 673-2713

847-050-0020
Qualifications

On or after January 25, 2008, an applicant for licensure as a physician assistant in this state, must possess the following qualifications:

(1) Have successfully completed a course in physician assistant training which is approved by the American Medical Association Committee on Allied Health Education and Accreditation (C.A.H.E.A.), the Commission on Accreditation for Allied Health Education Programs (C.A.A.H.E.P.), or the Accreditation Review Commission on Education for the Physician Assistant (A.R.C.P.A.).

(2) Have passed the Physician Assistant National Certifying Examination (PANCE) given by the National Commission on Certification of Physician Assistants (N.C.C.P.A.).

(a) The applicant may take the PANCE once in a 90-day period or three times per calendar year, whichever is fewer. The applicant has no more than four attempts in six years to pass the PANCE. If the applicant does not pass the PANCE within four attempts, the applicant is not eligible for licensure.

(b) Those who have met the requirements of section (1) of this rule may make application for a Limited License, Postgraduate before passing the PANCE examination with the stipulation that if the examination is not passed within one year from the date of application, the Board shall withdraw its approval.

(3) Applicants that apply for prescription privileges must meet the requirements specified in OAR 847-050-0041.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.510
Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 10-1984, f. & ef. 7-20-84; ME 5-1986, f. & ef. 4-23-86; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; ME 5-1993, f. & cert. ef. 4-22-93; ME 17-1994, f. & cert. ef. 10-25-94; BME 1-1998, f. & cert. ef. 1-30-98; BME 2-2000, f. & cert. ef. 2-7-00; BME 1-2001, f. & cert. ef. 1-25-01; BME 6-2003, f. & cert. ef. 1-27-03; BME 6-2008, f. & cert. ef. 1-22-08

Board of Pharmacy
Chapter 855

Rule Caption: Establishes definitions for Tamper Resistant Prescription Forms to facilitate implementation of the Federal Medicaid requirement.
Adm. Order No.: BP 1-2008
Filed with Sec. of State: 2-5-2008
Certified to be Effective: 2-5-08
Notice Publication Date: 1-1-2008
Rules Adopted: 855-006-0015, 855-041-0061
Subject: August 17, 2007, the US Department of Health and Human Services, Center for Medicaid and State Operations issued a letter of guidance to State Medicaid agencies on section 7002(b) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007, regarding the use of tamper-resistant prescription pads, which was signed into law May 25, 2007.

This section amends the Social Security Act that effects payment reimbursements on Medicaid prescriptions that do not meet the new federal requirement for tamper-resistant prescriptions.

On Wednesday January 30, 2008, during a public meeting, the Oregon Board of Pharmacy adopted a permanent rule establishing definitions for "electronically transmitted prescription" and "tamper-resistant prescription." These definitions had previously been discussed with Department of Human Services and have been in place as a Temporary Rule since August 2007.
Rules Coordinator: Karen MacLean—(971) 673-0001

855-006-0015
Additional Definitions

(1) Electronically Transmitted Prescription:

(a) Where used in this chapter, Electronically Transmitted Prescription (ETP) means a prescription for a drug or medical device issued by a practitioner, who is licensed and authorized to prescribe pursuant to the laws of this state and is acting within the scope of his or her practice, which has been transmitted by an electronic means that may include but is not limited to:

(A) Transmission by facsimile or hand held digital electronic device to a computer or facsimile;

(B) Transmission from a computer to another computer;

(C) Transmission by facsimile to computer; or

(D) Transmission from a computer to facsimile.

(b) ETP does not include an oral prescription that has been reduced to writing by a pharmacist pursuant to OAR 855-041-0085 and does not include prescriptions, or drug or device orders written for inpatient use in a hospital.

(c) For an ETP to be valid, it must contain the name and immediate contact information of the prescriber, and be electronically encrypted or in some manner protected by up-to-date technology from unauthorized access, alteration or use.

(2) Tamper-resistant Prescription:

(a) Where used in this chapter, Tamper-resistant Prescription means a form for the purpose of issuing a hand written or typed prescription, intended to be manually delivered to a pharmacy, which has been developed, produced and formatted to ensure security, integrity and authenticity using currently accepted technologies.

(b) Formatted features may include but are not limited to characteristics such as:

(A) The word "void" appears when photocopies are attempted;

(B) Background ink which reveals attempted alterations;

(C) Heat sensitive ink that changes colors;

(D) Penetrating ink to prevent chemical alterations;

(E) A watermark which cannot be photocopied;

(F) Coin reactive ink that reveals word when rubbed with a coin;

(G) Sequential numbering.

Stat. Auth.: 689.205
Stats. Implemented: ORS 689.155
Hist.: BP 2-2007(Temp), f. & cert. ef. 8-27-07 thru 2-18-08; BP 1-2008, f. & cert. ef. 2-5-08

855-041-0061
Tamper-resistant Prescription

When the use of a tamper-resistant prescription is required by any federal or state law or rule, the term "tamper-resistant" shall have the meaning as defined in OAR 855-006-0015.

Stat. Auth.: 689.205
Stats. Implemented: ORS 689.155
Hist.: BP 2-2007(Temp), f. & cert. ef. 8-27-07 thru 2-18-08; BP 1-2008, f. & cert. ef. 2-5-08

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Construction Contractors Board
Chapter 812

Rule Caption: Amend Delivery and Proof of Delivery of Consumer Notice Requirements.
Adm. Order No.: CCB 4-2008(Temp)
Filed with Sec. of State: 1-18-2008
Certified to be Effective: 1-18-08 thru 7-15-08
Notice Publication Date:
Rules Amended: 812-012-0130
Subject: OAR 812-012-0130 is amended to delete 812-012-0130(2) to allow additional policy debate and further consideration of the impact of small business and correct cite references. OAR 812-012-0130(2) places contractors in an unworkable position as it relates to delivery of CCB "Consumer Protection Notice" and "Notice of Procedure" documents when contracting to perform small repair projects. In many cases, these oral agreements are made by telephone and the work is performed when owners are not present at the job sites. Small electrical, plumbing, and glazing repair projects, for example, are often ordered by consumers over the telephone. The only written document is the invoice prepared by the contractor at the conclusion of the work. As a consequence of this rule that went into effect January 1, 2008, contractors are required to deliver the notices at the time the oral agreement is struck between the parties. This is often impossible as these deals are often made over the telephone.
Rules Coordinator: Catherine Dixon—(503) 378-4621, ext. 4077

812-012-0130
Delivery and Proof of Delivery of Consumer Notice

(1) If a contractor is required to have a written contract under ORS 701.305, the consumer notices described in OAR 812-001-0200 shall be delivered on or before the date the contact is entered into.

(2) The contractor shall maintain proof of delivery of the Consumer Protection Notice, Notice of Procedure, and the notice required under ORS 87.093, if required, for a period of two years after the contract was entered into. Proof of delivery of the notices shall include, but not be limited to:

(a) A signed copy of the notices;

(b) An unambiguous phrase in the written contract that acknowledges receipt of the notices and that is initialed by the owner; or

(c) Copies of the written contract, if the notices are fully contained in the written contract.

Stat. Auth.: ORS 670.310, 701.235, 701.305 & 701.330
Stats. Implemented: 701.305 & 701.330
Hist.: CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 4-2008(Temp), f. & cert. ef. 1-18-08 thru 7-15-08

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Department of Administrative Services
Chapter 125

Rule Caption: Permanent repeal of all Measure 37 Administrative Rules.
Adm. Order No.: DAS 1-2008
Filed with Sec. of State: 2-6-2008
Certified to be Effective: 2-6-08
Notice Publication Date: 1-1-2008
Rules Repealed: 125-145-0010, 125-145-0020, 125-145-0030, 125-145-0040, 125-145-0045, 125-145-0060, 125-145-0080, 125-145-0090, 125-145-0100, 125-145-0105
Subject: On November 6, 2007, the voters approved Ballot Measure 49. Ballot Measure 49 modifies Ballot Measure 37 (2004) and became effective on December 6, 2007. Under Ballot Measure 49, the authority for acting on claims made to the State of Oregon is transferred from the Department of Administrative Services to the Oregon Department of Land Conservation and Development. All Measure 37 Administrative Rules of the Department of Administrative Services were temporarily suspended on December 6, 2007. This permanent rule repeal makes the temporary suspension permanent.
Rules Coordinator: Yvonne Hanna—(503) 378-2349, ext. 325

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Department of Administrative Services, Public Employees' Benefit Board
Chapter 101

Rule Caption: Amend PEBB rules to provide for new legislation Section 9, Ch. 99, Oregon Law 2007 on domestic partnership.
Adm. Order No.: PEBB 1-2008(Temp)
Filed with Sec. of State: 2-4-2008
Certified to be Effective: 2-4-08 thru 8-1-08
Notice Publication Date:
Rules Amended: 101-010-0005, 101-015-0025
Subject: This rulemaking amends the current rules governing the eligibility for benefits and procedures of the Public Employee's Benefit Board and is made part of OAR Chapter 101. This rulemaking implements recent state legislation Section 9, Ch. 99, Oregon Laws 2007 on domestic partners.
Rules Coordinator: Sharon M. Sheehan—(503) 378-8031

101-010-0005
Definitions

Unless the context indicates otherwise, as used in OAR chapter 101, divisions 1 through 60, the following definitions will apply:

(1) "Actively at work" means:

(a) For medical and dental insurance coverage, an active eligible employee at work, in paid regular status, scheduled for work during the month of requested insurance coverage, or using accrued leave on the effective date of coverage.

(b) For life, disability and accidental death and dismemberment insurance coverage, an active eligible employee who is physically on the job and receiving pay for the first scheduled day of work and performing the material duties of the employee's occupation at the employer's usual place of business. If an active eligible employee is incapable of active work because of sickness, injury, or pregnancy on the day before the scheduled effective date of his or her insurance coverage or increase in insurance coverage, the insurance coverage or increase is not effective until the first of the month after the active eligible employee completes one full day of active work.

(2) "Affidavit of Dependency" means a notarized document that attests a dependent child meets the criteria in section (7).

(3) "Affidavit of Domestic Partnership" means a notarized document that attests the eligible employee and one other individual meet the criteria in OAR 101-15-0025(2).

(4) "Benefit amount" means the amount of money paid by a PEBB participating organization on behalf of active eligible employees for the purchase of benefit plans.

(5) "CBIW" means Continuation of Benefits for Injured Workers.

(6) Certificate of Registered Domestic Partnership means the certificate issued by an Oregon county clerk to two individuals of the same sex after they file a Declaration of Domestic Partnership with the county clerk.

(7) "COBRA" means the federal Consolidated Omnibus Reconciliation Act.

(8) "Dependent child" means any child who meets the criteria in this section. In defining dependent child, PEBB follows Internal Revenue Code (IRC) 152 as revised by the Working Families Tax Relief Act of 2004:

(a) The child is not married and does not have a domestic partner; and

(A) Is under the age of 19 at the end of the calendar year; or

(B) Meets the IRC 152(f)(2) definition of a dependent child between the ages of 19 and up to age 24 attending school full time, excluding foreign students; or

(C) Is between the ages of 19 and up to age 24, living in the home of the eligible employee over six months of the calendar year, and the eligible employee provides over half the yearly support; or

(D) Is between the ages of 19 and up to age 24, and is incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability. The attending physician must submit documentation of the disability to the insurance plan for approval. Once certified, the insurance plan may review dependent certification to determine continued eligibility; or

(E) Is a child age 24 or older, and is incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability. Except in the case of a child who previously qualified under (a) (D) of this section, the attending physician must submit documentation of the disability to the insurance plan for approval. The insurance plan may review dependent certification to determine continued eligibility. If the child is terminated from PEBB insurance coverage after age 24 for any reason, the eligible employee cannot re-enroll the child. A disabled dependent child, age 24 or older, must also meet the following criteria:

(i) The disability must have existed prior to attaining age 24.

(ii) The child must have had continuous medical insurance coverage, group or individual, prior to attaining age 24 and until the time of the PEBB insurance effective date.

(b) The child must not qualify as any other person's dependent child, except that a child of divorced or separated parents meeting conditions under IRC 152(e) can be treated as a dependent of both parents.

(c) A dependent child must also meet one of the following criteria:

(A) Is a biological child of, an adopted child of, or a child placed for adoption with the eligible employee, spouse, or domestic partner; or

(B) Is a legal ward by court decree, a dependent by Affidavit of Dependency, or is under legal guardianship of the eligible employee, spouse or domestic partner, and is living in the home of the eligible employee.

(d) As referenced in OAR 101-015-0025 (1) and (2)(g) a child of a domestic partner meeting the definition of a dependent child is eligible to receive insurance coverage subject to imputed value tax.

(9) "Domestic partner" includes an eligible employee's partner in a registered domestic partnership under Chapter 99 Oregon Laws 2007 or unmarried partner of the same or opposite sex that meets the requirements as outlined in OAR 101-015-0025(2).

(10) "Eligible employee" means and includes:

(a) "Active eligible employee" means an employee of a PEBB participating organization, including state officials, in exempt, unclassified, classified and management service positions who are expected to work at least 90 days; and who work at least half-time or are in a position classified as job share.

(b) "Retired eligible employee" means a previously active eligible employee, who meets retiree eligibility as defined in OAR 101-050-0005. A retired eligible employee is eligible only for those benefit plans established in division 50 of this chapter.

(c) "Other eligible employees" mean individuals of self-pay groups as established by ORS 243.140 and 243.200. This group is eligible only for medical or dental benefits as approved.

(11) "Family member" means a spouse or dependent child.

(12) "FMLA" means the federal Family Medical Leave Act.

(13) "FTE" means full time equivalent classified job position.

(14) "Half-time" means an eligible employee who works less than full time but at least:

(a) Eighty paid regular hours per month; or

(b) .5 FTE for Oregon University System (OUS) employees; or

(c) As defined by collective bargaining.

(15) "Imputed value" means a dollar amount established yearly for an insurance premium at fair market value. The IRS views the imputed value as taxable income. The imputed value dollar amount is added to the eligible employee's taxable wages.

(16) "Ineligible individual" means an individual or employee who does not meet the definition of an eligible employee, spouse, domestic partner, or dependent child as established in this rule.

(17) "Job share" means two eligible employees sharing one full time equivalent position. Each eligible employee's percentage of the total position determines the benefit amount the employee receives. The employees need not be classified as half-time. They cannot donate their portion of the benefit amount to the other job share co-worker. The monthly benefit amount percentage remains the same regardless of individual hours worked.

Example 1: John and Jill share one full time equivalent position. When they were hired into the position in July, John's percentage of the total position was 40 percent; Jill's percentage was 60 percent. John worked 70 percent of the available hours in September. John's benefit amount percentage for September remains at 40 percent. Jill's benefit amount percentage remains at 60 percent.

(18) "OFLA" means the Oregon Family Leave Act.

(19) "Open enrollment period" means an annual period chosen by PEBB when both active and other eligible employees and COBRA participants can make benefit plan changes or elections for the next plan year.

(20) "Paid regular" means in current payroll status, payment for work time including vacation, sick, holiday or personal leave and compensatory time.

(21) "Pebb.benefits" means the automated internet benefit management application sponsored by PEBB. The system allows electronic enrollment and termination of the eligible individual's benefit plans, personal information updates, and the transmittal of benefit plan data to insurance plans and payroll centers.

(22) "PEBB participating organization" means a state agency, board, commission, university, or other entity that receives approval to participate in PEBB benefit plans.

(23) "Plan change period" means a period chosen by PEBB when retirees can make limited benefit plan changes.

(24) "Plan year" means a period of twelve consecutive months.

(25) "Qualified status change" (QSC) means a change in family or work status that allows limited mid-year changes to benefit plans consistent with the individual QSC.

(26) "Reinstatement" or "reinstated" means to reactivate the benefit amount and enrollment in previous medical, dental, life, and disability insurance coverage, if available, on a guaranteed basis when returning to eligible status within a specific time frame.

(27) "Spouse" means a person of the opposite sex who is a husband or wife. A relationship recognized as a marriage in another state will be recognized in Oregon even though such a relationship would not be a marriage if the same facts had been relied upon to create a marriage in Oregon. The definition of spouse does not include a former spouse and a former spouse does not qualify as a dependent.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.061 - 302, 659A.060 - 069, 743.600 - 602 & 743.707

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2000, f. 11-15-00, cert. ef. 1-1-01; PEBB 1-2001, f. & cert. ef. 9-6-01; PEBB 1-2002, f. 7-30-02, cert. ef. 8-1-02; PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 3-2004, f. & cert. ef. 10-7-04; PEBB 3-2005, f. 8-31-05, cert. ef. 9-1-05; PEBB 2-2006(Temp), f. & cert. ef. 12-14-06 thru 6-12-07; PEBB 1-2007(Temp), f. & cert. ef. 6-11-07 thru 12-8-07; PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 1-2008(Temp), f. & cert. ef. 2-4-08 thru 8-1-08

101-015-0025
Requirements for Domestic Partnership

(1) Certificate of Registered Domestic Partnership. When a Registered Domestic Partnership exists and the eligible employee wants to enroll the domestic partner or the domestic partner's eligible children in benefit plans, the employee may electronically enroll or submit enrollment forms to the agency at the appropriate time as defined by PEBB enrollment rules.

(2) PEBB Affidavit of Domestic Partnership. An eligible employee and an individual of the same sex or opposite sex without a Certificate of Registered Domestic Partnership desiring recognition by PEBB as Domestic Partners must meet all of the following criteria:

(a) Are both at least 18 years of age;

(b) Are responsible for each other's welfare and are each other's sole domestic partners;

(c) Are not married to anyone;

(d) Share a close personal relationship and are not related by blood closer than would bar marriage in the State of Oregon;

(e) Currently share the same regular permanent residence.

(f) Are jointly financially responsible for basic living expenses defined as the cost of food, shelter and any other expenses of maintaining a household. Financial information must be provided if requested.

(g) Electronically enroll or submit enrollment forms to the agency at the appropriate time as defined by PEBB enrollment rules. The employee and domestic partner must jointly complete and return to the agency a notarized PEBB Affidavit of Domestic Partnership form, within five business days of the electronic enrollment date or the date the agency received the enrollment forms. If the affidavit is not received, coverage will terminate for the domestic partner and the domestic partner's dependent children retroactive to the effective date. To enroll a domestic partner's eligible children in benefit plans, whether or not the enrollment includes the domestic partner, the employee must submit an Affidavit of Domestic Partnership along with enrollment update forms to the agency.

(4) An imputed value for the fair market value of the domestic partner and domestic partner's children's insurance premium will be added to the eligible employee's taxable wages when required by federal or state law.

(5) An employee terminating a domestic partnership must submit correct forms to the agency within 60 days of the event. Insurance coverage for the domestic partner or a domestic partner's child ends the last day of the month that eligibility is lost.

Stat. Auth.: ORS 243.061-302

Stats. Implemented: ORS 243.061-302, 659A.060-069, 743.600-602 & 743.707
Hist.: PEBB 2-2007, f. 9-28-07, cert. ef. 10-1-07; PEBB 1-2008(Temp), f. & cert. ef. 2-4-08 thru 8-1-08

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Department of Agriculture
Chapter 603

Rule Caption: Updates Phytopthora ramorum quantities: Adds newly detected sites in Curry County, new hosts, and protocols.
Adm. Order No.: DOA 5-2008
Filed with Sec. of State: 1-16-2008
Certified to be Effective: 1-16-08
Notice Publication Date: 11-1-2007
Rules Amended: 603-052-1230, 603-052-1250
Subject: The proposed amendments would harmonize the State's Phytopthora ramorum rules with current federal regulations and protocols. The area under quarantine for P. ramorum in Curry County would increase to 162 square miles to include five newly detected sites outside of the existing quarantine area (603-05201230). Reference to USDA APHIS's official host list, interim rule, and confirmed nursery protocol in the P. ramorum quarantine (603-052-1230) and P. ramorum regulated area for nursery stock (603-052-1250) would be updated to the latest versions. References to federal phytosanitary requirements for nurseries and other businesses located within the quarantine area would be added. Language describing special permits would be clarified (603-052-1230) and references to the rule sunset would be removed (603-052-1250).
Rules Coordinator: Sue Gooch—(503) 986-4583

603-052-1230
Quarantine: *Phytophthora ramorum*

(1) Establishing a quarantine: A quarantine is established against *Phytophthora ramorum*, the cause of sudden oak death and other plant diseases. This quarantine is established under ORS 561.510 and 561.540 to protect Oregon's agricultural industries and natural resources from the artificial spread of *P. ramorum*. This pathogen causes mortality in susceptible oak (*Quercus spp*.), tanoak (*Lithocarpus spp*.), Rhododendron (*Rhododendron spp*.), viburnum (*Viburnum spp*.), evergreen huckleberry (*Vaccinium ovatum*), and other plant species. In other susceptible plants it causes leaf spots, twig dieback and/or stem cankers. Methods for exclusion of commodities potentially infected with this disease and procedures for eradication of incipient infections are prescribed in this quarantine.

(2) Area under quarantine:

(a) The following counties in California: Alameda, Contra Costa, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma;

(b) The following portion of Curry County that lies inside the area south of the northern border of T38S R12W sections 29 and 30, T 39S R13W sections 1, 2, 3, 4, 5, and 6, and T39S R14W sections 1, 2, 3, 4, and 5; then west of the eastern border of T38S R12W sections 29 and 32, T39S R12W sections 5, 8, 17, 20, 29, and 32, T40S R12W sections 5, 8, 17, 20, 29, and 32, and T41S R12W sections 5 and 8; then north of the southern border of T41S R12W Sections 7 and 8, T41S R13W Sections 23 and 24 to the intersection with US Highway 101 and then northeast of US Highway 101 to the intersection with T41S R13W Section 10 and then north of T41S R13W Sections 8, 9, and 10; then east of the western border of the Pacific Coastline;

(c) Any country, state, county, province or area covered by the federal interim rule, 7 CFR 301.92, Phytophthora ramorum; quarantine and regulations;

(d) Any property in Oregon where P. ramorum is found, including a buffer zone of up to three (3) miles surrounding the infected site during any eradication program.

(3) The following definitions apply to ORS 603-052-1230:

(a) "Hosts and associated plants" means plants on the USDA APHIS List of Regulated Hosts and Plants Associated with Phytophthora ramorum, last revised August 3, 2007. (**NOTE**: This list is available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone 503-986-4644);

(b) "Nursery stock" is defined in ORS 571.005. Tissue culture plantlets in sealed, sterile containers are exempt from this regulation.

(4) Commodities regulated:

(a) All plants and plant parts of hosts and associated plants: Examples of regulated commodities include all above ground portions of the plants including, but not limited to nursery stock, logs, bark, wood chips, mulch, firewood, sawdust, green waste, other plant products that may contain bark or foliage;

(b) Any other plant found to be naturally infected with P. ramorum, any product or article that an official inspector determines to present a risk of spreading *P. ramorum*. All life stages of P. ramorum.

(5) Provisions of the quarantine: Regulated commodities originating from the area under quarantine, and any other area found to be infested with P. ramorum during the life of this quarantine, are prohibited unless one of the following requirements has been met:

(a) All regulated commodities must be kiln-dried or heat-treated to 60ºC (140ºF) for one (1) hour measured at the core prior to shipment. Treatments must be officially verified. The official certificate must include the following additional declaration "The (type of covered commodity) from (name of county or other location identifier) has been treated for Phytophthora ramorum as required prior to shipment." The length and temperature of the treatment must be recorded on the official certificate;

(b) Nursery stock grown in a quarantined county or area may be eligible for shipment to and within Oregon providing the nursery is part of an official certification program and has been inspected and tested as required by the federal interim rule, 7 CFR 301.92, for P. ramorum. The official certificate must include the following additional declaration: "The (covered commodity) from (name of county or other location identifier) has met the Phytophthora ramorum quarantine requirements for shipment into and within Oregon. "**NOTE**: Recipients of tree and shrub nursery stock imported into the state must notify the ODA no later than two business days after its arrival as required by OAR 603-054-0027.

(c) Soil and potting media from the quarantine area at a known infected site or from within five (5) meters of an infected host plant must be sterilized before shipment. The soil or potting media must reach a minimum temperature of 60ºC (140ºF) for one (1) hour measured at the center of the mass of soil or potting media. Soil or potting media that has never been associated with the covered commodities is exempt. Treatments must be officially verified. The official certificate must include the following additional declaration "The (soil or potting media) from (name of county or other location identifier) has been treated for Phytophthora ramorum as required prior to shipment." The length and temperature of the treatment must be recorded on the official certificate.

(6) Infected properties in Oregon: Confirmation of a P. ramorum infection must be made by the ODA or an official cooperator. The disease must be eradicated from the property as quickly as possible in accordance with USDA APHIS's Confirmed Residential Protocol for Phytophthora ramorum Detections in Landscaped Residential or Commercial Settings, last revised Nov. 8, 2004 or the Phytophthora ramorum APHIS Response Protocol for Forest and Wildland Environments Version 1.0, dated June 16, 2006. (**NOTE:** These protocols are available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone 503-986-4644.) Affected property owners will be issued infection location and eradication requirements in the form of an Administrative Directive. For public and private forested lands, the Oregon Departments of Agriculture (ODA) and Forestry (ODF) will work with the landowner to develop an eradication plan that will be based on the best available science. The program may include some or all of the following activities: cutting and piling susceptible trees and shrubs, burning the wood and plant debris when safe to do so, herbicide treatment of stumps and sprouts, fungicide spraying, sampling and monitoring.

(7) Infected nurseries in Oregon: Confirmation of a P. ramorum infection must be made by the ODA or an official cooperator. Nurseries are required to eradicate the disease as quickly as possible in accordance with USDA APHIS's Official Regulatory Protocol for Wholesale and Production Nurseries Containing Plants Infected with Phytophthora ramorum Version 8.0, last revised July 20, 2007 (**NOTE**: This protocol is available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone 503-986-4644.). The ODA will work with the nursery owner to implement an eradication and monitoring program utilizing protocols prescribed by USDA APHIS.

(8) Special permits: The Department, upon receipt of an application in writing, may issue a special permit allowing movement into this state, or movement within this state, of regulated commodities not otherwise eligible for movement under the provisions of this quarantine order. Movement of such commodities will be subject to any conditions or restrictions stipulated in the permit, and these conditions and restrictions may vary depending upon the intended use of the commodity and the potential risk of escape or spread of P. ramorum.

(9) Violation of quarantine: Violation of this quarantine may result in a fine, if convicted, of not less than $500 no more than $5,000, as provided by ORS 561.990. In addition, violators will be subject to civil penalties of up to $10,000 as provided by ORS 561.995. Commodities shipped in violation of this quarantine may be treated, destroyed or returned to their point of origin without expense or indemnity paid by the state.

Stat. Auth.: ORS 561.190 & 561.560
Stats. Implemented: ORS 561.560
Hist.: DOA 1-2001(Temp), f. & cert. ef. 1-5-01 thru 4-4-01, DOA 5-2001, f. & cert. ef. 3-27-01; DOA 1-2005, f. & cert. ef. 1-24-05; DOA 4-2006, f. & cert. ef. 3-10-06; DOA 7-2007, f. & cert. ef. 3-27-07; DOA 5-2008, f. & cert. ef. 1-16-08

603-052-1250
***Phytophthora ramorum* Regulated Area for Nursery Stock**

(1) A regulated area is established as authorized under ORS 570.305, 571.015 and 571.145, to protect Oregon from introduction of Phytophthora ramorum (sudden oak death, ramorum canker and blight). This pathogen causes leaf blight, dieback or death in certain trees and shrubs including tanoak, rhododendron, viburnum and camellia. Susceptible plants include species important to Oregon's native forests, horticultural landscapes and nursery industry.

(2) This regulated area includes the entire state of Oregon.

(3) The following definitions apply to OAR 603-052-1250:

(a) "Hosts and associated plants" means plants on the USDA APHIS's List of Regulated Hosts and Plants Associated with Phytophthora ramorum, last revised August 3, 2007. (**NOTE:** This list is available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone 503-986-4644;)

(b) "Grower" and "nursery stock" are defined in ORS 571.005;

(c) Tissue culture plantlets in sealed, sterile containers are exempt from this regulation. Also exempt are: acorns and seeds; turf or sod; bulbs; tubers, corms or rhizomes (except those species listed as hosts or associated plants); greenhouse grown cactus, succulents and orchids; aquarium grown aquatic plants; and greenhouse, container or field grown palms and cycads.

(4) All growers of host and associated plants in the regulated area shall enter into compliance agreements with the department and/or USDA, APHIS as described in section (6). Before growers can enter into a compliance agreement they must be inspected, tested and certified free of P. ramorum, as described in sections (5) or (7).

(5) Growers in the certification program shall be inspected and tested for P. ramorum in accordance with federal interim rule, 7 CFR 301.92. (**NOTE:** This interim rule is available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone 503-986-4644.) Inspection and sampling procedures will meet or exceed USDA standards for nurseries in regulated and quarantine areas. The department, using federally approved laboratory protocols, will test the samples.

(6) Growers who enter compliance agreements will be required to:

(a) Comply with OAR 603-054-0027 that requires all recipients of shipments of tree and shrub nursery stock imported from out-of-state, to notify the department within two business days of arrival of the shipment;

(b) Purchase hosts and associated hosts only from certified sources when such purchases originate in a Federally quarantined or regulated areas where official P. ramorum certification programs acceptable to the department exist;

(c) Have an official inspector inspect and test for P. ramorum, hosts and associated hosts purchased from sources in Federally quarantined or regulated areas where no official certification program exists; these plants must be safeguarded, segregated and held off sale until test results are complete;

(d) Maintain records of all incoming and outgoing shipments of hosts and associated hosts for a minimum of 24 months;

(e) Include appropriate Federal or State certification with all host nursery stock and associated plants shipped interstate.

(7) Alternately, such nurseries may be inspected, sampled and tested through an official "State Nursery Stock Cleanliness Program" (SNSCP), which documents inspection of all nursery stock for the presence of *P. ramorum*, at the appropriate time of year. The SNSCP inspection, sampling, and testing program must be approved by USDA, APHIS. Until testing is completed and the nursery is found free of evidence of P. ramorum the following plants must be withheld from interstate shipment:

(a) All host nursery stock and associated plants;

(b) All plants within the same genus as any host or associated plant; and

(c) Any plants located within 10 meters of a host or associated plant.

(8) Failure to comply with all articles of a compliance agreement will result in revocation of the compliance agreement and decertification.

(9) Growers of nursery stock that is not on the list of hosts and associated plants must be inspected annually for any evidence of P. ramorum. Plants showing symptoms of *P. ramorum* infection upon inspection will be sampled and tested. If symptomatic plants are found upon inspection, the following plants must be withheld from interstate shipment until testing is completed and the nursery is found free of evidence of P. ramorum:

(a) All symptomatic plants;

(b) Any plants located in the same lot as the suspect plant; and

(c) Any plants located within 2 meters of this lot of plants.

(10) A list of growers compliant with these rules will be maintained on the department's web site. The department will update the list as necessary to maintain an accurate accounting of growers participating in the program.

(11) If *P. ramorum* is officially confirmed within a nursery, delimitation and eradication procedures as outlined in USDA APHIS's Official Regulatory Protocol for Wholesale and Production Nurseries Containing Plants Infected with Phytophthora ramorum Version 8.0, last revised July 20, 2007, will be implemented immediately. (**NOTE:** This protocol is available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone 503-986-4644.) Hosts and associated hosts shall not be moved from the nursery/growing site until all conditions of the protocol are met and the department releases the plants.

(12) Violators of this regulated area are subject to the penalties provided by ORS 570.410 and 570.990 and 570.995, including civil penalties up to $10,000.

Stat. Auth..: ORS 561.510 & 570.305
Stats. Implemented: ORS 561.190
Hist.: DOA 13-2005, f. & cert. ef. 3-25-05; DOA 4-2006, f. & cert. ef. 3-10-06; DOA 7-2007, f. & cert. ef. 3-27-07; DOA 5-2008, f. & cert. ef. 1-16-08

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Rule Caption: Implementation of fee increases in per animal inspections.
Adm. Order No.: DOA 6-2008
Filed with Sec. of State: 2-6-2008
Certified to be Effective: 2-6-08
Notice Publication Date: 10-1-2007
Rules Amended: 603-014-0016, 603-014-0055, 603-014-0065, 603-014-0095, 603-014-0135
Rules Repealed: 603-014-0100
Subject: These rules are established to reflect the changes made by the 2007 Legislative Assembly through SB 236 to provide funding for the Animal Identification/Brand program of the Oregon Department of Agriculture. These rules amend Service Fee and Service Fee Exemptions to establish a $25 service fee and to modify or remove exceptions from the service fee. Amends Brand Inspection Fee to increase brand inspection fees for cattle and hides to $0.85. Removes the requirement for brand inspection of horses, mules, and donkeys. Removes the Claims for Brand Inspection Fee Refund. Amends Brand Inspection System for Cattle Hides.
Rules Coordinator: Sue Gooch—(503) 986-4583

603-014-0016
Location of Brands on Certain Animals

(1) Cattle. Brands can only be recorded with the Department under the provisions of ORS chapter 604, in the following locations:

(a) Right hip, right ribs, right shoulder, right neck, right jaw;

(b) Left hip, left ribs, left shoulder, left neck, left jaw.

(2) Horses, mules or asses. Brands can only be used or placed on horses, mules or asses and can only be recorded with the Department under the provisions of ORS chapter 604, in the following locations:

(a) Right hip, right stifle, right shoulder, and right jaw;

(b) Left hip, left stifle, left shoulder, and left jaw.

(3) Sheep. Brands can only be used or placed on sheep and can only be recorded with the Department under the provisions of ORS chapter 604, in the following locations for the branding method identified:

(a) Paint brands shall be located on either of two locations on the back of the animal such locations being defined as:

(A) Withers area: From the spinous process of the first thoracic vertebrae posteriorally to the posterior border of the eighth rib, extending on each side to lines parallel to the back line from one-half the distance from the spinous process to the shoulder joint; and

(B) Mid-back area: From the posterior border of the above described withers area posteriorally along the spinous process to the fourth lumbar

vertebrae, extending on each side to lines parallel to those side lines described in the withers area.

(b) Such brands shall be situated so that the top of the brand faces toward the head of the animal:

(A) Tattoo brands shall be located on the inside of either of the front legs on the wool-free area above the knee;

(B) Firebrands, freeze brands, or caustic chemical brands shall be located on either nose, left jaw, or right jaw.

Stat. Auth.: ORS 561 & 604
Stats. Implemented: ORS 604.021
Hist.: AD 647, f. & ef. 11-18-60; AD 849(21-67), f. 9-5-67, ef. 9-13-67; AD 1003(17-73), f. 12-5-73, ef. 12-25-73; AD 1092(15-76), f. & ef. 4-16-76; AD 22-1981, f. & ef. 10-7-81; DOA 2-2004, f. & cert. ef. 1-23-04; DOA 6-2008, f. & cert. ef. 2-6-08

603-014-0055
Service Fee

(1) The service fee provided for in ORS 604.046(2) shall apply any time a livestock inspector travels specifically with the intent to conduct a brand inspection.

(2) The service fee is $25 per travel location.

Stat. Auth.: ORS 561.190
Stats. Implemented: ORS 604.046(2)
Hist.: DOA 14-1999, f. & cert. ef. 6-30-99; DOA 12-2006, f. 6-7-06 cert. ef. 7-1-06; DOA 10-2007(Temp), f. 6-20-07, cert. ef. 7-1-07 thru 12-21-07; Administrative Correction 1-24-08; DOA 6-2008, f. & cert. ef. 2-6-08

603-014-0065
Service Fee Exemptions

The service fee required by OAR 603-014-0055 shall not apply to the following:

(1) Cattle and equine that are presented for inspection at place where a livestock inspector is present and the owner or occupant of that place allows the use of their property to conduct the inspection. The service charge may or may not have already been paid by the person who caused the inspector to be at that place.

(2) At auction markets where multiple inspectors are required to adequately inspect cattle prior to their sale, only one service fee will be charged per sale.

Stat. Auth.: ORS 561.190
Stats. Implemented: ORS 604.046(2)
Hist.: DOA 14-1999, f. & cert. ef. 6-30-99; DOA 10-2007(Temp), f. 6-20-07, cert. ef. 7-1-07 thru 12-21-07; Administrative Correction 1-24-08; DOA 6-2008, f. & cert. ef. 2-6-08

603-014-0095
Brand Inspection Fee

(1) The brand inspection fee for cattle, as provided by ORS 604.066(2), shall be $0.85 per head.

(2) The brand inspection fee for cattle hides shall be $1.50 per hide.

(3) The brand inspection fee for self-inspection (E certificates) on cattle shall be $1.00 per head.

(4) The charge for cattle transportation certificates, as authorized by ORS 561.180(4), shall be $1.50 per book.

Stat. Auth.: ORS 561.180, 604.027 & 607.261
Stats. Implemented: ORS 604.066
Hist.: AD 15-1982, f. & ef. 11-1-82; AD 13-1983, f. 10-19-83, ef. 11-1-83; AD 3-1985, f. 1-23-85, ef. 2-1-85; AD 12-1989, f. & cert. ef. 9-1-89; AD 6-1992, f. & cert. ef. 6-3-92; DOA 8-2003, f. 1-14-03 cert. ef. 1-15-03; DOA 10-2007(Temp), f. 6-20-07, cert. ef. 7-1-07 thru 12-21-07; Administrative Correction 1-24-08; DOA 6-2008, f. & cert. ef. 2-6-08

603-014-0135
Brand Inspection System for Cattle Hides

As provided by ORS 604.046(6), the system for brand inspection of cattle hides resulting from custom slaughtering operations shall be as follows:

(1) Custom slaughtering establishments shall prepare the certificates and reports required by ORS 603.045. All hides shall be identified by application of a back tag or other identification device approved in writing by the Department. The back tag or device must be affixed to the hide with back tag glue or other manner approved in writing by the Department.

(2) Custom slaughtering establishments shall disclose to the Department the identities and locations of the rendering plants or hide buyers to which they sell or deliver cattle hides resulting from their slaughtering operations. Brand inspection of cattle hides may then be performed at these identified places. In the event custom slaughtering establishments retain the cattle hides resulting from their slaughtering operations, or in the event the cattle hides are disposed of to tanneries, or to rendering plants or tanneries located outside this state, brand inspection of cattle hides shall then be performed at the custom slaughtering establishments with the fees therefore based upon the number of cattle hides inspected. The brand inspection of cattle hides may be random, select or complete, depending upon the number of hides available for inspection and the degree of ownership verification, but not less than 25% annually.

(3) As provided by ORS 561.275, all rendering plants licensed under ORS 601.050, hide buyers, and all custom slaughtering establishment licensed under ORS 603.025, shall make their records relating to their acquisition and disposition of cattle hides available to the Department upon its request.

(4) The fee for brand inspection of cattle hides shall be that set forth in OAR 603-014-0095. The fee for such inspections performed at rendering plants identified under section (2) of this rule shall be deducted from the sales prices due the custom slaughtering establishments from whom the cattle hides were obtained, and remitted to the Department on or before the fifth day of the month following the acquisition of such cattle hides.

Stat. Auth.: ORS 561 & 604
Stats. Implemented: ORS 604.071(5)
Hist.: AD 13-1983, f. 10-19-83, ef. 11-1-83; AD 9-1987, f. & ef. 6-24-87; DOA 15-1999, f. & cert. ef. 6-30-99; DOA 26-2000, f. & cert. ef. 10-6-00; DOA 10-2007(Temp), f. 6-20-07, cert. ef. 7-1-07 thru 12-21-07; Administrative Correction 1-24-08; DOA 6-2008, f. & cert. ef. 2-6-08

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Rule Caption: Repeal of quarantine against European Pine Shoot Moth/Update to other insect quarantines.
Adm. Order No.: DOA 7-2008
Filed with Sec. of State: 2-8-2008
Certified to be Effective: 2-8-08
Notice Publication Date: 12-1-2007
Rules Amended: 603-052-0127, 603-052-0129, 603-052-0360, 603-052-1221
Rules Repealed: 603-052-0130, 603-052-0132, 603-052-0134, 603-052-0136, 603-052-0138, 603-052-0140, 603-052-0142, 603-052-0145
Subject: The proposed changes update various insect quarantines:

1. repeal the external quarantine against European pine shoot moth. This insect is now widely distributed in Oregon and the quarantine has outlived its usefulness.

2. Add British Columbia to the area under quarantine for European chafer.

3. Add Michigan to the area under quarantine for exotic phytophagous snails.

4. Update scientific name of codling moth.

5. Update reference to 2005 Insect Control Handbook.

6. Deletes reference to glassy-winged sharpshooter quarantine review in 2003.

Rules Coordinator: Sue Gooch—(503) 986-4583

603-052-0127
Quarantine; Japanese Beetle, European Chafer and Oriental Beetle

(1) Establishing a Quarantine. A quarantine is established against the pest known as Japanese beetle (*Popillia japonica*) European chafer (*Rhizotrogus majalis*), and Oriental beetle (*Anomala orientalis*), a member of the family Scarabaeidae, which in the larval stage feed on the roots of many plants and in the adult stage feed on the flowers, foliage and fruit of many plants.

(2) Areas Under Quarantine. The entire states of Alabama, Arkansas, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, the District of Columbia, the Provinces of Ontario, Quebec, and British Columbia, Canada, and any other state, territory or province where the presence of an established population of any of these insects is confirmed and effective eradication procedures have not been implemented.

(3) Commodities Covered. All life stages of the Japanese beetle, European chafer, and Oriental beetle, including eggs, larvae, pupae, and adults; and the following hosts or possible carriers of Japanese beetle:

(a) Soil, growing media, humus, compost, and manure (except when commercially packaged, and except soil samples under a federal Compliance Agreement);

(b) All plants with roots;

(c) Grass sod;

(d) Plant crowns or roots for propagation (except when free from soil and growing media; clumps of soil or growing media larger than 1/2 inch diameter will be cause for rejection);

(e) Bulbs, corms, tubers, and rhizomes of ornamental plants (except when free from soil and growing media; clumps of soil or growing media larger than 1/2 inch diameter will be cause for rejection); and

(f) Any other plant, plant part, article or means of conveyance when it is determined by the department to present a hazard of spreading live Japanese beetle due to either infestation, or exposure to infestation, by Japanese beetle.

(4) Restrictions. All commodities covered are prohibited entry into Oregon from the area under quarantine unless they have the required certification. Plants may be shipped from the area under quarantine into Oregon provided such shipments conform to one of the options below and are accompanied by a certificate issued by an authorized state agricultural official at origin. Note that not all protocols in the U.S. Domestic Japanese Beetle Harmonization Plan are acceptable for Oregon. Advance notification of regulated commodity shipment is required. The certifying official shall mail, FAX or e-mail a copy of the certificate to: Administrator, Plant Division, Oregon Department of Agriculture, 635 Capitol Street NE, Salem, Oregon 97310, FAX: 503/986-4786, e-mail: quarantine@oda.state.or.us. The shipper shall notify the receiver to hold such commodities for inspection by the Oregon Department of Agriculture. The receiver must notify the Oregon Department of Agriculture of the arrival of commodities imported under the provisions of this quarantine and must hold such commodities for inspection. Such certificates shall be issued only if the shipment conforms fully with (a), (b), (c), (d), (e) or (f) below:

(a) Bareroot Plants. Plants with roots are acceptable if they are bareroot, free from soil and growing media (clumps of soil or growing media larger than 1/2 inch diameter will be cause for rejection). The certificate accompanying the plants shall bear the following additional declaration: "Plants are bareroot, attached clumps of soil or growing media are less than 1/2 inch in diameter." Advance notification required (see section 4 above).

(b) Production in an Approved Japanese Beetle Free Greenhouse/Screenhouse. All the following criteria apply. All media must be sterilized and free of soil. All stock must be free of soil (bareroot) before planting into the approved medium. The potted plants must be maintained within the greenhouse/screenhouse during the entire adult flight period. During the adult flight period the greenhouse/screenhouse must be made secure so that adult Japanese beetles can not gain entry. Security will be documented by the appropriate phytosanitary official. No Japanese beetle contaminated material shall be allowed into the secured area at any time. The greenhouse/screenhouse will be officially inspected by phytosanitary officials and must be specifically approved as a secure area. They shall be inspected by the same officials for the presence of all life stages of the Japanese beetle. The plants and their growing medium must be appropriately protected from subsequent infestation while being stored, packed and shipped. Certified greenhouse/screenhouse nursery stock may not be transported into or through any infested areas unless identity is preserved and adequate safeguards are applied to prevent possible infestation. Each greenhouse/screenhouse operation must be approved by the phytosanitary officials as having met and maintained the above criteria. The certificate accompanying the plants shall bear the following additional declaration: "The rooted plants (or crowns) were produced in an approved Japanese beetle free greenhouse or screenhouse and were grown in sterile, soilless media." Advance notification required (see section 4 above).

(c) Production During a Pest Free Window. The entire rooted plant production cycle will be completed within a pest free window, in clean containers with sterilized and soilless growing medium, i.e., planting, growth, harvest, and shipment will occur outside the adult Japanese beetle flight period, June through September. The accompanying phytosanitary certificate shall bear the following additional declaration: "These plant were produced outside the Japanese beetle flight season and were grown in sterile, soilless media." Advance notification required (see section 4 above).

(d) Application of Approved Regulatory Treatments. All treatments will be performed under direct supervision of a phytosanitary official or under compliance agreement. Treatments and procedures under a compliance agreement will be monitored closely throughout the season. State phytosanitary certificates listing and verifying the treatment used must be forwarded to Oregon via fax or electronic mail, as well as accompanying the shipment. Note that not all treatments approved in the U.S. Domestic Japanese Beetle Harmonization Plan are acceptable for Oregon. The phytosanitary certificate shall bear the following additional declaration: "The rooted plants are in soilless media and were treated to control Popillia japonica according to the criteria for shipment to category 1 states as provided in the U.S. Domestic Japanese Beetle Harmonization Plan and Oregon's Japanese beetle quarantine." Advance notification required (see section 4 above).

(A) Dip Treatment — B&B and Container Plants. Not approved.

(B) Drench Treatments — Container Plants Only. Not approved for ornamental grasses or sedges. Potting media used must be sterile and soilless, containers must be clean. Containers must be one gallon or smaller in size. Field potted plants are not eligible for certification using this protocol. This is a prophylactic treatment protocol targeting eggs and early first instar larvae. If the containers are exposed to a second flight season they must be retreated.

(i) Imidacloprid (Marathon 60WP). Apply one-half (0.5) gram of active ingredient per gallon as a prophylactic treatment just prior to Japanese beetle adult flight season (June 1, or as otherwise determined by the phytosanitary official). Apply tank mix as a drench to wet the entire surface of the potting media. A twenty-four (24) gallon tank mix should be enough to treat 120-140 one-gallon containers. Avoid over drenching so as not to waste active ingredient through leaching. During the adult flight season, plants must be retreated after sixteen (16) weeks if not shipped to assure adequate protection.

(ii) Bifenthrin (Talstar Nursery Flowable 7.9%). Mix at the rate of twenty (20) ounces per 100 gallons of water. Apply, as a drench, approximately eight (8) ounces of tank mix per six (6) inches of container diameter.

(C) Media (Granule) Incorporation — Container Plants Only. Containers must be one gallon or smaller in size. Not approved for ornamental grasses or sedges. All pesticides used for media incorporation must be mixed prior to potting and plants potted a minimum of thirty (30) days prior to shipment. Potting media used must be sterile and soilless; containers must be clean. The granules must be incorporated into the media prior to potting. Field potted plants are not eligible for treatment. This treatment protocol targets eggs and early first instar larvae and allows for certification of plants that have been exposed to only one flight season after application. If the containers are to be exposed to a second flight season they must be repotted with a granule incorporated mix or retreated using one of the approved drench treatments. Pesticides approved for media incorporation are:

(i) Imidacloprid (Marathon 1 G). Mix at the rate of five (5) pounds per cubic yard.

(ii) Bifenthrin (Talstar Nursery Granular or Talstar T&O Granular (0.2G)). Mix at the rate of 25 ppm or one-third (0.33) of a pound per cubic yard based on a potting media bulk density of 200.

(iii) Tefluthrin (Fireban 1.5 G). Mix at the rate of 25 ppm based on a potting media bulk density of 400.

(D) Methyl Bromide Fumigation. Nursery stock: methyl bromide fumigation at NAP, chamber or tarpaulin. See the California Commodity Treatment Manual for authorized schedules.

(e) Detection Survey for Origin Certification. Japanese Beetle Harmonization Plan protocol not approved. Alternative approved protocol: States listed in the area under quarantine may have counties that are not infested with Japanese beetle. Shipments of commodities covered may be accepted from these noninfested counties if annual surveys are made in such counties and adjacent counties and the results of such surveys are negative for Japanese beetle. In addition, the plants must be greenhouse grown in media that is sterilized and free of soil and the shipping nursery must grow all their own stock from seed, unrooted cuttings or bareroot material. A list of counties so approved will be maintained by the Oregon Department of Agriculture. Agricultural officials from a quarantined state or province may recommend a noninfested county be placed on the approved county list by writing for such approval and stating how surveys were conducted giving the following information:

(A) Areas surveyed;

(B) How survey was carried out;

(C) Number of traps;

(D) Results of survey;

(E) History of survey;

(F) If county was previously infested, give date of last infestation. If infestations occur in neighboring counties, approval may be denied. To be maintained on the approved list, each county must be reapproved every twelve (12) months. Shipments of commodities covered from noninfested counties will only be allowed entry into Oregon if the uninfested county has been placed on the approved list prior to the arrival of the shipment in Oregon. The certificate must have the following additional declaration: "The plants in this consignment were produced in sterile, soilless media in (name of county), state of (name of state of origin) that is known to be free of Japanese beetle." Advance notification required (see section 4 above).

(f) Privately owned house plants obviously grown, or certified at the place of origin as having been grown indoors without exposure to Japanese beetle may be allowed entry into this state without meeting the requirements of section (4). Contact the Oregon Department of Agriculture for requirements: Administrator, Plant Division, Oregon Department of Agriculture, 635 Capitol Street NE, Salem, Oregon 97301, telephone: 503/986-4644, FAX: 503/986-4786, e-mail: dhilburn@oda.state.or.us.

(5) Exceptions. Upon written request, and upon investigation and finding that unusual circumstances exist justifying such action, the department may issue a permit allowing entry into this state of commodities covered without meeting the requirements of section (4). However, all conditions specified in the permit shall be met before such permit will be recognized.

(6) Violation of Quarantine. All covered commodities described in section (3) of this rule found to be in violation of this quarantine shall be returned immediately to point of origin by the Oregon receiver, or at the owner's option be destroyed under the supervision of the department, without expense to or indemnity paid by the department. Violation of this quarantine may result in a fine, if convicted, of not less than $500 nor more than $5,000, as provided by ORS 561.990(4). Violators may also be subject to civil penalties of up to $10,000 as provided by Oregon Laws 1999, chapter 390, section 2; nursery license suspension or nursery license revocation.

Stat. Auth.: ORS 561.020, 561.190, 561.510 & 570.305
Stats. Implemented: ORS 561.510
Hist.: AD 12-1977, f. 6-6-77, ef. 6-20-77; AD 7-1988(Temp), f. & cert. ef. 8-2-88; DOA 10-1998, f. & cert. ef. 12-30-98; DOA 27-2000, f. & cert. ef. 10-13-00; DOA 9-2006, f. & cert. ef. 3-22-06; DOA 7-2008, f. & cert. ef. 2-8-08

603-052-0129
Quarantine; Against Exotic Phytophagous Snails

(1) Establishing Quarantine. A quarantine is established against exotic phytophagous snails that are members of the Phylum Mollusca of the Class Gastropoda characterized by a calcareous shell covering the visceral hump. This quarantine applies to exotic phytophagous snails in any stage of development, and includes, but is not limited to: brown garden snail (*Helix aspersa Muller*), white garden snail (Theba pisana Muller), milk snail (*Otala lactea Muller*), giant African snail (Achatina spp.), giant South American snail (*Megalobulimus oblongus Muller*), and all other exotic phytophagous snails (hereafter, "exotic phytophagous snails"). These snails are very important garden and agricultural pests causing severe damage to leaves and fruits of many plants.

(2) Areas Under Quarantine. The entire states of Arizona, California, Hawaii, Michigan, New Mexico, Texas, Utah, Washington, and any other state or territory where exotic phytophagous snails are established.

(3) Covered Commodities. Exotic phytophagous snails in any stage of development. Grass sod and all plants with roots in soil and any other plant material or articles capable of transporting exotic phytophagous snails into Oregon are hereby declared to be hosts or possible carriers of the pests herein quarantined and are prohibited entry into this state directly, indirectly, diverted, or reconsigned unless there is compliance with section (4) of this rule.

(4) Conditions:

(a) Covered commodities from regulated areas may be permitted entry into Oregon only when such commodities are accompanied by a certificate of quarantine compliance issued by an authorized official from the state of origin which certifies that it has been determined by official inspection immediately prior to shipment that such covered commodities were found to be free of all life stages of exotic phytophagous snails or that such commodities originate from an area determined by official inspection to be free of exotic phytophagous snails. The original certification document shall be forwarded to the Oregon State Department of Agriculture, Plant Division, 635 Capitol St. NE, Salem, Oregon 97310, immediately by First Class mail or fax (503) 986-4786. Each lot or shipment of the covered commodities shall be accompanied by a copy of the above described certification document. The Oregon receiver to whom the commodities are shipped shall notify the department immediately upon receipt of such commodities and shall hold the same until they are released by the department.

(b) Cut greens, cut flowers and soil-free plants including bare root plants, plant crowns, roots for propagation, bulbs, corms, tubers, and rhizomes of plants washed free of adherent soil are excepted from the quarantine, if such plant materials are found upon inspection not to be infested with exotic phytophagous snails or are found not to bear soil accumulations sufficient to carry or obscure any life stage of exotic phytophagous snails.

(c) Certified and noncertified covered commodities shall not be shipped together in the same transporting vehicle, and any such mixing of certified and noncertified covered commodities shall nullify certification and result in the rejection of the entire shipment of covered commodities. Upon inspection and determination by the Oregon State Department of Agriculture that the transporting vehicle or any properly certified covered commodities are infested with any life stage of exotic phytophagous snails, such shipment shall be found in violation of this quarantine.

(5) Heliculture Prohibited. Raising, maintaining, selling, shipping and/or holding live exotic phytophagous snails within the State of Oregon is prohibited.

(6) Disposition of Commodities in Violation of the Quarantine. All covered commodities described in section (3) of this rule found to be in violation of this quarantine shall be returned immediately to point of origin by the Oregon receiver, or at the receivers option be destroyed under the supervision of the department, without expense to or indemnity paid by the department.

(7) Exceptions. Upon request, and upon investigation and finding that unusual circumstances exist justifying such action, the department may issue a permit allowing entry into this state of covered commodities without meeting the requirements of subsection (4)(a) of this rule. However, all conditions specified in the permit shall be met before such permit will be recognized.

Stat. Auth.: ORS 561 & 570
Stats. Implemented: ORS 561.190, 561.510-561.600, 570.305, 570.405, 570.410 - 570.415
Hist.: AD 14-1983, f. 11-15-83, ef. 12-1-83; AD 12-1997, f. & cert. ef 7-31-97; DOA 8-1999, f. & cert. ef. 5-14-99; DOA 1-2006, f. & cert. ef. 1-13-06; DOA 2-2007, f. & cert. ef. 1-30-07; DOA 7-2008, f. & cert. ef. 2-8-08

603-052-0360
Control Area: Onion Maggot — Malheur County

(1) A control area is established within the boundaries of Malheur County for the protection of the onion industry by the eradication or control of the insect pest known as the onion maggot. This control area order is based on IPM principles first recognized and used by Malheur County growers in 1957.

(2) The following methods of eradication and control are declared to be the proper methods used in this control area order:

(a) All cull or waste onions in Malheur County shall be disposed of by a method approved by this control order prior to March 15 each year; for onions sorted after that date, the resulting cull and waste onions shall be disposed of within one week after such sorting;

(b) Disposal of cull or waste onions shall be accomplished only as set forth below:

(A) Disposal by covering in a dump site approved by the Oregon Department of Environmental Quality (DEQ). Culls and onion debris shall be dumped and covered by at least 12 inches of onion-free soil by March 15 each year;

(B) Disposal by animal feeding. Culls and onion debris shall be completely removed from feeding areas by March 15 and buried under 12 inches of onion-free soil. Onions tramped into the soil so they cannot be removed shall be plowed to a depth of 12 inches;

(C) Disposal by chopping or shredding. Chopped or shredded onion debris that is incapable of sprouting may be returned to the field at a tonnage rate no higher than the DEQ-approved rate of 80 tons per acre and plowed to a depth where no onion parts are exposed on the surface;

(D) Composting. All onion debris shall be incorporated into the compost bed and completely covered by 12 inches of onion-free soil;

(E) Disposal of residue in onion producing fields. Commercial onion fields where sort out bulbs are left at harvest shall be disked to destroy the bulbs and shall be plowed to a depth of at least 12 inches by March 15 each year. Seed bulbs shall be disposed of in the same manner following the last harvest. The owner of the field is ultimately responsible for compliance with this rule;

(F) If inclement weather prevents plowing, the culls will be treated with an EPA-labeled insecticide currently listed in the PNW Insect Control Handbook at prescribed intervals until proper disposal occurs.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 561.190, 561.510 - 561.600, 570.305, 570.405 & 570.410 - 570.415
Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405 & 570.410 - 570.415
Hist.: AD 590, f. 9-10-58, ef. 9-28-58; AD 784(8-64), f. 4-29-64, ef. 5-15-64; AD 4-1995, f. & cert. ef. 4-5-95; DOA 3-1999, f. & cert. ef. 1-29-99; DOA 1-2006, f. & cert. ef. 1-13-06; DOA 2-2007, f. & cert. ef. 1-30-07; DOA 7-2008, f. & cert. ef. 2-8-08

603-052-1221
Quarantine; Glassy-Winged Sharpshooter

(1) Establishing a Quarantine. A quarantine is established against glassy-winged sharpshooter, *Hoalodisca coagulata*. This quarantine is established under ORS 561.510 and 561.540 to protect Oregon's agricultural industries from the artificial spread of glassy-winged sharpshooter. Glassy-winged sharpshooter is a vector of Pierce's disease, *Xylella*

fastidiosa, in grapes and other diseases of important horticultural plants. Neither glassy-winged sharpshooter nor X. fastidiosa are known to be established in Oregon. Introduction of glassy-winged sharpshooter could result in serious damage to vineyards in Oregon and cause trade restrictions on many other host plants.

(2) Area under Quarantine: Mexico; the entire States of Alabama, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, and Texas; and any other state found to be infested with glassy-winged sharpshooter during the life of this quarantine. In Oregon, any property where glassy-winged sharpshooter is found.

(3) Commodities Covered: All plants referenced in Appendix A. This does not include cut flowers, cut foliage, leafless budwood, grafting wood, or dormant, leafless nursery stock except all types of propagative material of grape plants (Vitis spp.) (see (4)(c) below). All life stages of the glassy-winged sharpshooter, including eggs, nymphs, and adults, and Xylella fastidiosa.

(4) Provisions of the Quarantine: All shipments of covered commodities from areas under quarantine outside the state of Oregon are prohibited unless they meet the conditions below:

(a) Covered commodities, except grape plants (Vitis spp.), from non-infested counties in California (see (b) below) are exempt from provisions of this quarantine.

(b) Covered commodities originating from the area under quarantine including infested counties in California: Fresno, Kern, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, Santa Barbara, Tulare, Ventura, and any other county found to be infested with glassy-winged sharpshooter during the life of this quarantine, must meet either (A) or (B) below.

NOTE: an infestation is defined as an established, reproducing population as evidenced by positive trap catches or sightings over more than one generation of the glassy-winged sharpshooter or more than one life stage of the glassy-winged sharpshooter found on plants not including regulatory interceptions on recently imported plants.

(A) Originate from nurseries under compliance agreement with the state of origin Department of Agriculture requiring adherence to specific protocols to ensure that shipped host nursery stock is free of glassy-winged sharpshooter; or

(B) Have been treated with a registered pesticide effective at killing all stages of glassy-winged sharpshooter prior to shipment as near to the time of shipping as is reasonably possible. A phytosanitary certificate or certificate of quarantine compliance must accompany the shipment with one of the following additional declarations: "All glassy-winged sharpshooter host plants in this shipment have been grown in a nursery under compliance agreement with the [fill in state] Department of Agriculture to ensure freedom from glassy-winged sharpshooter," or: "All glassy-winged sharpshooter host plants in this shipment have been treated with [fill in name and rate of pesticide] for glassy-winged sharpshooter."

(c) Grape plants (Vitis spp.) from the area under quarantine, including the entire state of California, must be treated for glassy-winged sharpshooter as in (4)(b)(A) or (B) above and must be tested and found free of Xylella fastidiosa (see procedures in (4)(c)(A) to (G) below). A phytosanitary certificate must accompany the shipment with one of the following additional declarations: "Grape plants (Vitis spp.) in this shipment have been treated for glassy-winged sharpshooter with [fill in name and rate of pesticide] and a representative sample of [fill in number tested] has been tested and found free of Xylella fastidiosa," or "Grape plants (Vitis spp.) in this shipment have been grown under a compliance agreement with the [fill in state] Department of Agriculture to ensure freedom from glassy-winged sharpshooter and a representative sample of [fill in number tested] has been tested and found free of Xylella fastidiosa." Grape Vine Sampling and Analysis Procedure for Xylella fastidiosa:

(A) Samples shall be taken from plants located in lots identified for shipment to Oregon.

(B) Samples from up to five individual plants may be combined (bulked) for analysis purposes.

(C) Samples shall be composed of petiole and/or midrib tissue.

(D) Analysis of samples for X. fastidiosa shall be done using ELISA or PCR testing by a laboratory operated by an official state or federal regulatory agency or by an approved cooperator.

(E) Sampling and analysis of non-dormant (green) plant material must take place within 60 days before the date of shipment of the plants into Oregon. Sampling and analysis of plants to be shipped dormant must take place prior to leaf drop, but within 60 days of leaf drop during the previous season.

(F) Sampling and analysis of plant material shall be under the direct supervision of state or county regulatory officials.

(G) The following table should be used for determining the number of samples required for laboratory testing of grape plants for Xylella fastidiosa: [Table not included. See ED. NOTE.]

(d) Notification of regulated commodity shipment is required. The shipper shall mail, FAX or e-mail documents including the phytosanitary certificate or certificate of quarantine compliance, listing the type and quantity of plants, address of shipper, address of recipient, test results if required in (4)(c) above, and contact phone numbers to: Nursery Program Supervisor, Plant Division, Oregon Department of Agriculture, 635 Capitol Street NE, Salem, Oregon 97301; FAX: 503/986-4786; e-mail: quarantine@oda.state.or.us. The Department may require that shipments be held until inspected and released.

(e) Sites within Oregon where glassy-winged sharpshooter is found associated with covered commodities imported from the area under quarantine must be treated with a registered pesticide effective at killing all stages of glassy-winged sharpshooter. All imported host material received from areas under quarantine must be treated as well as all other host material in a reasonable buffer zone approved by the Oregon Department of Agriculture. Host material within the spray block may not be moved or sold until after it is treated. In cases where spray blocks include more than one owner, each owner will be responsible for spraying host material on their own property.

(5) Violation of quarantine. Violation of this quarantine may result in a fine, if convicted, of not less than $500 nor more than $5,000, as provided by ORS 561.990(4). Violators may also be subject to civil penalties of up to $10,000 as provided by Oregon Laws 1999, chapter 390, section 2; nursery license suspension or nursery license revocation. Commodities shipped in violation of this quarantine may be treated, destroyed or returned to their point of origin without expense or indemnity paid by the State. [Appendix not included. See ED. NOTE.]

[ED. NOTE: Tables & Appendices referenced are available from the agency.]

Stat. Auth.: ORS 561.190, 561.510 & 561.540

Stats. Implemented: ORS 570.305

Hist.: DOA 35-2000, f. & cert. ef. 12-15-00; DOA 1-2006, f. & cert. ef. 1-13-06; DOA 2-2007, f. & cert. ef. 1-30-07; DOA 7-2008, f. & cert. ef. 2-8-08

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Rule Caption: HB 2210 RFS Implementation of Blending Gasoline with Ethanol and Motor Fuel Quality Amendments.
Adm. Order No.: DOA 8-2008
Filed with Sec. of State: 2-15-2008
Certified to be Effective: 2-15-08
Notice Publication Date: 1-1-2008
Rules Amended: 603-027-0410, 603-027-0420, 603-027-0430, 603-027-0440, 603-027-0470, 603-027-0490
Subject: Implements Enrolled HB 2210 Renewable Fuel Standard (RFS) mandating that Oregon's gasoline be blended with 10% by volume ethanol and specifies gasoline additive restrictions. Amended and updated Oregon's motor fuel quality regulations bringing the current with ASTM International standards, and specified labeling requirements for gasoline-ethanol blends and E85 Fuel Ethanol.
Rules Coordinator: Sue Gooch—(503) 986-4583

603-027-0410
Definitions

(1) "Alcohol" means a volatile flammable liquid having the general formula CnH(2n+1)OH used or sold for the purpose of blending or mixing with gasoline for use in propelling motor vehicles, and commonly or commercially known or sold as an alcohol, and includes ethanol or methanol.

(2) "ASTM" means ASTM International, the national voluntary consensus standards organization formed for the development of standards on characteristics and performance of materials, products, systems, and services; and the promotion of related knowledge. ASTM when used in these rules shall mean the 2008 Annual Book of ASTM Standards, Section 5, Volumes 05.01 through 05.05.

(3)"Antiknock Index (AKI) "means the arithmetic average of the Research Octane Number (RON) and Motor Octane Number (MON): AKI=(RON+MON)/2. This value is called by a variety of names, in addition to antiknock index, including: Octane Rating, Posted Octane, (R+M)/2 Octane.

(4)"Automotive Fuel Rating" means the automotive fuel rating determined under 16 CFR 306.5, required to be certified under 16 CFR 306.6 and 16 CFR 306.8, and required to be posted under 16 CFR 306.10. Under this Rule, sellers of liquid automotive fuels, including alternative fuels, must determine, certify, and post an appropriate automotive fuel rating. The automotive fuel rating for gasoline is the antiknock index (octane rating).

The automotive fuel rating for alternative liquid fuels consists of the common name of the fuel along with a disclosure of the amount, expressed as a minimum percentage by volume, of the principal component of the fuel. For alternative liquid automotive fuels, a disclosure of other components, expressed as a minimum percentage by volume, may be included, if desired.

(5)"Automotive Gasoline, Automotive Gasoline-Oxygenate Blend" means a type of fuel suitable for use in spark-ignition automobile engines and also commonly used in marine and non-automotive applications.

(6)"Aviation Gasoline" means a type of non-ethanol blended gasoline suitable and intended for use as a fuel in an aviation gas spark-ignition internal combustion engine.

(7) "Bulk Facility" means a facility, including pipelines terminals, refinery terminals, rail and barge terminals and associated underground and above ground tanks connected or separate, from which motor vehicle fuels are withdrawn from bulk and delivered to retail, wholesale or nonretail facilities or into a cargo tank or barge used to transport those products.

(8)"Base Gasoline" means all components other than ethanol in a blend of gasoline and ethanol.

(9) "Biomass" means organic matter that is available on a renewable or recurring basis and that is derived from:

(a) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and reduce uncharacteristic stand replacing wildfire risk;

(b) Wood material from hardwood timber described in ORS 321.267(3);

(c) Agricultural residues;

(d) Offal and tallow from animal rendering;

(e) Food wastes collected as provided under ORS Chapter 459 or 459A;

(f) Yard or wood debris collected as provided under ORS Chapter 459 or 459A;

(g) Wastewater solids; or

(h) Crops grown solely to be used for energy, and

(i) Biomass does not mean wood that has been treated with creosote, pentachlorophenol, inorganic arsenic, or other inorganic chemical compounds.

(10)"Biodiesel" means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100.

(11) "Biodiesel Blend" means a fuel comprised of a blend of biodiesel fuel with petroleum-based diesel fuel, designated BXX. In the abbreviation BXX, the XX represents the volume percentage of biodiesel fuel in the blend.

(12) "Cetane Index" means an approximation of the cetane number of distillate fuel, which does not take into account the effect of a cetane improver additive, calculated from the density and distillation measurements. (Ref. ASTM D 976.)

(13) "Cetane Number" means a numerical measure of the ignition performance of a diesel fuel obtained by comparing it to reference fuels in a standardized engine test. (Ref. ASTM D 613.)

(14) "Coordinating Research Council (CRC) Rating" means a standardized format for rating injector and engine deposits as developed by the CRC.

(15) "Co-solvent" means an alcohol other than methanol which is blended with either methanol or ethanol or both to minimize phase separation in gasoline.

(16) "Dealer" means any motor vehicle fuel retailer dealer, nonretail dealer or wholesale dealer.

(17) "Director" means the Director of Agriculture.

(18) "Diesel Fuel" means a refined middle distillate suitable for use as a fuel in a compression-ignition (diesel) internal combustion engine.

(19) "Distillate." means any product obtained by condensing the vapors given off by boiling petroleum or its products.

(20) "EPA" means the United States Environmental Protection Agency.

(21) "E85 Fuel Ethanol" means a blend of ethanol and hydrocarbons of which the ethanol portion is nominally 75 to 85 volume percent denatured fuel ethanol (Ref. ASTM D 5798).

(22) "Ethanol" also known as "Denatured Fuel Ethanol", means nominally anhydrous ethyl alcohol meeting ASTM D 4806 standards. It is intended to be blended with gasoline for use as a fuel in a spark-ignition internal combustion engine. The denatured fuel ethanol is first made unfit for drinking by the addition of Alcohol and Tobacco Tax and Trade Bureau (TTB) approved substances before blending with gasoline.

(23) "Ethanol facilities production capacity" means the designed and "as-constructed" rated capacity as verified by the Oregon Department of Agriculture, or the ethanol facilities production capacity as determined by an independent Professional Engineer registered in the State of Oregon that is not the design consultant and as verified by the Oregon Department of Agriculture.

(24) "Feedstock" means the original biomass used in biofuel production.

(25) "Fuel Injector Cleanliness" means a characteristic of the fuel which allows engine operation without fuel contribution to excessive injector deposits.

(26) "Gasoline" means any fuel sold for use in spark ignition engines whether leaded or unleaded.

(27) "Gasoline-Oxygenate Blend" means a fuel consisting primarily of gasoline along with a substantial amount (more than 0.35 mass percent oxygen, or more than 0.15 mass oxygen if methanol is the only oxygenate) of one or more oxygenates.

(28) "Lead Substitute" means an EPA-registered gasoline additive suitable, when added in small amounts to fuel, to reduce or prevent exhaust valve recession (or seat wear) in automotive spark-ignition internal combustion engines designed to operate on leaded fuel.

(29) "Lead Substitute Engine Fuel" means a gasoline or gasoline-oxygenate blend that contains a "lead substitute."

(30) Low Temperature Operability" means a condition which allows the uninterrupted operation of a diesel engine through the continuous flow of fuel throughout its fuel delivery system at low temperatures.

(31) "Lubricity" means a qualitative term describing the ability of a fluid to affect friction between, and wear to, surfaces in relative motion under load.

(32) "Methanol" means methyl alcohol, a flammable liquid having the formula CH3OH used or sold for the purpose of blending or mixing with gasoline for use in motor vehicles.

(33) "M100 Fuel Methanol" means nominally anhydrous methyl alcohol, generally containing small amounts of additives, suitable for use as a fuel in a compression-ignition combustion engine.

(34) "M85 Fuel Methanol" means a blend of methanol and hydrocarbons of which the methanol portion is nominally 70 to 85 volume percent and which meets the requirements of ASTM D 5797.

(35) "Motor Octane Number" means a numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D 2700 Motor Method engine test.

(36) "Motor Vehicles" means all vehicles, vessels, watercraft, engines, machines, or mechanical contrivances that are propelled by internal combustion engines or motors.

(37) "Motor Vehicle Fuel" means gasoline, gasoline-ethanol blends, diesel, B100 Biodiesel, Biodiesel Blends, E85 Fuel Ethanol, M85 Fuel Methanol, or any other liquid product used for the generation of power in an internal combustion engine, except aviation gasoline, aviation jet fuels, liquefied petroleum gases or natural gases.

(38) "Nonretail dealer" means any person who owns, operates, controls or supervises an establishment at which motor vehicle fuel is dispensed through a card or key-activated fuel dispensing device to nonretail customers.

(39) "Octane Rating" means the rating of the anti-knock characteristics of a grade or type of gasoline determined by dividing by two the sum of the research octane number and the motor octane number.

(40) "Octane Rating Certification Documentation" means an invoice, bill of lading, delivery ticket, letter or other documentation that specifies the actual octane rating or a rounded rating that is the largest whole number or half of a number that is less than or equal to the number determined by or certified to the person transferring the gasoline.

(41) "Official Sample" means a motor fuel sample delivered via nozzle directly through a fuel pump, dispenser, or metering device from either a fuel delivery truck, tank wagon, above ground or below ground fuel storage tank into a suitable sealable, one litre or larger pressure-tight metal or glass container in the presence of, or drawn by, a department representative in the manner prescribed by department procedures. An official sample shall be appropriately sealed and labeled as to its identity, type, brand, grade, posted automotive fuel rating and the location, source, date, and name of official taking it at the time it is withdrawn from storage. A custody transfer receipt or record will be completed whenever an official sample changes hands enroute to a qualified motor fuel standards laboratory.

(42) "Oxygen Content of Gasoline" means the percentage of oxygen by mass contained in a gasoline.

(43) "Oxygenate" means an oxygen-containing, ashless, organic compound, such as an alcohol or ether, which can be used as a fuel or fuel supplement.

(44) "Premium Diesel" means a refined middle distillate suitable for use as a fuel in a compression-ignition (diesel) internal combustion engine and shall meet Standard Fuel Specifications OAR 603-027-0420.

(45) "Production" means the ability of a biofuel production facility to produce biofuel that is in compliance with applicable ASTM International specifications.

(46) "Research Octane Number" means a numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D 2699 Research Method engine test.

(47) "Retail Dealer" means any person who owns, operates, controls or supervises an establishment at which motor vehicle fuel is or offered for sale to the public.

(48) "SAE" means the SAE International, a technical organization for engineers, scientists, technicians, and others in positions that cooperate closely in the engineering, design, manufacture, use, and maintainability of self-propelled vehicles.

(49) "Sales" means volumes of biofuels measured in gallons per year, relevant consumer usage, demand, pricing, and other factors affecting sales.

(50) "Thermal Stability" means the ability of a fuel to resist the thermal stress which is experienced by the fuel when exposed to high temperatures in a fuel delivery system.

(51) "Unleaded" in conjunction with "engine fuel" or "gasoline" means any gasoline or gasoline-oxygenate blend to which no lead or phosphorus compounds have been intentionally added and which contains not more than 0.013 gram lead per liter (0.05 g lead per U.S. gal) and not more than 0.0013 gram phosphorus per liter (0.005 g phosphorus per U.S. gal).

(52) "Use" means the historic blending of biofuel in Oregon in areas using biofuel to meet Oregon's Renewable Fuel Standard (RFS) and other information relevant to industry blending of biofuel including the infrastructure capacity to blend and distribute biofuel.

(53) "Wholesale Dealer" means any person who sells motor vehicle fuel if the seller knows or has reasonable cause to believe that the buyer intends to resell the motor vehicle fuel in the same or an altered form to a retail dealer, a nonretail dealer, or another wholesale dealer.

(54) "Winter" or "Winterized" Diesel means a refined middle distillate suitable for use as a fuel in a compression-ignition (diesel) internal combustion engine which has been blended for low temperature operability and shall meet Standard Fuel Specifications OAR 603-027-0420.

(55) "Withdrawn From Bulk" means removed from a bulk facility for delivery directly into a cargo tank or a barge to be transported to a location other than another bulk facility for use or sale in this state.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 561.190, 646.905 - 646.990, OL 1997, Ch. 310 (SB 414)
Stats. Implemented: ORS 646.905 - 646.990, 183, OL 1997, Ch. 310 (SB 414)
Hist.: AD 19-1997, f. 12-9-97, cert. ef. 1-1-98; DOA 5-2002, f. & cert. ef. 1-28-02; DOA 20-2004, f. & cert. ef. 6-28-04; DOA 17-2006, f. & cert. ef. 9-26-06; DOA 8-2008, f. & cert. ef. 2-15-08

603-027-0420
Standard Fuel Specifications

(1) Gasoline and Gasoline-Oxygenate Blends, as defined in this regulation, shall meet the following requirements:

(a) The ASTM D 4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel," except that volatility standards for unleaded gasoline blended with ethanol shall meet but not be more restrictive than those adopted under the rules, regulations, and Clean Air Act waivers of the U.S. Environmental Protection Agency (which includes those promulgated by Oregon and Federally approved State Implementation Plans (SIP's)). Gasoline blended with ethanol shall be blended under any of the following three options:

(A) The base gasoline used in such blends shall meet the requirements of ASTM D 4814; or

(B) The blend shall meet the requirements of ASTM D 4814; or

(C) The base gasoline used in such blends shall meet all the requirements of ASTM D 4814 except distillation, and the blend shall meet the distillation requirements of the ASTM D 4814 specification.

(b) Blends of gasoline and ethanol shall not exceed the ASTM D 4814 vapor pressure standard by more than 1.0 psi. During the time period between June 1 and September 15 of each calendar year, blends containing a minimum of 9 percent ethanol by volume and a maximum of 10 percent ethanol by volume shall not exceed the ASTM D 4814 vapor pressure limits by more than 1.0 psi. All other blend concentrations shall meet the ASTM D 4814 vapor pressure limits during this period.

(c) Minimum Antiknock Index (AKI). The AKI shall not be less than the AKI posted on the product dispenser or as certified on the invoice, bill of lading, shipping paper, or other documentation.

(d) Lead Substitute Gasoline. Gasoline and gasoline-oxygenate blends sold as "lead substitute" gasoline shall contain a lead substitute additive which provides a level of protection against exhaust valve seat recession which is equivalent to the level of protection provided by a gasoline containing at least 0.026 gram of lead per liter (0.10 g per U.S. gal).

(2) Ethanol intended for blending with gasoline shall meet the requirements of ASTM D 4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel."

(3) Gasoline-Ethanol Blends Required

(a) Consistent with House Bill 2210 Section 17(1), the Oregon Department of Agriculture shall study and monitor ethanol fuel production, use, and sales in Oregon.

(b) Based upon the Department of Agriculture's study of ethanol production, use, and sales in the State of Oregon, the mandatory use of ethanol as provided in HB 2210 Section 18(1) shall be phased in through three Oregon regions. These regions are defined by counties as follows:

(A) Region 1; Clackamas, Clatsop, Columbia, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties;

(B) Region 2; Benton, Coos, Curry, Douglas, Jackson, Josephine, Lane, Lincoln, and Linn Counties; and

(C) Region 3; Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, and Wheeler Counties.

(c) The ethanol facilities production capacity in Oregon has reached a level of at least 40 million gallons per year.

(A) As of January 15, 2008, all retail dealers, nonretail dealers, or wholesale dealers within Region 1 may only sell or offer for sale gasoline that contains ten percent ethanol by volume.

(B) As of April 15, 2008, all retail dealers, nonretail dealers, or wholesale dealers within Region 2 may only sell or offer for sale gasoline that contains ten percent ethanol by volume.

(C) As of September 16, 2008, all retail dealers, nonretail dealers, or wholesale dealers within Region 3 may only sell or offer for sale gasoline that contains ten percent ethanol by volume.

(d) Gasoline-ethanol blends shall contain not less than 9.2 percent by volume of agriculturally derived ethanol, exclusive of denaturants and permitted contaminates, that complies with

(A) OAR 603-027-0420(2) Ethanol ASTM D 4806 standards,

(B) Denatured as specified in 27 C.F.R parts 20 and 21, and

(C) Complies with the volatility requirements specified in 40 C.F.R. part 80.

(e) The ethanol shall be derived from agricultural product, woody waste or residue.

(f) The gasoline and gasoline-ethanol blends shall comply with OAR 603-027-0420(1).

(g) It is prohibited to blend with casinghead gasoline, absorption gasoline, drip gasoline, or natural gasoline after it has been sold, transferred, or otherwise removed from a refinery or terminal.

(h) Gasoline-ethanol blend requirements do not apply to aviation gasoline sold or offered for sale by retail dealers, nonretail dealers, and wholesale dealers exclusively for use in general aviation aircraft.

(4) Gasoline Additive Restrictions.

(a) Effective November 1, 2009, a wholesale dealer, retail dealer, or nonretail dealer may not sell or offer to sell any gasoline blended or mixed with:

(A) Ethanol unless the blend or mixture meets the specifications or registration requirements established by the United States Environmental Protection Agency pursuant to section 211 of the Clean Air Act, 42 U.S.C. section 7545 and 40 C.F.R. Part 79, and the ethanol complies with ASTM International specification ASTM D 4806;

(B) Metyl tertiary butyl ether in concentrations that exceed 0.15 percent by volume; or

(C) A total of all of the following oxygenates that exceeds one-tenth of one percent, by weight, of;

(i) Diisopropylether;

(ii) Ethyl tert-butylether;

(iii) Iso-butanol;

(iv) Iso-propanol;

(v) N-butanol;

(vi) N-propanol;

(vii) Sec-butanol;

(viii) Tert-amyl methylether;

(ix) Tert-butanol;

(x) Tert-pentanol or tert-amylalcohol; and

(xi) Any other additive that has not been approved by the 2005 California Air Resources Board or the United States Environmental Protection Agency 2007 40 CFR Part 79.

(5) Diesel Fuel shall meet the requirements of ASTM D 975, "Standard Specification for Diesel Fuel Oils."

(6) Winter or Winterized Diesel Fuel shall meet the requirements of ASTM D 975, "Standard Specification for Diesel Fuel Oils" and have a cold flow performance measurement which meets the ASTM D 975 tenth percentile minimum ambient air temperature charts and maps by either ASTM Standard Test Method D 2500 (Cloud Point) or ASTM Standard Test Method D 4539 (Low Temperature Flow Test, LTFT). Winter or winterized diesel (low temperature operability) is only applicable October 1 — March 31 of each year.

(7) Premium Diesel Fuel — All diesel fuel products identified on retail and nonretail dispensers, bills of lading, invoices, shipping papers, or other documentation as premium, super, supreme, plus, or premier shall meet the requirements of ASTM D 975, "Standard Specification for Diesel Fuel Oils" and must conform to at least two of the following requirements:

(a) Energy Content — A minimum energy content of 38.65 MJ/L, gross (138,700 BTU/gallon, gross) as measured by ASTM Standard Test Method D 240;

(b) Cetane Number — A minimum cetane number of 47.0 as determined by ASTM Standard Test Method D 613;

(c) Low Temperature Operability — A cold flow performance measurement which meets the ASTM D 975 tenth percentile minimum ambient air temperature charts and maps by either ASTM Standard Test Method D 2500 (Cloud Point) or ASTM Standard Test Method D 4539 (Low Temperature Flow Test, LTFT). Low temperature operability is only applicable October 1 — March 31 of each year;

(d) Thermal Stability — A minimum reflectance measurement of 80 percent as determined by ASTM D 6468 (180 minutes, 150 0C);

(e) Fuel Injector Cleanliness — A Coordinating Research Council (CRC) rating of 10.0 or less and a flow loss of 6.0 percent or less as determined by the Cummins L-10 Injector Deposit Test.

(A) When a fuel uses a detergent additive to meet the requirement, upon the request of the Director, the fuel marketer shall provide test data indicating the additive being used has passed the Cummins L-10 Injector Depositing Test requirements when combined with Caterpillar 1-K (CAT 1-K) reference fuel. The Director may also request records or otherwise audit the amount of additive being used to ensure proper treatment of fuels according to the additive manufacturer's recommended treat rates.

(i) Upon the request of the Director, the fuel marketer shall provide an official "Certificate of Analysis" of the physical properties of the additive.

(ii) Upon the request of the Director, the fuel marketer shall provide a sample of detergent additive in an amount sufficient to be tested with CAT 1-K reference fuel in a Cummins L-10 Injector Depositing Test. If the sample does not meet the requirements of the Cummins L-10 Injector Deposit test, then all costs for sampling, transporting, and testing shall be the responsibility of the fuel supplier. If the sample meets the requirements of the Cummins L-10 Injector Deposit test, then all costs for sampling, transporting, and testing shall be the responsibility of the Department of Agriculture.

(B) When a fuel marketer relies on the inherent cleanliness of the diesel fuel to pass the Cummins L-10 Injector Depositing Test or if the fuel requires a lower detergent additive level than the amount required when the additive is used with the CAT 1-K reference fuel, the fuel marketer shall provide, upon the request of the Director, annual test results from an independent laboratory that confirms the fuel meets the requirements of OAR 603-027-0420(5)(e). The time of the fuel sampling and testing shall be at the Director's discretion. The Director may witness the sampling of the fuel and the sealing of the sample container(s) with security seals. The Director may request confirmation from the testing laboratory that the seals were intact upon receipt by the laboratory. The final test results shall be provided to the Director. All costs for sampling, transporting, and testing shall be the responsibility of the fuel supplier. If the annual test complies, any additional testing at the request of the Director shall be paid for by the Department of Agriculture.

(8) Biodiesel; B100 biodiesel intended for blending with diesel fuel shall meet the requirements of ASTM D 6751, "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels."

(9) Biodiesel Blends; Blends of biodiesel and diesel fuels shall meet the following requirements:

(a) The base diesel fuel shall meet the requirements of ASTM D 975, Standard Specification for Diesel Fuel Oils; and

(b) The biodiesel blend stock shall meet the requirements of ASTM D 6751, Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

(c) Exception; Biodiesel may be blended with diesel fuel whose sulfur or aromatic levels are outside specification ASTM D 975, Standard Specification for Diesel Fuel Oils, grades 1-D S15, 1-D S500, 2-D S15, or 2-D S500 provided the finished mixture meets pertinent national and local specifications and requirements for these properties.

(10) Aviation Gasoline shall meet the requirements of ASTM D 910, "Standard Specification for Aviation Gasoline."

(11) E85 Fuel Ethanol shall meet the requirements of ASTM D 5798, "Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines."

(12) M85 Fuel Methanol shall meet the requirements of ASTM D 5797, "Standard Specification for Fuel Methanol (M70-M85) for Automotive Spark-Ignition Engines."

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 561.190, 646.905 - 646.990, OL 1997, Ch. 310 (SB 414)
Stats. Implemented:ORS 646.905 - 646.990 & 183, OL 1997, Ch. 310 (SB 414)
Hist.: AD 19-1997, f. 12-9-97, cert. ef. 1-1-98; DOA 5-2002, f. & cert. ef. 1-28-02; DOA 17-2006, f. & cert. ef. 9-26-06; DOA 15-2007(Temp), f. & cert. ef. 10-15-07 thru 4-11-08; DOA. 20-2007(Temp) f. & cert. ef. 11-29-07 thru 4-11-08; DOA 8-2008, f. & cert. ef. 2-15-08

603-027-0430
Classification and Method of Sale of Petroleum Products

(1) General Considerations:

(a) Documentation. When gasoline; gasoline-oxygenate blends; reformulated gasoline; M85 and M100 fuel methanol: E85 and E100 fuel ethanol; B100 biodiesel and biodiesel blends; diesel fuel; winter or winterized diesel fuel; premium diesel fuel; or aviation gasoline are sold, an invoice, bill of lading, shipping paper or other documentation, must accompany each delivery other than a sale by a retail or nonretail dealer. This document must identify the quantity, the name of the product, the particular grade of the product, the word "Winter" or "Winterized" diesel if applicable, the word "Premium" diesel and a declaration of all performance properties that qualifies the fuel as premium diesel as required in OAR 603-027-0420 if applicable, the applicable automotive fuel rating, the name and address of the seller and buyer, and the date and time of the sale. In addition, for gasoline-oxygenate and gasoline-alcohol blends which contain more than 1.5 mass percent oxygen, the documentation shall state the oxygenate type and oxygenate content, in volume percent, to the nearest 0.5 volume percent. Each operator of a bulk facility and each person who imports motor vehicle fuels into this state for sale in this state shall keep, for at least one year, at the person's registered place of business complete and accurate records of any motor vehicle fuels sold if sold or delivered in this state. Each ethanol production facility in Oregon shall keep, on an annual basis by month, at the person's registered place of business, documentation declaring the production facility's name, location address, net ethanol production capacity, the date that the net ethanol capacity was attained, quantity of ethanol produced, and sales in Oregon. Retail dealers and nonretail dealers shall maintain at their facilities the octane rating certification or motor vehicle fuel delivery documentation for the three most recent deliveries to the facility for each grade of gasoline, fuel ethanol, fuel methanol, biodiesel and biodiesel blends, and diesel fuel, other renewable diesel fuel, and diesel-other renewable diesel fuel blends sold or offered for sale.

(b) Retail and Nonretail Gasoline Dispenser Labeling. All retail and nonretail gasoline dispensing devices must identify conspicuously on each face of the dispenser(s):

(A) The type of product;

(B) The particular grade of the product;

(C) Type of oxygenate contained:

(i) Including the specific volume percent of ethanol in gasoline-ethanol blends stating, for example, "THIS PRODUCT CONTAINS 10% ETHANOL" or other similar language in type at least 12.7 millimeters (1/2 inch) in height, 1.5 millimeter (1/16 inch) stroke (width of type) located on each face and on the upper 50 percent of the dispenser front panels in a position clear and conspicuous from the driver's position,

(ii) Prohibited terms and phrases include but are not limited to, "Contains Up To 10% Ethanol", "May Contain Ethanol", or any other similar language, and

(D) The applicable automotive fuel rating.

(c) Grade Name. The sale of any product under any posted grade name that indicates to the purchaser that it is of a certain automotive fuel rating or ASTM grade indicated in the posted grade name must be consis-

tent with the applicable standard specified in OAR 603-027-0420 "Standard Fuel Specifications".

(2) Automotive Gasoline and Automotive Gasoline-Oxygenate Blends:

(a) Posting of Antiknock Index Required. All automotive gasoline and automotive gasoline-oxygenate blends shall post the antiknock index in accordance with 16 CFR Part 306.

(b) Use of Lead Substitute Must Be Disclosed. Each dispensing device from which gasoline or gasoline oxygenate blend containing a lead substitute is dispensed shall display the grade name followed by "With a Lead Substitute" (e.g. "Unleaded With a Lead Substitute"). The lettering of the lead substitute declaration shall not be less that 12.7 millimeters (1/2 in) in height and 1.5 centimeters (1/16 in) stroke (width of type). The color of the lettering shall be in definite contrast to the background color to which it is applied.

(c) Prohibition of Terms. It is prohibited to use specific terms to describe a grade of gasoline or gasoline-oxygenate blend unless it meets the minimum antiknock index requirement shown in **Table 1**. [Table not included. See ED. NOTE.]

(3) Diesel Fuel:

(a) Labeling of Product and Grade Required. Diesel fuel shall be identified by "Diesel" and grades "No. 1-D S15", "No. 1-D S500", "No. 1-D S5000", "No. 2-D S15", "No. 2-D S500", "No. 2-D S5000", or "No. 4-D". Each retail or nonretail dispenser of diesel fuel shall be labeled "Diesel" and the grade being dispensed.

(b) Location of Label. These labels shall be located on each face and on the upper 50 percent of the dispenser front panels in a position clear and conspicuous from the driver's position, in a type at least 12.7 millimeter (1/2 in) in height, 1.5 millimeter (1/16 in) stroke (width of type).

(4) Winter or Winterized Diesel Fuel:

(a) Labeling of Product and Grade Required. The dispensers of winterized diesel fuel must be labeled as required in OAR 603-027-0430(3)(a) and include the words "WINTERIZED DIESEL" or "WINTER DIESEL" (e.g. "WINTERIZED DIESEL No. 2-D S15").

(b) Location of Winterized Diesel Fuel Label. The location of the winterized diesel label shall be as required in OAR 603-027-0430(3)(b) or on a "pump topper" mounted on top of each winterized diesel dispenser with lettering as specified in OAR 603-027-0430(3)(b) and must be in a position that is clear and conspicuous from the driver's position.

(5) Labeling of Premium Diesel. In addition to labeling requirements specified in OAR 603-027-0430(3), all retail and nonretail dispensers identified as premium diesel must display either:

(a) A label that includes all qualifying parameters as specified in OAR 603-027-0420(5) Premium Diesel Fuel affixed to each retail and nonretail dispenser. The label shall include a series of check blocks clearly associated with each parameter. The boxes for the parameters qualifying the fuel must be checked. All other boxes shall remain unchecked. The marketer may check as many blocks as apply (see **Example 1**); or

(b) A label that includes only the parameters selected by a marketer to meet the premium diesel requirements as specified in OAR 603-027-0420(5) Premium Diesel Fuel. In either case, the label must display the following words (see **Example 2**):

(A) "PREMIUM DIESEL FUEL" in a type at least 12 millimeters (1/2 inch) in height by 1.4 millimeters (1/16 inch) stroke (width of type).

(c) When applicable, as determined by the label option and qualifying parameters chosen by the marketer, the label must also display the following information and letter type size:

(A) The words "Energy Content", "Cetane Number", "Low Temperature Operability", "Thermal Stability", and "Fuel Injector Cleanliness" in a type at least 6 millimeters (1/4 inch) in height by 0.75 millimeter (1/32 inch) stroke (width of type).

(B) A declaration of the minimum Energy Content (minimum 38.65 MJ/L gross (138,700 BTU/gallon), if energy content is chosen as a qualifying parameter, in type at least 3 millimeters (1/8 inch) in height by 0.4 millimeter (1/64 inch) stroke (width of type).

(C) The minimum cetane number guaranteed (at least 47.0) if cetane number is chosen as a qualifying parameter, in type at least 3 millimeters (1/8 inch) in height by 0.4 millimeter (1/64 inch) in stroke (width of type).

(D) The date range of low temperature operability enhancement, (e.g., October – March) along with the qualifying test method (ASTM D 4539 or ASTM D 2500), if low temperature operability is chosen as a qualifying parameter, in a type at least 3 millimeters (1/8 inch) in height by 0.4 millimeter (1/64 inch) stroke (width of type).

(E) **Example 1:** [Example not included. See ED. NOTE.]

(F) **Example 2:** [Example not included. See ED. NOTE.]

(d) The label must be conspicuously displayed on the upper-half of the product dispenser front panel in a position that is clear and conspicuous from the driver's position.

(6) Biodiesel:

(a) Identification of Product. Biodiesel and biodiesel blends shall be identified by the capital letter B followed by the numerical value representing the volume percentage of biodiesel fuel. (**Examples:** B10; B20; B100)

(b) Labeling of Retail and Non-Retail Dispensers Containing More than 5% Biodiesel. Each retail and non-retail dispenser of biodiesel or biodiesel blend containing more than 5% biodiesel shall be labeled in type at least 12 mm (1/2 inch) in height and 1.5 mm (1/16 inch) stroke (width of type) with the capital letter B followed by the numerical value representing the volume percentage of biodiesel fuel and ending with either "Biodiesel" or "Biodiesel Blend". (**Examples:** B100 Biodiesel; B60 Biodiesel Blend; B20 Biodiesel Blend)

(c) Documentation for Dispenser Labeling Purposes. The operator of retail and non-retail dispensers shall be provided, at the time of delivery of the fuel, with a declaration of the volume percent biodiesel on an invoice, bill of lading, shipping paper, or other document. This documentation is for dispenser labeling purposes only; it is the responsibility of any potential blender to determine the amount of biodiesel in the diesel fuel prior to blending.

(d) Exemption. Biodiesel blends containing 5% or less biodiesel by volume are exempted from requirements in OAR 603-027-0430(6)(a), (b), and (c).

(7) Aviation Gasoline: Labeling of Grade Required. Aviation gasoline and dispensers shall be identified by and labeled with;

(a) Grade 80, Grade 100, or Grade 100LL; or

(b) If a non-ethanol blended automotive gasoline for use in general aviation aircraft, then all retail and nonretail dispensers shall be labeled on each face with;

(A) The antiknock index (AKI); and

(B) On each face of the dispenser front panels in a position clear and conspicuous to the customer, in type at least 12.7 millimeter (1/2 inch) in height, 1.5 millimeter (1/16 inch) stroke (width of type), "NON-ETHANOL BLENDED GASOLINE FOR USE IN GENERAL AVIATION AIRCRAFT ONLY".

(c) In addition to OAR 603-027-0440 product storage identification, the storage tank fill connections of non-ethanol blended gasoline shall be permanently, plainly, and visibly marked that the product contained is non-ethanol blended gasoline for use in general aviation aircraft only.

(8) E85 Fuel Ethanol:

(a) How to Identify E85 Fuel Ethanol. Fuel ethanol shall be identified as E85. (**Example: E85**)

(b) Retail or Nonretail E85 Fuel Ethanol Dispenser Labeling. Each retail or nonretail dispenser of fuel ethanol shall be labeled in type at least 12 mm (1/2 inch) in height and 1.5 mm (1/16 inch) stroke (width of type) with the capital letter E followed by the numerical value volume percent denatured ethanol and ending with the word "ethanol." (Example: E85 Ethanol).

(A) Fuel ethanol dispensers shall be labeled with its automotive fuel rating in accordance with 16 Code of Federal Regulations Part 306.

(B) A label shall be posted which states, "For Use in Flexible Fuel Vehicles (FFV) Only". This information shall be posted on the upper 50% of the dispenser front panels in a position clear and conspicuous from the driver's position, in a type at least 12.7 mm (1/2 inch) in height, 1.5 mm (1/16 inch) stroke (width of type).

(9) Fuel Methanol:

(a) Identification of Fuel Methanol. Fuel methanol shall be identified by the capital letter M followed by the numerical value volume percentage of methanol. (**Example: M85**)

(b) Retail or Nonretail Dispenser Labeling. Each retail or nonretail dispenser of fuel methanol shall be labeled in type at least 12 mm (1/2 inch) in height and 1.5 mm (1/16 inch) stroke (width of type) with the capital letter M followed by the numerical value volume percent methanol and ending with the word "methanol." (**Example: M85 Methanol**).

(c) Additional Labeling Requirements. Fuel methanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

[ED. NOTE: Tables & Examples referenced are available from the agency.]

Stat. Auth.: ORS 561.190, 646.905 - 646.990, OL 1997, Ch. 310 (SB 414)

Stats. Implemented:ORS 646.905 - 646.990 & 183, OL 1997, Ch. 310 (SB 414)

Hist.: AD 19-1997, f. 12-9-97, cert. ef. 1-1-98; DOA 5-2002, f. & cert. ef. 1-28-02; DOA 17-2006, f. & cert. ef. 9-26-06; DOA 15-2007(Temp), f. & cert. ef. 10-15-07 thru 4-11-08; DOA. 20-2007(Temp) f. & cert. ef. 11-29-07 thru 4-11-08; DOA 8-2008, f. & cert. ef. 2-15-08

603-027-0440
Storage Tanks

(1) Water in Motor Vehicle Fuel Storage:

(a) Water in Gasoline-Alcohol Blends, Biodiesel, Biodiesel Blends, E85 Fuel Ethanol, M85 Fuel Methanol, and Aviation Gas. No water or water-alcohol phase greater than six millimeters (1/4 in) as determined by an appropriate detection paste is allowed to accumulate in any tank utilized in the storage of gasoline-alcohol blend, Biodiesel, Biodiesel Blends, E85 fuel ethanol, M85 fuel methanol, and aviation gasoline.

(b) Water in Gasoline, Diesel, Gasoline-Ether, and Other Fuels. Water phase shall not exceed 25 mm (1 inch) in depth when measured with water indicating paste in any tank utilized in the storage of diesel, gasoline, gasoline-ether blends at retail or nonretail except as required in OAR 603-027-0440(1)(a).

(2) Product Storage Identification:

(a) Fill Connection Labeling. The fill connection for any motor vehicle fuel or aviation gasoline storage tank from which the fuels are dispensed directly into motor vehicle or aircraft fuel tanks shall be permanently, plainly, and visibly marked as to the grade of product contained therein.

(b) Declaration of Meaning of Color Code. When the fill connection device is marked by means of a color code, the color code key shall be conspicuously displayed at the place of business.

Stat. Auth.: ORS 561.190, 646.905 - 646.990, OL 1997, Ch. 310 (SB 414)
Stats. Implemented: ORS 646.905-646.990, 183, OL 1997, Ch. 310 (SB 414)
Hist.: AD 19-1997, f. 12-9-97, cert. ef. 1-1-98; DOA 17-2006, f. & cert. ef. 9-26-06; DOA 8-2008, f. & cert. ef. 2-15-08

603-027-0470
Embargo of Product

(1) Stop Use Order, Hold Order or Removal Order:

(a) The Director may issue a Stop Use Order, Hold Order, or Removal Order for any motor vehicle fuel which fails to meet the requirements of OAR 603-027-0420 through 603-027-0460;

(b) A Stop Use Order, Hold Order or Removal Order may be affixed by the Director or the Director's designate to dispensing devices and storage devices containing the motor vehicle fuel ordered off sale:

(A) The Stop Use Order, Hold Order or Removal Order shall be attached to the storage tank fill cap and dispenser where the motor vehicle fuel is stored and dispensed;

(B) The Stop Use Order, Hold Order or Removal Order shall contain the following information:

(i) A notice that the motor vehicle fuel has been prohibited from sale or use;

(ii) A notice that the motor vehicle fuel is not to be disposed of without authorization from a Department official;

(iii) Location of the motor vehicle fuel;

(iv) Identification of the motor vehicle fuel;

(v) Brand name;

(vi) Number and type of containers;

(vii) Marked contents;

(viii) Other identification;

(ix) Violation;

(x) Name of official;

(xi) Date.

(c) Any motor vehicle fuel which has been ordered off sale shall not be exposed for sale except under the following circumstances:

(A) The bulk facility, wholesale dealer, retail dealer, or nonretail dealer may be authorized to sell the motor vehicle fuel provided:

(i) It can be brought up to represented quality;

(ii) It can be brought up to ASTM specifications.

(B) The Director or the Director's designate may approve of any disposition of an off-sale commodity provided the disposition is not in conflict with Oregon Laws 1997, Chapter 310 Section 2, 3 and 5, and OAR 603-027-0420 through 603-027-0440;

(C) Any disposition authorized by the Director or the Director's designate shall be recorded on the Stop Use Order, Hold Order or Removal Order.

(D) If the Director or the Director's designate finds that the motor vehicle fuel cannot be brought up to represented quality or meet the specifications pursuant to Oregon Laws 1997, Chapter 310 Section 2, 3 and 5, and OAR 603-027-0420 through 603-027-0440, the Director or the Director's designate shall order the motor vehicle fuel removed by issuance of a Stop Use Order, Hold Order, or Removal Order to the bulk facility, wholesale dealer, retail dealer, or nonretail dealer. The Director or the Director's designate may authorize the motor vehicle fuel to be removed:

(i) To a facility capable of reblending or refining;

(ii) To another area within the state if specifications of that area can be met;

(iii) Outside the state;

(iv) Any disposition authorized by the Director or the Director's designate shall be recorded on the Stop Use Order, Hold Order or Removal Order.

(2) The owner or operator of a facility which is the subject of a Stop Use Order, Hold Order or Removal Order may appeal such an order in the manner provided in OAR 603-027-0490. A statement of appeal rights shall be included with any Stop Use, Hold or Removal Order posted as provided by section (1) of this rule. The Stop Use, Hold or Removal Order shall also be served on the owner or operator of the facility, as provided by OAR 603-207-0490. In the event the owner or operator requests a hearing to contest the Stop Use, Hold or Removal Order, such hearing shall be held as soon as is reasonably practicable. Where reasonably practicable, the Department shall give the owner or operator of the facility prior written notice of its intent to issue a Stop Use, Hold or Removal Order. In the event the owner or operator of the facility requests a hearing to contest a Stop Use, Hold or Removal Order, such person may request that the order be stayed pending completion of the contested case. The Director or the Director's designate shall stay the order if the party provides evidence and the Department determines that:

(a) The party will suffer irreparable injury if the order is not stayed;

(b) There is a colorable claim of error in the proposed order; and

(c) Granting the stay will not result in substantial public harm.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 561.190, 646.905 - 646.990, OL 1997, Ch. 310 (SB 414)
Stats. Implemented: ORS 646.905-646.990, 183, OL 1997, Ch. 310 (SB 414)
Hist.: AD 19-1997, f. 12-9-97, cert. ef. 1-1-98; DOA 5-2002, f. & cert. ef. 1-28-02; DOA 8-2008, f. & cert. ef. 2-15-08

603-027-0490
Enforcement Proceedings; Civil Penalties

(1) Consolidation of Proceedings: Notwithstanding that each and every violation of these rules and/or 1997 Oregon Laws Chapter 310 is a separate and distinct act and in cases of continuing violations, each day's continuance is a separate and distinct violation, proceedings for a Stop Use, Hold and/or Removal Order, or for the assessment of civil penalties arising from the same conduct or failure to act may be consolidated into a single proceeding.

(2) The Director or the Director's designate shall prescribe a reasonable time for the elimination of the violation prior to imposing a civil penalty, except that if a party fails to abide by the terms of any Stop Use, Hold and/or Removal Order, the Director or the Director's designate may immediately impose a civil penalty in addition to any other remedies provided by law.

(3) Violations occurring after the time prescribed for the elimination of the violation shall be considered repeat violations.

(4) Civil penalties shall be due and payable when the person incurring the penalty receives a Civil Penalty Assessment Notice in writing from the Director or the Director's designate.

(5) A Civil Penalty Assessment Notice, Stop Use Order, Hold Order and/or Removal Order shall be in writing. In addition to the posting providing for by OAR 603-207-0470 for Stop Use, Hold and Removal Orders, these documents shall be served on the owner or operator of the facility by registered mail, certified mail, or in person. The notice shall include, but not be limited to:

(a) A reference to the particular section of the statute and/or administrative rule involved and;

(b) A short and plain statement of the matters asserted or charged;

(c) A statement of the amount of the penalty or penalties imposed, if any;

(d) A statement of the person's right to request a hearing if such request is made within ten days of mailing of the notice and an explanation of how a hearing may be requested;

(e) A statement that the notice becomes a final order unless the person upon whom the Stop Use, Hold and/or Removal Order, and /or civil penalty is assessed makes a written request for a hearing within ten days from the date of the mailing of the notice.

(6) A civil penalty imposed under the applicable statutes or these regulations may be remitted or reduced at the Director's discretion upon such terms and conditions that are proper and consistent with public safety and welfare.

(7) Hearing Procedures: All hearings shall be conducted pursuant to the applicable contested case procedures as outlined in ORS 183.310 to 183.550, and the Attorney General's Uniform and Model Rules of Procedure (OAR chapter 137).

(8) Entry of Order and Appeal Rights: If a person notified of the Stop Use, Hold, and/or Removal Order and/or civil penalty fails to request a hearing as specified in OAR 603-027-0490(5)(e), or if after the hearing the person is found to be in violation of the provisions of these rules, a final order may be entered by the Department as follows:

(a) The order shall be signed by the Director or the Director's designate;

(b) If the order is not appealed, or if it is appealed and the order is sustained on appeal, the order shall constitute a judgment and may be recorded with the county clerk in any county of this state. Any penalty provided in the order so recorded becomes a lien upon the title of any interest and real property in the county owned by the person against whom the order is entered.

(9) Penalty schedule: In addition to any other penalty provided by law, the Director may assess a civil penalty for violation of any provision of Oregon Laws 1997, chapter 310 section (7) relating to Motor Fuel Standards Regulation. The amount of any civil penalty shall be determined using the following table and shall not exceed $10,000. In establishing penalty assessments within the table (Table 2), the department will consider factors such as the type of violation, the cause(s) of the violation, the economic impact on fuel purchasers, prior history of violations, repetition of violations, and the degree of demonstrated cooperativeness of the fuel seller. [Table not included. See ED. NOTE.]

(10) The commission of each violation has been categorized as to its magnitude of violation as follows:

(a) Gravity 1 (Minor):

(A) Labeling of Dispenser(s) (Ref. OAR 603-027-0430):

(i) Gasoline dispenser(s) not labeled with the identity of the product dispensed;

(ii) Gasoline dispenser(s) not labeled with the identity of the grade dispensed;

(iii) Gasoline dispenser(s) not labeled with the identity of oxygenates;

(iv) Use of Prohibited Terms. Prohibited terms used to describe the grade of gasoline or gasoline-oxygenate blends. (Ref. OAR 603-027-0430.);

(v) Gasoline dispenser(s) not labeled with the Antiknock Index (AKI) number;

(vi) Gasoline dispenser(s) for lead substitute motor vehicle fuels not properly identified;

(vii) Diesel dispenser not labeled with either the identity of the product and/or grade dispensed;

(viii) Location of either the diesel product and/or grade label not on each face and on the upper 50 percent of the dispenser front panels;

(ix) Winter or winterized diesel fuel dispenser(s) not labeled in compliance with OAR 603-027-0430;

(x) Premium diesel fuel dispenser(s) not labeled in compliance with OAR 603-027-0430;

(xi) Aviation gasoline dispenser(s) not labeled with the identity of the grade dispensed;

(xii) Fuel ethanol dispenser(s) not labeled with the correct automotive fuel rating, the identity of the product dispensed, or use limited to flex fuel vehicles only;

(xiii) Fuel methanol dispenser(s) not labeled with the correct automotive fuel rating and the identity of the product dispensed;

(xiv) Biodiesel or biodiesel blend fuel dispenser(s) not labeled in compliance with OAR 603-027-0430.

(B) Storage Tank(s); Motor vehicle fuel storage tank(s) not correctly identified as to the product contained. (Ref. OAR 603-027-0440)

(C) Documentation, Wholesale Dealer and Bulk Facility (Ref. OAR 603-027-0430):

(i) Incorrect, incomplete, or no documentation of motor vehicle fuels provided to the retail dealer or nonretail dealer at the time of motor vehicle fuel delivery;

(ii) Motor vehicle fuel delivery documentation not maintained for at least one year at the person's registered place of business.

(D) Documentation, Ethanol Production Facility not keeping, on an annual basis by month, at the person's registered place of business, documentation declaring the production facility's name, location address, net ethanol production capacity, the date that the net ethanol capacity attained, quantity of ethanol produced, and sales in Oregon.

(E) Documentation, Retail Dealer and Nonretail Dealer (Ref. OAR 603-027-0430); Octane rating certification or motor vehicle fuel delivery documentation not maintained at their facilities for the three most recent deliveries to the facility for each grade of gasoline, fuel ethanol, fuel methanol, biodiesel and biodiesel blends, and diesel fuel sold or offered for sale.

(b) Gravity 2 (Moderate):

(A) Storage Tank(s);

(i) Water phase in motor vehicle fuel storage tank(s) for gasoline-alcohol blends, B100 Biodiesel, Biodiesel Blends, E85 fuel ethanol, M85 fuel methanol, and aviation gasoline exceed allowable limits (Ref. OAR 603-027-0440);

(ii) Water phase in motor vehicle fuel storage tank(s) for gasoline, diesel, gasoline-ether, and other fuels exceed allowable limits (Ref. OAR 603-027-0440).

(c) GRAVITY 3 (Major):

(A) Automotive fuel rating of the gasoline does not meet the minimum antiknock index (AKI) posted on the dispenser or certified on the invoice, bill of lading, shipping paper, or other documentation. (Ref. OAR 603-027-0420 and 603-027-0430);

(B) Gasoline does not meet ASTM standards (Ref. OAR 603-207-0420);

(C) Gasoline offered for sale with a lead substitute that does not meet requirements for a lead substitute gasoline. (Ref. OAR 603-027-0420);

(D) Ethanol intended for blending with gasoline does not meet the requirements of ASTM D 4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel". (Ref. OAR 603-027-0420);

(E) Gasoline sold or offered for sale does not meet gasoline-ethanol blend requirements (Ref OAR 603-027-0420);

(F) Gasoline Additive Restrictions: A wholesale dealer, retail dealer, or nonretail dealer selling or offering for sale gasoline blended or mixed with prohibited additives. (Ref. OAR 603-027-0420);

(G) Diesel fuel offered for sale does not meet ASTM standards (Ref. OAR 603-027-0420);

(H) Winter or Winterized diesel fuel offered for sale does not meet Standard Fuel Specifications (Ref. OAR 603-027-0420);

(I) Premium diesel fuel offered for sale does not meet Standard Fuel Specifications (Ref. OAR 603-027-0420);

(J) Biodiesel intended for blending with diesel fuel does not meet ASTM Standard Fuel Specifications (Ref. OAR 603-027-0420);

(K) Biodiesel blend offered for sale does not meet fuel specifications (Ref. OAR 603-027-0420);

(L) Aviation gasoline does not meet the requirements of ASTM D 910, "Standard Specification for Aviation Gasolines". (Ref. OAR 603-027-0420);

(M) E85 Fuel Ethanol offered for sale does not meet ASTM Standard Fuel Specifications (Ref. OAR 603-027-0420);

(N) M85 Fuel Methanol offered for sale does not meet ASTM Standard Fuel Specifications (Ref. OAR 603-027-0420).

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 561.190, 646.905 - 646.990, OL 1997, Ch. 310 (SB 414)

Stats. Implemented: ORS 646.905-646.990, 183, OL 1997, Ch. 310 (SB 414

Hist.: AD 19-1997, f. 12-9-97, cert. ef. 1-1-98; DOA 5-2002, f. & cert. ef. 1-28-02; DOA 17-2006, f. & cert. ef. 9-26-06; DOA 8-2008, f. & cert. ef. 2-15-08

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Rule Caption: Raises Christmas Tree Grower License fees for growers with more than forty acres.
Adm. Order No.: DOA 9-2008
Filed with Sec. of State: 2-15-2008
Certified to be Effective: 2-15-08
Notice Publication Date: 1-1-2008
Rules Amended: 603-054-0035
Subject: The proposed amendment gradually raises fees for Christmas tree grower licenses for operations larger than 40 acres. The goal would be to maintain program funds at sustainable levels through incremental averaging 3% per year, through 2012.
Rules Coordinator: Sue Gooch—(503) 986-4583

603-054-0035
License Fees for Christmas Tree Growers

(1) The annual license fee for Christmas tree growers beginning May 15, 2008, shall be a basic charge of $62 plus an acreage assessment as follows: $3 per acre for 40 or fewer acres, plus an additional $2.60 per acre for more than 40 acres but not more than 100 acres, plus an additional $2.10 per acre for more than 100 acres but not more than 200 acres, plus an additional $1.60 per acre for more than 200 acres. The annual license fee for Christmas tree growers beginning May 15, 2009, shall be a basic charge of $64 plus an acreage assessment as follows: $3 per acre for 40 or fewer

acres, plus an additional $2.70 per acre for more than 40 acres but not more than 100 acres, plus an additional $2.20 per acre for more than 100 acres but not more than 200 acres, plus an additional $1.70 per acre for more than 200 acres. The annual license fee for Christmas tree growers beginning May 15, 2010, shall be a basic charge of $66 plus an acreage assessment as follows: $3 per acre for 40 or fewer acres, plus an additional $2.80 per acre for more than 40 acres but not more than 100 acres, plus an additional $2.30 per acre for more than 100 acres but not more than 200 acres, plus an additional $1.80 per acre for more than 200 acres. The annual license fee for Christmas tree growers beginning May 15, 2011, shall be a basic charge of $68 plus an acreage assessment as follows: $3 per acre for 40 or fewer acres, plus an additional $2.90 per acre for more than 40 acres but not more than 100 acres, plus an additional $2.40 per acre for more than 100 acres but not more than 200 acres, plus an additional $1.90 per acre for more than 200 acres. The annual license fee for Christmas tree growers beginning May 15, 2012, shall be a basic charge of $70 plus an acreage assessment as follows: $3 per acre for 40 or fewer acres, plus an additional $3 per acre for more than 40 acres but not more than 100 acres, plus an additional $2.50 per acre for more than 100 acres but not more than 200 acres, plus an additional $2 per acre for more than 200 acres.

(2) The total license fee shall not exceed $5,000.

(3) To assist Christmas tree growers in determining their appropriate license fee, a license fee calculator can be found at: http://oda.state.or.us/dbs/christmas_tree_fee/calculator.lasso

Stat. Auth.: ORS 571.530
Stats. Implemented: ORS 571.530
Hist.: AD 11-1985, f. & ef. 11-27-85; AD 8-1987, f. & ef. 6-3-87; AD 6-1994, f. 6-3-94, cert. ef. 7-1-94; DOA 9-2008, f. & cert. ef. 2-15-08

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Department of Agriculture, Oregon Albacore Commission Chapter 972

Rule Caption: Sets per diem and reimbursement for substitute rates for commissioners that correspond with ORS 292.495.
Adm. Order No.: AC 1-2008
Filed with Sec. of State: 1-23-2008
Certified to be Effective: 1-23-08
Notice Publication Date: 7-1-2007
Rules Adopted: 972-040-0000, 972-040-0010, 972-040-0020
Subject: Sets per diem stipend, reimbursement for hiring a substitute and allowable travel reimbursements for commissioners. Per diem and reimbursement for hiring a substitute correspond with limit set in ORS 292.495.
Rules Coordinator: Nancy Fitzpatrick—(541) 994-2647

972-040-0000
Per Diem Compensation

(1) Subject to the availability of funds in the budget of the commission, the Oregon Albacore Commission must pay any member of the commission, other than a member who is employed in full-time public service, compensation for each day or portion thereof during which the member is actually engaged in the performance of official commission duties.

(2) The rate of compensation is limited to $30 per day, pursuant to ORS 292.495(1).

(3) In order to receive compensation, a member must submit to the Oregon Albacore Commission a written claim for compensation by the 15th day of the calendar month following the quarter for which the member seeks compensation. The member must specify the amount of time the member spent on official commission duties as well as the nature of the duties performed for any day or portion thereof for which the member claims compensation.

Stat. Auth.: ORS 292.495, 576.206 & 576.416.
Stats. Implemented: ORS 292.495, ORS 576.206(7), ORS 576.265
Hist.: AC 1-2008, f. & cert. ef. 1-23-08

972-040-0010
Reimbursement of Travel and Other Expenses

(1) Subject to sections (2)–(6) of this rule, a member of the Oregon Albacore Commission, including a member employed in full-time public service, may receive actual and necessary travel and other expenses actually incurred in the performance of the member's official duties.

(2) In order to receive reimbursement of actual and necessary travel and other expenses, a member must submit to the Oregon Albacore Commission a written itemized claim for reimbursement supported by receipts, invoices or other appropriate documentation for travel and other expenses by the 15th day of the calendar quarter following the month in which the member incurred the expense. The claim for reimbursement must include the following information for each expense:

(a) Date on which the member incurred the expense; and

(b) Nature of the expense; and

(c) Amount of the expense.

(3) An expense that exceeds $300.00 must be authorized by the Oregon Albacore Commission before a member incurs the expense.

(4) For the purposes of this rule, "travel and other expenses" are limited to reasonable expenses. An expense is reasonable if:

(a) It is an actual expense incurred by a member in carrying out official commission business, which is within the member's scope of responsibilities; and

(b) The expense is necessary to enable the member to carry out official commission business.

(5) For the purposes of this rule, "travel and other expenses" includes:

(a) Meals.

(b) Overnight lodging.

(c) Transportation.

(d) Postage.

(e) Cost of attending an event or phone calls associated with promotion of a commodity, such as a festival, stock show, county fair or state fair.

(6) For the purposes of this rule, "travel and other expenses" does not include:

(a) Attendance at a sporting event, concert, theatrical performance, movie, or dance venue, including such events that occur at a fair, festival or stock show.

(b) In-room movie rental.

(c) Long distance telephone charges at a place of lodging that are not associated with Oregon Albacore Commission business.

(d) Use of a gym or health club.

(e) Cost of a gift for a host, business associate, commission member or employee, or family member.

(f) Alcoholic beverages.

Stat. Auth.: ORS 292.495, 576.206, 576.265, 576.311, ORS 576.416 & 576.440
Stats. Implemented: ORS 292.495, ORS 576.206(7), ORS 576.265
Hist.: AC 1-2008, f. & cert. ef. 1-23-08

972-040-0020
Reimbursement for Hiring a Substitute

(1) As used in OAR 972-040-0010, "other expenses" includes expenses incurred by a member of the Oregon Albacore Commission in employing a substitute to perform duties, including personal duties, normally performed by the member, which the member is unable to perform because of the performance of official duties and which, by the nature of such duties, cannot be delayed without risk to health or safety.

(2) The amount that a member may be reimbursed for expenses incurred in employing a substitute must not exceed $25 per day, pursuant to ORS 292.495(3).

Stat. Auth.: ORS 292.495
Stats. Implemented: ORS 292.495, ORS 576.206(7)
Hist.: AC 1-2008, f. & cert. ef. 1-23-08

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Department of Agriculture, Oregon Blueberry Commission Chapter 670

Rule Caption: Sets per diem and reimbursement for substitute rates from commissioners that correspond with ORS 292.495.
Adm. Order No.: OBC 1-2008
Filed with Sec. of State: 2-7-2008
Certified to be Effective: 3-22-08
Notice Publication Date: 12-1-2007
Rules Adopted: 670-020-0010, 670-020-0020, 670-020-0030
Subject: Sets per diem stipend, reimbursement for hiring a substitute and allowable travel reimbursements for commissioners. Per diem and reimbursement for hiring a substitute correspond with limits set in ORS 292.495.
Rules Coordinator: Lisa Ostlund—(503) 364-2944

670-020-0010
Per Diem Compensation

(1) Subject to the availability of funds in the budget of the commission, the Oregon Blueberry Commission may pay any member of the commission, other than a member who is employed in full-time public service,

compensation for each day or portion thereof during which the member is actually engaged in the performance of the official commissioner duties.

(2) The rate of compensation is limited to $30 per day, pursuant to ORS 292.495(1).

(3) In order to receive compensation, a member must submit to the Oregon Blueberry Commission a written claim for compensation by the 15th day of the calendar month following the month for which the member seeks compensation. The member must specify the amount of time the member spent on official commission duties as well as the nature of the duties performed for any day or portion thereof for which the member claims compensation.

Stat. Auth.: ORS 576.304
Stats. Implemented: ORS 292.495, 576.206, 576.416
Hist.: OBC 1-2008, f. 2-7-08, cert. ef. 3-22-08

670-020-0020
Reimbursement of Travel and Other Expenses

(1) Subject to sections (2)–(6) of this rule, a member of the Oregon Blueberry Commission, including a member employed in full-time public service, may receive actual and necessary travel and other expenses actually incurred in the performance of the member's official duties.

(2) In order to receive reimbursement of actual and necessary travel and other expenses, a member must submit to the Oregon Blueberry Commission a written itemized claim for reimbursement supported by receipts, invoices or other appropriate documentation for travel and other expenses by June 30 of the current fiscal year in which the member incurred the expense. The claim for reimbursement must include the following information for each expense:

(a) Date on which the member incurred the expense; and

(b) Nature of the expense; and

(c) Amount of the expense.

(3) An expense that exceeds $2,000 must be authorized by the Oregon Blueberry Commission before a member incurs the expense.

(4) For the purposes of this rule, "travel and other expenses" are limited to reasonable expenses. An expense is reasonable if:

(a) It is an actual expense incurred by a member in carrying out official commission business, which is within the member's scope of responsibilities; and

(b) The expense is necessary to enable the member to carry out official commission business.

(5) For the purposes of this rule, "travel and other expenses" includes:

(a) Meals;

(b) Overnight lodging;

(c) Transportation;

(d) Postage;

(e) Cost of attending an event associated with promotion of a commodity, such as a festival, convention, trade show, etc.;

(f) Long distance telephone charges when necessary;

(g) Internet hookup;

(h) Other expenses as requested or required by the Commission.

(6) For the purposes of this rule, "travel and other expenses" does not include:

(a) In-room movie rental;

(b) Snacks and beverages offered for sale by a place of lodging;

(c) Use of a gym or health club;

(d) Cost of a gift for a host, business associate, commission member or employee, or family member;

(e) Alcoholic beverages.

Stat. Auth.: ORS 576.304
Stats. Implemented: ORS 292.495, 576.206, 576.265, 576.311, ORS 576.416, 576.440
Hist.: OBC 1-2008, f. 2-7-08, cert. ef. 3-22-08

670-020-0030
Reimbursement for Hiring a Substitute

(1) As used in OAR 670-020-0010, "other expenses" includes expenses incurred by a member of the Oregon Blueberry Commission in employing a substitute to perform duties, including personal duties, normally performed by the member, which the member is unable to perform because of the performance of official duties and which, by the nature of such duties, cannot be delayed without risk to health or safety.

(2) The amount that a member may be reimbursed for expenses incurred in employing a substitute must not exceed $25 per day, pursuant to ORS 292.495(3).

Stat. Auth.: ORS 576.304
Stats. Implemented: ORS 292.495
Hist.: OBC 1-2008, f. 2-7-08, cert. ef. 3-22-08

Department of Agriculture, Oregon Clover Commission
Chapter 664

Rule Caption: Adopt rules related to per diem compensation, reimbursement for hiring a substitute and travel reimbursement.
Adm. Order No.: OCC 1-2008
Filed with Sec. of State: 2-15-2008
Certified to be Effective: 4-1-08
Notice Publication Date: 12-1-2007
Rules Adopted: 664-020-0010, 664-020-0020, 664-020-0030
Subject: The proposed rules establish per diem compensation for commissioner, payment of travel reimbursement and reimbursement for hiring a substitute in an emergency.
Rules Coordinator: John H. McCulley—(503) 370-7019

664-020-0010
Per Diem Compensation

(1) Subject to the availability of funds in the budget of the commission, the Oregon Clover Commission must pay any member of the commission, other than a member who is employed in full-time public service, compensation for each day or portion thereof during which the member is actually engaged in the performance of official commission duties.

(2) The rate of compensation is limited to $30 per day, pursuant to ORS 292.495(1).

(3) In order to receive compensation, a member must submit to the Oregon Clover Commission a written claim for compensation by the 15th day of the calendar month following the month for which the member seeks compensation. The member must specify the amount of time the member spent on official commission duties as well as the nature of the duties performed for any day or portion thereof for which the member claims compensation.

Stat. Auth.: ORS 292.495, 576.206 & 574.416
Stats. Implemented:576.051–576.595
Hist.: OCC 1-2008, f. 2-15-08, cert. ef. 4-1-08

664-020-0020
Reimbursement of Travel and Other Expenses

(1) Subject to sections (2)–(6) of this rule, a member of the Oregon Clover Commission, including a member employed in full-time public service, may receive actual and necessary travel and other expenses actually incurred in the performance of the member's official duties.

(2) In order to receive reimbursement of actual and necessary travel and other expenses, a member must submit to the Oregon Clover Commission a written itemized claim for reimbursement supported by receipts, invoices or other appropriate documentation for travel and other expenses by the 15th day of the calendar month following the month in which the member incurred the expense. The claim for reimbursement must include the following information for each expense:

(a) Date on which the member incurred the expense; and

(b) Nature of the expense; and

(c) Amount of the expense.

(3) An expense that exceeds 2,000 dollars must be authorized by the Oregon Clover Commission before a member incurs the expense.

(4) For the purposes of this rule, "travel and other expenses" are limited to reasonable expenses. An expense is reasonable if:

(a) It is an actual expense incurred by a member in carrying out official commission business, which is within the member's scope of responsibilities; and

(b) The expense is necessary to enable the member to carry out official commission business.

(5) For the purposes of this rule, "travel and other expenses" includes:

(a) Meals.

(b) Overnight lodging.

(c) Transportation.

(d) Postage and shipping.

(e) Office supplies necessary to operate a trade show exhibit

(f) Cost of attending an event associated with promotion of a commodity, such as a trade show.

(6) For the purposes of this rule, "travel and other expenses" does not include:

(a) Attendance at a sporting event, concert, theatrical performance, movie, or dance venue, including such events that occur at a fair, festival or stock show.

(b) In-room movie rental.

(c) Snacks and beverages offered for sale by a place of lodging.
(d) Long distance telephone charges at a place of lodging.
(e) Use of a gym or health club.
(f) Cost of a gift for a host, business associate, commission member or employee, or family member.
(g) Alcoholic beverages.
Stat. Auth.: ORS 292.495, 576.206, 576.265, 576.311, ORS 576.416 & 576.440
Stats. Implemented:576.051–576.595
Hist.: OCC 1-2008, f. 2-15-08, cert. ef. 4-1-08

664-020-0030
Reimbursement for Hiring a Substitute
(1) As used in OAR 664-020-0010, "other expenses" includes expenses incurred by a member of the Oregon Clover Commission in employing a substitute to perform duties, including personal duties, normally performed by the member, which the member is unable to perform because of the performance of official duties and which, by the nature of such duties, cannot be delayed without risk to health or safety.
(2) The amount that a member may be reimbursed for expenses incurred in employing a substitute must not exceed $25 per day, pursuant to ORS 292.495(3).
Stat. Auth.: ORS 292.495
Stats. Implemented:576.051–576.595
Hist.: OCC 1-2008, f. 2-15-08, cert. ef. 4-1-08

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Department of Agriculture, Oregon Fryer Commission Chapter 620

Rule Caption: Sets per diem and reimbursement for substitute rates for Commissioners that correspond with ORS 292.495.
Adm. Order No.: OFC 1-2008
Filed with Sec. of State: 1-24-2008
Certified to be Effective: 1-25-08
Notice Publication Date: 1-1-2008
Rules Adopted: 620-020-0010, 620-020-0020, 620-020-0030
Subject: Sets per diem, reimbursement for hiring a substitute and allowable travel reimbursement for Commissioners. Per diem and reimbursement for hiring a substitute correspond with limit set in ORS 292.495.
Rules Coordinator: Julie Schiele—(503) 256-1151

620-020-0010
Per Diem Compensation
(1) Subject to the availability of funds in the budget of the Commission, the Oregon Fryer Commission must pay any member of the Commission, other than a member who is employed in full-time public service, compensation for each day or portion thereof during which the member is actually engaged in the performance of official Commission duties.
(2) The rate of compensation is limited to $30 per day, pursuant to ORS 292.495(1).
(3) In order to receive compensation, a member must submit to the Oregon Fryer Commission a written claim for compensation by the 15th day of the calendar month following the month which the member seeks compensation. The member must specify the amount of time the member spent on official commission duties as well as the nature of the duties performed for any day or portion thereof for which the member claims compensation.
Stat. Auth.: ORS 576.304
Stats. Implemented: ORS 292.495, 576.206(7) & 576.265
Hist.: OFC 1-2008, f. 1-24-08, cert. ef. 1-25-08

620-020-0020
Reimbursement of Travel and Other Expenses
(1) Subject to sections (2)–(6) of this rule, a member of the Oregon Fryer Commission, including a member employed in full-time public service, may receive actual and necessary travel and other expenses actually incurred in the performance of the member's official duties.
(2) In order to receive reimbursement of actual and necessary travel and other expenses, a member must submit to the Oregon Fryer Commission a written itemized claim for reimbursement supported by receipts, invoices or other appropriate documentation for travel and other expenses by the 15th day of the calendar month following the month in which the member incurred the expense. The claim for reimbursement must include the following information for each expense:
(a) Date on which the member incurred the expense; and
(b) Nature of the expense; and
(c) Amount of the expense.
(3) An expense that exceeds $500 dollars must be authorized by the Oregon Fryer Commission before a member incurs the expense.
(4) For the purposes of this rule, "travel and other expenses" are limited to reasonable expenses. An expense is reasonable if:
(a) It is an actual expense incurred by a member in carrying out official Commission business, which is within the member's scope of responsibilities; and
(b) The expense is necessary to enable the member to carry out official Commission business.
(5) For the purposes of this rule, "travel and other expenses" includes:
(a) Meals.
(b) Overnight lodging.
(c) Transportation.
(d) Postage.
(e) In room Internet Access
(f) Cost of attending an event associated with promotion of a commodity, such as a festival, stock show, county fair or state fair.
(6) For the purposes of this rule, "travel and other expenses" does not include:
(a) Attendance at a sporting event, concert, theatrical performance, movie, or dance venue, including such events that occur at a fair, festival or stock show.
(b) Snacks and beverages offered for sale by a place of lodging.
(c) Long distance telephone charges at a place of lodging.
(d) Use of a gym or health club.
(e) Cost of a gift for a host, business associate, commission member or employee, or family member.
(f) Alcoholic beverages.
Stat. Auth.: ORS 576.304
Stats. Implemented: ORS 292.495, 576.206(7) & 576.265
Hist.: OFC 1-2008, f. 1-24-08, cert. ef. 1-25-08

620-020-0030
Reimbursement for Hiring a Substitute
(1) As used in OAR 620-020-0020, "other expenses" includes expenses incurred by a member of the Oregon Fryer Commission in employing a substitute to perform duties, including personal duties, normally performed by the member, which the member is unable to perform because of the performance of official duties and which, by the nature of such duties, cannot be delayed without risk to health or safety.
(2) The amount that a member may be reimbursed for expenses incurred in employing a substitute must not exceed $25 per day, pursuant to ORS 292.495(3).
Stat. Auth.: ORS 576.304
Stats. Implemented: ORS 292.495, 576.206(7) & 576.265
Hist.: OFC 1-2008, f. 1-24-08, cert. ef. 1-25-08

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Department of Agriculture, Oregon Highland Bentgrass Commission Chapter 641

Rule Caption: Sets per diem and reimbursement for substitute rates for commissioners that correspond with ORS 292.495.
Adm. Order No.: OHBC 1-2008
Filed with Sec. of State: 2-7-2008
Certified to be Effective: 3-22-08
Notice Publication Date: 12-1-2007
Rules Adopted: 641-020-0010, 641-020-0020, 641-020-0030
Subject: Sets per diem stipend, reimbursement for hiring a substitute and allowable travel reimbursements for commissioners. Per diem and reimbursement for hiring a substitute correspond with limits set in ORS 292.495.
Rules Coordinator: Lisa Ostlund—(503) 364-2944

641-020-0010
Per Diem Compensation
(1) Subject to the availability of funds in the budget of the commission, the Oregon Highland Bentgrass Commission may pay any member of the commission, other than a member who is employed in full-time public service, compensation for each day or portion thereof during which the member is actually engaged in the performance of the official commissioner duties.
(2) The rate of compensation is limited to $30 per day, pursuant to ORS 292.495(1).

(3) In order to receive compensation, a member must submit to the Oregon Highland Bentgrass Commission a written claim for compensation by the 15th day of the calendar month following the month for which the member seeks compensation. The member must specify the amount of time the member spent on official commission duties as well as the nature of the duties performed for any day or portion thereof for which the member claims compensation.

Stat. Auth.: ORS 576.304
Stats. Implemented: ORS 292.495, 576.206, 576.416
Hist.: OHBC 1-2008, f. 2-7-08, cert. ef. 3-22-08

641-020-0020
Reimbursement of Travel and Other Expenses

(1) Subject to sections (2)–(6) of this rule, a member of the Oregon Highland Bentgrass Commission, including a member employed in full-time public service, may receive actual and necessary travel and other expenses actually incurred in the performance of the member's official duties.

(2) In order to receive reimbursement of actual and necessary travel and other expenses, a member must submit to the Oregon Highland Bentgrass Commission a written itemized claim for reimbursement supported by receipts, invoices or other appropriate documentation for travel and other expenses by June 30 of the current fiscal year in which the member incurred the expense. The claim for reimbursement must include the following information for each expense:

(a) Date on which the member incurred the expense; and

(b) Nature of the expense; and

(c) Amount of the expense.

(3) An expense that exceeds $1 must be authorized by the Oregon Highland Bentgrass Commission before a member incurs the expense.

(4) For the purposes of this rule, "travel and other expenses" are limited to reasonable expenses. An expense is reasonable if:

(a) It is an actual expense incurred by a member in carrying out official commission business, which is within the member's scope of responsibilities; and

(b) The expense is necessary to enable the member to carry out official commission business.

(5) For the purposes of this rule, "travel and other expenses" includes:

(a) Meals;

(b) Overnight lodging;

(c) Transportation;

(d) Postage;

(e) Cost of attending an event associated with promotion of a commodity, such as a festival, convention, trade show, etc.;

(f) Long distance telephone charges when necessary;

(g) Internet hookup;

(h) Other expenses as requested or required by the Commission.

(6) For the purposes of this rule, "travel and other expenses" does not include:

(a) In-room movie rental;

(b) Snacks and beverages offered for sale by a place of lodging;

(c) Use of a gym or health club;

(d) Cost of a gift for a host, business associate, commission member or employee, or family member;

(e) Alcoholic beverages.

Stat. Auth.: ORS 576.304
Stats. Implemented: ORS 292.495, 576.206, 576.265, 576.311, ORS 576.416, 576.440
Hist.: OHBC 1-2008, f. 2-7-08, cert. ef. 3-22-08

641-020-0030
Reimbursement for Hiring a Substitute

(1) As used in OAR 641-020-0010, "other expenses" includes expenses incurred by a member of the Oregon Highland Bentgrass Commission in employing a substitute to perform duties, including personal duties, normally performed by the member, which the member is unable to perform because of the performance of official duties and which, by the nature of such duties, cannot be delayed without risk to health or safety.

(2) The amount that a member may be reimbursed for expenses incurred in employing a substitute must not exceed $25 per day, pursuant to ORS 292.495(3).

Stat. Auth.: ORS 576.304
Stats. Implemented: ORS 292.495
Hist.: OHBC 1-2008, f. 2-7-08, cert. ef. 3-22-08

Department of Agriculture, Oregon Mint Commission
Chapter 642

Rule Caption: Sets per diem and reimbursement for substitute rates for commissioners that correspond with ORS 292.495.
Adm. Order No.: OMC 1-2008
Filed with Sec. of State: 2-7-2008
Certified to be Effective: 3-22-08
Notice Publication Date: 12-1-2007
Rules Adopted: 642-020-0010, 642-020-0020, 642-020-0030
Subject: Sets per diem stipend for hiring a substitute and allowable travel reimbursements for commissioners. Per diem and reimbursement for hiring a substitute correspond with limits sets in ORS 292.495.
Rules Coordinator: Lisa Ostlund—(503) 364-2944

642-020-0010
Per Diem Compensation

(1) Subject to the availability of funds in the budget of the commission, the Oregon Mint Commission may pay any member of the commission, other than a member who is employed in full-time public service, compensation for each day or portion thereof during which the member is actually engaged in the performance of the official commissioner duties.

(2) The rate of compensation is limited to $30 per day, pursuant to ORS 292.495(1).

(3) In order to receive compensation, a member must submit to the Oregon Mint Commission a written claim for compensation by the 15th day of the calendar month following the month for which the member seeks compensation. The member must specify the amount of time the member spent on official commission duties as well as the nature of the duties performed for any day or portion thereof for which the member claims compensation.

Stat. Auth.: ORS 576.304
Stats. Implemented: ORS 292.495, 576.206, 576.416
Hist.: OMC 1-2008, f. 2-7-08, cert. ef. 3-22-08

642-020-0020
Reimbursement of Travel and Other Expenses

(1) Subject to sections (2)–(6) of this rule, a member of the Oregon Mint Commission, including a member employed in full-time public service, may receive actual and necessary travel and other expenses actually incurred in the performance of the member's official duties.

(2) In order to receive reimbursement of actual and necessary travel and other expenses, a member must submit to the Oregon Mint Commission a written itemized claim for reimbursement supported by receipts, invoices or other appropriate documentation for travel and other expenses by June 30 of the current fiscal year in which the member incurred the expense. The claim for reimbursement must include the following information for each expense:

(a) Date on which the member incurred the expense; and

(b) Nature of the expense; and

(c) Amount of the expense.

(3) An expense that exceeds $2,000 must be authorized by the Oregon Mint Commission before a member incurs the expense.

(4) For the purposes of this rule, "travel and other expenses" are limited to reasonable expenses. An expense is reasonable if:

(a) It is an actual expense incurred by a member in carrying out official commission business, which is within the member's scope of responsibilities; and

(b) The expense is necessary to enable the member to carry out official commission business.

(5) For the purposes of this rule, "travel and other expenses" includes:

(a) Meals;

(b) Overnight lodging;

(c) Transportation;

(d) Postage;

(e) Cost of attending an event associated with promotion of a commodity, such as a festival, convention, trade show, etc.;

(f) Long distance telephone charges when necessary;

(g) Internet hookup;

(h) Other expenses as requested or required by the Commission.

(6) For the purposes of this rule, "travel and other expenses" does not include:

(a) In-room movie rental;

(b) Snacks and beverages offered for sale by a place of lodging;
(c) Use of a gym or health club;
(d) Cost of a gift for a host, business associate, commission member or employee, or family member;
(e) Alcoholic beverages.
Stat. Auth.: ORS 576.304
Stats. Implemented: ORS 292.495, 576.206, 576.265, 576.311, ORS 576.416, 576.440
Hist.: OMC 1-2008, f. 2-7-08, cert. ef. 3-22-08

642-020-0030
Reimbursement for Hiring a Substitute
(1) As used in OAR 642-020-0010, "other expenses" includes expenses incurred by a member of the Oregon Mint Commission in employing a substitute to perform duties, including personal duties, normally performed by the member, which the member is unable to perform because of the performance of official duties and which, by the nature of such duties, cannot be delayed without risk to health or safety.
(2) The amount that a member may be reimbursed for expenses incurred in employing a substitute must not exceed $25 per day, pursuant to ORS 292.495(3).
Stat. Auth.: ORS 576.304
Stats. Implemented: ORS 292.495
Hist.: OMC 1-2008, f. 2-7-08, cert. ef. 3-22-08

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Department of Agriculture, Oregon Orchardgrass Seed Producers Commission Chapter 655

Rule Caption: Adopt rules related to per diem compensation, reimbursement for hiring a substitute and travel reimbursement.
Adm. Order No.: OSPC 1-2008
Filed with Sec. of State: 2-15-2008
Certified to be Effective: 4-1-08
Notice Publication Date: 12-1-2007
Rules Adopted: 655-040-0000, 655-040-0010, 655-040-0020
Subject: The proposed rules establish per diem compensation for commissioner, payment of travel reimbursement and reimbursement for hiring a substitute in an emergency.
Rules Coordinator: John H. McCulley—(503) 370-7019

655-040-0000
Per Diem Compensation
(1) Subject to the availability of funds in the budget of the commission, the Oregon Orchardgrass Seed Producers Commission must pay any member of the commission, other than a member who is employed in full-time public service, compensation for each day or portion thereof during which the member is actually engaged in the performance of official commission duties.
(2) The rate of compensation is limited to $30 per day, pursuant to ORS 292.495(1).
(3) In order to receive compensation, a member must submit to the Oregon Orchardgrass Seed Producers Commission a written claim for compensation by the 15th day of the calendar month following the month for which the member seeks compensation. The member must specify the amount of time the member spent on official commission duties as well as the nature of the duties performed for any day or portion thereof for which the member claims compensation.
Stat. Auth.: ORS 292.495, 576.206 & 574.416.
Stats. Implemented: ORS 576.051 - 576.595
Hist.: OSPC 1-2008, f. 2-15-08, cert. ef. 4-1-08

655-040-0010
Reimbursement of Travel and Other Expenses
(1) Subject to sections (2)–(6) of this rule, a member of the Oregon Orchardgrass Seed Producers Commission, including a member employed in full-time public service, may receive actual and necessary travel and other expenses actually incurred in the performance of the member's official duties.
(2) In order to receive reimbursement of actual and necessary travel and other expenses, a member must submit to the Oregon Orchardgrass Seed Producers Commission a written itemized claim for reimbursement supported by receipts, invoices or other appropriate documentation for travel and other expenses by the 15th day of the calendar month following the month in which the member incurred the expense. The claim for reimbursement must include the following information for each expense:
(a) Date on which the member incurred the expense; and
(b) Nature of the expense; and
(c) Amount of the expense.
(3) An expense that exceeds 2,000 dollars must be authorized by the Oregon Orchardgrass Seed Producers Commission before a member incurs the expense.
(4) For the purposes of this rule, "travel and other expenses" are limited to reasonable expenses. An expense is reasonable if:
(a) It is an actual expense incurred by a member in carrying out official commission business, which is within the member's scope of responsibilities; and
(b) The expense is necessary to enable the member to carry out official commission business.
(5) For the purposes of this rule, "travel and other expenses" includes:
(a) Meals.
(b) Overnight lodging.
(c) Transportation.
(d) Postage and shipping.
(e) Office supplies necessary to operate a trade show exhibit
(f) Cost of attending an event associated with promotion of a commodity, such as a trade show.
(6) For the purposes of this rule, "travel and other expenses" does not include:
(a) Attendance at a sporting event, concert, theatrical performance, movie, or dance venue, including such events that occur at a fair, festival or stock show.
(b) In-room movie rental.
(c) Snacks and beverages offered for sale by a place of lodging.
(d) Long distance telephone charges at a place of lodging.
(e) Use of a gym or health club.
(f) Cost of a gift for a host, business associate, commission member or employee, or family member.
(g) Alcoholic beverages.
Stat. Auth.: ORS 292.495, 576.206, 576.265, 576.311, 576.416 & 576.440
Stats. Implemented: ORS 576.051 - 576.595
Hist.: OSPC 1-2008, f. 2-15-08, cert. ef. 4-1-08

655-040-0020
Reimbursement for Hiring a Substitute
(1) As used in OAR655-040-0010, "other expenses" includes expenses incurred by a member of the Oregon Orchardgrass Seed Producers Commission in employing a substitute to perform duties, including personal duties, normally performed by the member, which the member is unable to perform because of the performance of official duties and which, by the nature of such duties, cannot be delayed without risk to health or safety.
(2) The amount that a member may be reimbursed for expenses incurred in employing a substitute must not exceed $25 per day, pursuant to ORS 292.495(3).
Stat. Auth.: ORS 292.495.
Stats. Implemented: ORS 576.051 - 576.595
Hist.: OSPC 1-2008, f. 2-15-08, cert. ef. 4-1-08

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Department of Agriculture, Oregon Ryegrass Growers Seed Commission Chapter 657

Rule Caption: Sets per diem and reimbursement for substitute rates for commissioners that correspond with ORS 292.495.
Adm. Order No.: RGSC 1-2008
Filed with Sec. of State: 2-7-2008
Certified to be Effective: 3-22-08
Notice Publication Date: 1-1-2008
Rules Adopted: 657-020-0010, 657-020-0020, 657-020-0030
Subject: Sets per diem stipend, reimbursement and allowable travel reimbursements for commissioners. Per diem and reimbursement for hiring a substitute correspond with limits set in ORS 292.495.
Rules Coordinator: Lisa Ostlund—(503) 364-2944

657-020-0010
Per Diem Compensation
(1) Subject to the availability of funds in the budget of the commission, the Oregon Ryegrass Growers Seed Commission may pay any member of the commission, other than a member who is employed in full-time public service, compensation for each day or portion thereof during which the member is actually engaged in the performance of the official commissioner duties.
(2) The rate of compensation is limited to $30 per day, pursuant to ORS 292.495(1).

(3) In order to receive compensation, a member must submit to the Oregon Ryegrass Growers Seed Commission a written claim for compensation by the 15th day of the calendar month following the month for which the member seeks compensation. The member must specify the amount of time the member spent on official commission duties as well as the nature of the duties performed for any day or portion thereof for which the member claims compensation.

Stat. Auth.: ORS 576.304
Stats. Implemented: ORS 292.495, 576.206, 576.416
Hist.: RGSC 1-2008, f. 2-7-08, cert. ef. 3-22-08

657-020-0020
Reimbursement of Travel and Other Expenses

(1) Subject to sections (2)–(6) of this rule, a member of the Oregon Ryegrass Growers Seed Commission, including a member employed in full-time public service, may receive actual and necessary travel and other expenses actually incurred in the performance of the member's official duties.

(2) In order to receive reimbursement of actual and necessary travel and other expenses, a member must submit to the Oregon Ryegrass Growers Seed Commission a written itemized claim for reimbursement supported by receipts, invoices or other appropriate documentation for travel and other expenses by June 30 of the current fiscal year in which the member incurred the expense. The claim for reimbursement must include the following information for each expense:

(a) Date on which the member incurred the expense; and

(b) Nature of the expense; and

(c) Amount of the expense.

(3) An expense that exceeds $2,000 must be authorized by the Oregon Ryegrass Growers Seed Commission before a member incurs the expense.

(4) For the purposes of this rule, "travel and other expenses" are limited to reasonable expenses. An expense is reasonable if:

(a) It is an actual expense incurred by a member in carrying out official commission business, which is within the member's scope of responsibilities; and

(b) The expense is necessary to enable the member to carry out official commission business.

(5) For the purposes of this rule, "travel and other expenses" includes:

(a) Meals;

(b) Overnight lodging;

(c) Transportation;

(d) Postage;

(e) Cost of attending an event associated with promotion of a commodity, such as a festival, convention, trade show, etc.;

(f) Long distance telephone charges when necessary;

(g) Internet hookup;

(h) Other expenses as requested or required by the Commission.

(6) For the purposes of this rule, "travel and other expenses" does not include:

(a) In-room movie rental;

(b) Snacks and beverages offered for sale by a place of lodging;

(c) Use of a gym or health club;

(d) Cost of a gift for a host, business associate, commission member or employee, or family member;

(e) Alcoholic beverages.

Stat. Auth.: ORS 576.304
Stats. Implemented: ORS 292.495, 576.206, 576.265, 576.311, ORS 576.416, 576.440
Hist.: RGSC 1-2008, f. 2-7-08, cert. ef. 3-22-08

657-020-0030
Reimbursement for Hiring a Substitute

(1) As used in OAR 657-020-0010, "other expenses" includes expenses incurred by a member of the Oregon Ryegrass Growers Seed Commission in employing a substitute to perform duties, including personal duties, normally performed by the member, which the member is unable to perform because of the performance of official duties and which, by the nature of such duties, cannot be delayed without risk to health or safety.

(2) The amount that a member may be reimbursed for expenses incurred in employing a substitute must not exceed $25 per day, pursuant to ORS 292.495(3).

Stat. Auth.: ORS 576.304
Stats. Implemented: ORS 292.495
Hist.: RGSC 1-2008, f. 2-7-08, cert. ef. 3-22-08

Department of Agriculture, Oregon Salmon Commission
Chapter 646

Rule Caption: Sets per diem and reimbursement for substitute rates for commissioners that correspond with ORS 292.495.
Adm. Order No.: OSC 1-2008
Filed with Sec. of State: 1-23-2008
Certified to be Effective: 1-23-08
Notice Publication Date: 7-1-2007
Rules Adopted: 646-040-0000, 646-040-0010, 646-040-0020
Subject: Sets per diem stipend, reimbursement for hiring a substitute and allowable travel reimbursements for commissioners. Per diem and reimbursement for hiring a substitute correspond with limit set in ORS 292.495.
Rules Coordinator: Nancy Fitzpatrick—(541) 994-2647

646-040-0000
Per Diem Compensation

(1) Subject to the availability of funds in the budget of the commission, the Oregon Salmon Commission must pay any member of the commission, other than a member who is employed in full-time public service, compensation for each day or portion thereof during which the member is actually engaged in the performance of official commission duties.

(2) The rate of compensation is limited to $30 per day, pursuant to ORS 292.495(1).

(3) In order to receive compensation, a member must submit to the Oregon Salmon Commission a written claim for compensation by the 15th day of the calendar month following the quarter for which the member seeks compensation. The member must specify the amount of time the member spent on official commission duties as well as the nature of the duties performed for any day or portion thereof for which the member claims compensation.

Stat. Auth.: ORS 292.495, 576.206 & 576.416.
Stats. Implemented: ORS 292.495, ORS 576.206(7), ORS 576.265
Hist.: OSC 1-2008, f. & cert. ef. 1-23-08

646-040-0010
Reimbursement of Travel and Other Expenses

(1) Subject to sections (2)–(6) of this rule, a member of the Oregon Salmon Commission, including a member employed in full-time public service, may receive actual and necessary travel and other expenses actually incurred in the performance of the member's official duties.

(2) In order to receive reimbursement of actual and necessary travel and other expenses, a member must submit to the Oregon Salmon Commission a written itemized claim for reimbursement supported by receipts, invoices or other appropriate documentation for travel and other expenses by the 15th day of the calendar quarter following the month in which the member incurred the expense. The claim for reimbursement must include the following information for each expense:

(a) Date on which the member incurred the expense; and

(b) Nature of the expense; and

(c) Amount of the expense.

(3) An expense that exceeds $100.00 must be authorized by the Oregon Salmon Commission before a member incurs the expense.

(4) For the purposes of this rule, "travel and other expenses" are limited to reasonable expenses. An expense is reasonable if:

(a) It is an actual expense incurred by a member in carrying out official commission business, which is within the member's scope of responsibilities; and

(b) The expense is necessary to enable the member to carry out official commission business.

(5) For the purposes of this rule, "travel and other expenses" includes:

(a) Meals.

(b) Overnight lodging.

(c) Transportation.

(d) Postage.

(e) Cost of attending an event associated with promotion of a commodity, such as a festival, stock show, county fair or state fair.

(6) For the purposes of this rule, "travel and other expenses" does not include:

(a) Attendance at a sporting event, concert, theatrical performance, movie, or dance venue, including such events that occur at a fair, festival or stock show.

(b) In-room movie rental.

(c) Snacks and beverages offered for sale by a place of lodging.

(d) Long distance telephone charges at a place of lodging that are not related to Oregon Salmon Commission business.

(e) Use of a gym or health club.

(f) Cost of a gift for a host, business associate, commission member or employee, or family member.

(g) Alcoholic beverages.

Stat. Auth.: ORS 292.495, 576.206, 576.265, 576.311, ORS 576.416 & 576.440
Stats. Implemented: ORS 292.495, ORS 576.206(7), ORS 576.265
Hist.: OSC 1-2008, f. & cert. ef. 1-23-08

646-040-0020
Reimbursement for Hiring a Substitute

(1) As used in OAR 972-040-0010, "other expenses" includes expenses incurred by a member of the Oregon Salmon Commission in employing a substitute to perform duties, including personal duties, normally performed by the member, which the member is unable to perform because of the performance of official duties and which, by the nature of such duties, cannot be delayed without risk to health or safety.

(2) The amount that a member may be reimbursed for expenses incurred in employing a substitute must not exceed $25 per day, pursuant to ORS 292.495(3).

Stat. Auth.: ORS 292.495
Stats. Implemented: ORS 292.495, ORS 576.206(7)
Hist.: OSC 1-2008, f. & cert. ef. 1-23-08

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Department of Agriculture, Oregon Sheep Commission
Chapter 644

Rule Caption: Sets per diem and reimbursement for substitute rates for commissioners that correspond with ORS 292.495.
Adm. Order No.: SHEEP 1-2008
Filed with Sec. of State: 2-15-2008
Certified to be Effective: 2-15-08
Notice Publication Date: 9-1-2007
Rules Adopted: 644-040-0010, 644-040-0020, 644-040-0030
Subject: OAR 644-040-0010 establishes the per diem rate for commissioners at $30 per day and OAR 644-040-0030 establishes the rate for hiring a substitute at a maximum of $25 per day, in accordance with the limits set in ORS 292.495. OAR 644-040-0020 provides that Commissioners may be reimbursed for allowable travel and other expenses, subject to the limitation stated in section 2–6 of the rule.
Rules Coordinator: Richard Kosesan—(503) 370-7024

644-040-0010
Per Diem Compensation

(1) Subject to the availability of funds in the budget of the commission, the Oregon Sheep Commission must pay any member of the commission, other than a member who is employed in full-time public service, compensation for each day or portion thereof during which the member is actually engaged in the performance of official commission duties.

(2) The rate of compensation is limited to $30 per day, pursuant to ORS 292.495(1).

(3) In order to receive compensation, a member must submit to the Oregon Sheep Commission a written claim for compensation by the 30th day of the calendar month following the quarter for which the member seeks compensation. The member must specify the amount of time the member spent on official commission duties, as well as the nature of the duties performed for any day or portion thereof for which the member claims compensation.

Stat. Auth.: ORS 292.495, 576.206 & 574.416
Stats. Implemented:
Hist.: SHEEP 1-2008, f. & cert. ef. 2-15-08

644-040-0020
Reimbursement of Travel and Other Expenses

(1) Subject to sections (2)–(6) of this rule, a member of the Oregon Sheep Commission, including a member employed in full-time public service, may receive actual and necessary travel and other expenses actually incurred in the performance of the member's official duties.

(2) In order to receive reimbursement of actual and necessary travel and other expenses, a member must submit to the Oregon Sheep Commission a written itemized claim for reimbursement supported by receipts, invoices or other appropriate documentation for travel and other expenses by the 30th day of the calendar quarter following the month in which the member incurred the expense. The claim for reimbursement must include the following information for each expense:

(a) Date on which the member incurred the expense; and

(b) Nature of the expense; and

(c) Amount of the expense.

(3) An expense that exceeds 25 dollars must be authorized by the Oregon Sheep Commission before a member incurs the expense.

(4) For the purposes of this rule, "travel and other expenses" are limited to reasonable expenses. An expense is reasonable if:

(a) It is an actual expense incurred by a member in carrying out official commission business, which is within the member's scope of responsibilities; and

(b) The expense is necessary to enable the member to carry out official commission business.

(5) For the purposes of this rule, "travel and other expenses" includes:

(a) Meals.

(b) Overnight lodging.

(c) Transportation.

(d) Cost of attending an event associated with promotion of a commodity, such as a festival, stock show, county fair or state fair.

(6) For the purposes of this rule, "travel and other expenses" does not include:

(a) Attendance at a sporting event, concert, theatrical performance, movie, or dance venue, including such events that occur at a fair, festival or stock show.

(b) Snacks, beverages or in-room movie rental offered for sale at a place of lodging.

(c) Long distance telephone charges at a place of lodging.

(d) Alcoholic beverages.

Stat. Auth.: ORS 292.495, 576.206, 576.265, 576.311, ORS 576.416 & 576.440
Stats. Implemented:
Hist.: SHEEP 1-2008, f. & cert. ef. 2-15-08

644-040-0030
Reimbursement for Hiring a Substitute

(1) As used in OAR 644-040-0020, "other expenses" includes expenses incurred by a member of the Oregon Sheep Commission in employing a substitute to perform duties, including personal duties, normally performed by the member, which the member is unable to perform because of the performance of official duties and which, by the nature of such duties, cannot be delayed without risk to health or safety.

(2) The amount that a member may be reimbursed for expenses incurred in employing a substitute must not exceed $25 per day, pursuant to ORS 292.495(3).

Stat. Auth.: ORS 292.495
Stats. Implemented:
Hist.: SHEEP 1-2008, f. & cert. ef. 2-15-08

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Department of Consumer and Business Services, Division of Finance and Corporate Securities
Chapter 441

Rule Caption: Set fees for banking, credit union and consumer finance programs.
Adm. Order No.: FCS 1-2008
Filed with Sec. of State: 1-28-2008
Certified to be Effective: 1-28-08
Notice Publication Date: 12-1-2007
Rules Amended: 441-500-0020, 441-500-0030, 441-710-0500, 441-730-0030
Subject: These rule amendments revise the annual licensing or assessment and examination fees assessed by the Director against state chartered banks, state chartered credit unions, and consumer finance licensees.
Rules Coordinator: Shelley Greiner—(503) 947-7484

441-500-0020
Fees for Banks, Trust Companies, Savings Banks, Extranational Institutions, Savings Associations and Call for Reports

(1) Definitions.

(a) As used in this rule, "assets" means;

(A) The average assets of an Oregon based insured institution; or

(B) The average Oregon assets of an extranational institution.

(b) For the purposes of determining averages in subsections (1)(a):

(A) Average assets for an Oregon based insured institution shall be determined from the quarterly Call Reports of Condition and Income filed with the applicable federal supervisory agency for the calendar year immediately preceding the due date of the fee assessment; and

(B) Average Oregon assets in for an extranational institution shall be determined from the quarterly reports of Oregon Assets filed with the Director for the calendar year immediately preceding the due date of the assessment.

(2) Call for Reports. To the extent any report used to determine the fee assessment is not required to be filed or made available to the Director under other Banking Rules, the specific reports shall be provided by the insured institution or extranational institution upon the call of the Director to allow the fee assessments to be determined.

(3) Subject to section (9) of this rule, the annual fee assessment under ORS 706.530 for an insured institution subject to the jurisdiction of the Director, including a savings association, is: If assets are:

(a) Less than $10 million, $800 plus .000204 of all assets;

(b) $10 million or more but less than $25 million, $1,625 plus .000148 of all assets;

(c) $25 million or more but less than $100 million, $2,895 plus .000113 of all assets;

(d) $100 million or more but less than $500 million, $9,795 plus .000067 of all assets;

(e) $500 million or more but less than $1 billion, $22,795 plus .000049 of all assets;

(f) $1 billion or more but less than $2 billion, $24,795 plus .000048 of all assets;

(g) $2 billion or more but less than $3 billion, $26,795 plus .000047 of all assets;

(h) $3 billion or more but less than $4 billion, $29,795 plus .000046 of all assets;

(i) $4 billion or more, $33,795 plus .000045 of all assets.

(4) Subject to section (9) of this rule, the annual regulatory fee assessment under ORS 706.530 for each trust company subject to the Director's jurisdiction is $2,000 plus:

(a) .000060826 of the first $150 million in managed assets; and .000030413 of managed assets greater than $150 million;

(b) .0000152065 of the first $150 million in custodial assets; and .0000076075 of custodial assets greater than $150 million.

(5) Subject to section (9) of this rule, the annual regulatory fee assessment under ORS 706.530 and 713.090 for each extranational institution is: If Oregon assets are:

(a) Less than $10 million, $845 plus .000310 of all assets;

(b) $10 million or more but less than $25 million, $2,545 plus .000140 of all assets;

(c) $25 million or more but less than $100 million, $3,545 plus .000100 of all assets;

(d) $100 million or more but less than $500 million, $6,745 plus .000068 of all assets;

(e) $500 million or more, but less than $1 billion, $10,245 plus .000061 of all assets;

(f) $1 billion or more but less than $2 billion, $15,245 plus .000056 of all assets;

(g) $2 billion or more, $17,245 plus .000055 of all assets.

(6) The fees assessed by this rule are not subject to prorate or refund.

(7) If no fee is assessed during any year under sections (3) or (4) of this rule because an insured institution did not have Oregon assets during the calendar year immediately preceding the due date of the assessment, the insured institution may be charged for actual cost, if the Director participates in any examination of the institution during the same calendar year. Actual cost shall be determined in the same way as provided in OAR 441-500-0030.

(8) All fees assessed under sections (3) to (5) of this rule are due and payable on March 1 of each calendar year.

(9)(a) The Director may by order reduce the fees assessed for any specific year.

(b) When a fee is assessed under sections (3) to (5) of this rule, the assessment shall not be less than:

(A) $5,000 for an insured institution, including a savings association, under section (3);

(B) $2,500 for a trust company under section (4) and an extranational institution under section (5).

(10) The charges for special examination and special attention provided in OAR 441-500-0030 are in addition to and not in lieu of the fees assessed by this rule.

Stat. Auth.: ORS 705.620
Stats. Implemented: ORS 706.530
Hist.: FID 2-1986, f. & ef. 3-7-86; FID 3-1986, f. & ef. 5-15-86; FID 4-1986, f. & ef. 7-25-86; FCS 2-1988, f. 1-29-88, cert. ef. 2-1-88; Renumbered from 805-002-0100; FCS 1-1989, f. 1-18-89, cert. ef. 2-1-89; FCS 1-1993, f. & cert. 2-23-93; FCS 4-1994, f. & cert. ef. 4-25-94; FCS 1-1998, f. & cert. ef. 3-31-98, Renumbered from 441-505-0020; FCS 6-2007, f. & cert. ef. 10-22-07; FCS 1-2008, f. & cert. ef. 1-28-08

441-500-0030
Charges for Special Examinations and Special Attention for Banks, Trust Companies, Savings Banks, Extranational Institutions and Savings Associations

(1) Applicability. This rule applies to a banking institution, non-Oregon institution, savings institution and a holding company of an Oregon bank and trust company, but not a federal bank.

(2) In addition to the schedule of fees adopted in OAR 441-500-0020, "Actual costs" as charged for special examinations includes:

(a) $75 an hour for each of the Director's staff assigned to the special examination for time performing the examination, writing reports and related administrative tasks;

(b) Reasonable actual cost to the Director for a consultant hired for the particular assignment or for other state staff assigned to the matter; and

(c) Reasonable actual travel and per diem costs incurred by the Director or staff.

Stat. Auth.: ORS 706.544 & 715.045
Stats. Implemented: ORS 706.544 & 715.045
Hist.: FID 2-1986, f. & ef. 3-7-86; Renumbered from 805-002-0110; Suspended by FCS 3-1997(Temp), f. 10-6-97; FCS 1-1998, f. & cert. ef. 3-31-98, Renumbered from 441-505-0030; FCS 1-2008, f. & cert. ef. 1-28-08

441-710-0500
Fees and Charges Credit Unions Pay the Director

(1) Effective February 1, 2008, the annual regulatory fee under ORS 723.114(1), which is due and payable on March 1 of each calendar year, by each credit union, with assets of:

(a) Less than $10 million, is $250 plus .000129 of all assets;

(b) $10 million or more but less than $20 million, is $1110 plus .000156 of all assets;

(c) $20 million or more but less than $50 million, is $1170 plus .000149 of all assets;

(d) $50 million or more but less than $100 million, is $1350 plus .000141 of all assets;

(e) $100 million or more but less than $200 million, is $7100 plus .000099 of all assets;

(f) $200 million or more but less than $500 million, is $7900 plus .000095 of all assets;

(g) $500 million or more but less than $1 billion, is $9400 plus .000092 of all assets;

(h) $1 billion or more but less than $2 billion, is $10,400 plus .000091 of all assets;

(i) $2 billion or more is $12,400 plus .000090 of all assets; or

(j) If the credit union is a corporate credit union, the fee schedule is $16,800 plus .0000345 of all assets.

(2) The rate of charge payable by a credit union is $75 an hour for each examiner used in an examination for extra services provided a credit union under ORS 723.114(2).

(3) Notwithstanding the rate of charge fixed by section (2) of this rule:

(a) If an examiner from the division or the Supervisor is required to travel out of state for an examination or to provide extra service, the rate of charge payable by the credit union is $75 an hour per person, plus actual expenses for travel and subsistence;

(b) If the examination or the extra service is performed by a consultant hired by contract for the particular work, the charge payable by the credit union is the actual cost to the division of the contract consultant.

(4) In addition to the charges fixed by sections (2) and (3) of this rule, the Director will collect from a credit union any additional costs directly attributable to extra services given the credit union under ORS 723.114(2).

(5) As used in this rule:

(a) "Assets" means the average value of total assets reported by the credit union for the four calendar quarters ending with the quarter immediately preceding the due date of the fee. However, if a credit union was not in existence or doing business in this state during all of the prior calendar year "assets" means the average assets reported on the quarterly reports for the quarters for which reports were required to be filed during the calendar year immediately preceding the due date of the fee;

(b) "Extra service" means any special examination or examination in connection with a conversion.

(6) The annual regulatory fee of a credit union that is party to a merger or conversion, or is liquidated or dissolved:

(a) Is not subject to refund in whole or in part if the merger, conversion, liquidation or dissolution occurs prior to the end of the calendar years for which a fee has been paid;

(b) Is not subject to pro ration if the credit union operated during any part of the calendar year during which the merger, conversion, liquidation or dissolution occurred.

(7) An application for a credit union charter under ORS 723.012 must be accompanied by a fee of $350.

(8) An application to establish an additional place of business under ORS 723.032 must be accompanied by a fee of $300.

(9) The Director may by order reduce the fees assessed for any specific year.

Stat. Auth.: ORS 705.620, 723.012, 723.032, 723.102, 723.532
Stats. Implemented: ORS 723.114 & 723.532, Ch. 343, 2007 OL
Hist.: FID 9-1985, f. & ef. 12-31-85; FCS 2-1988, f. 1-29-88, cert. ef. 2-1-88; Renumbered from 805-072-0010; FCS 1-1989, f. 1-18-89, cert. ef. 2-1-89; FCS 1-1991, f. 1-28-91, cert. ef. 2-15-91; FCS 3-1994, f. 2-1-94, cert. ef. 2-15-94; Administrative correction 9-29-97; FCS 3-2000, f. & cert. ef. 3-9-00; FCS 3-2001, f. & cert. ef. 2-13-01; FCS 1-2005(Temp), f. & cert. ef. 3-4-05 thru 8-30-05; Renumbered from 441-710-0010, FCS 2-2005, f. & cert. ef. 8-25-05; FCS 1-2008, f. & cert. ef. 1-28-08

441-730-0030
Fees, Charges Licensees Pay the Director

(1) Effective February 1, 2008, the license fee under ORS 725.185 :

(a) For conventional lender applicants or licensees, is:

(A) $600 for an initial application for each location to be licensed; and

(B) $600 for renewal for each licensed location, due and payable on March 1 of each calendar year;

(b) For short-term lender applicants or licensees, is:

(A) $1200 for an initial application for each location to be licensed; and

(B) $1200 for renewal for each licensed location, due and payable on March 1 of each calendar year.

(2) A licensee who surrenders a license before the March 1 payment date must pay a fee of $55 as a limited annual license fee.

(3) The rate of charge payable by a licensee is $75 an hour per person payable by the licensee for the Director and each examiner and other division employee used in an examination conducted under ORS 725.312 and for extra services provided a licensee under ORS 725.185(2).

(4) Notwithstanding the rate of charge fixed by section (3) of this rule:

(a) If an examiner from the division or the Director is required to travel out of state in conducting the examination or providing the extra services, the rate of charge payable by the licensee is $75 an hour per person, plus actual cost of travel; actual travel costs include air fare, lodging, food, car usage out of state, mileage to the Oregon airport and return, and travel time beginning from the departure time and ending at the departure time at the destination city;

(b) If the extra services or examination is performed by a consultant hired by contract for the particular service or examination, the charge payable by the licensee is the actual cost to the division of the contract consultant.

(5) As used in this rule, "extra services" means any attention other than an examination given under ORS 725.310.

(6) In addition to the charges fixed by sections (3) and (4) of this rule, the Director will collect from a licensee any additional costs directly attributable to extra services given the licensee under ORS 725.185 or a special examination given the licensee under ORS 725.310.

(7) The director may by order reduce the fees assessed for any specific year.

Stat. Auth.: ORS 725.185
Stats. Implemented: ORS 725.185
Hist.: FID 8-1985, f. & ef. 12-31-85; FCS 2-1988, f. 1-29-88, cert. ef. 2-1-88; Renumbered from 805-075-0015; FCS 12-1988, f. 7-20-88, cert. ef. 8-1-88; FCS 1-1989, f. 1-18-89, cert. ef. 2-1-89; FCS 1-2001, f. 1-22-01, cert. ef. 2-1-01; FCS 4-2003, f. 12-30-03 cert. ef. 1-1-04; FCS 4-2004, f. 11-1-04, cert. ef. 1-1-05; FCS 3-2005, f. & cert. ef. 9-6-05; FCS 1-2008, f. & cert. ef. 1-28-08

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Department of Consumer and Business Services, Insurance Division
Chapter 836

Rule Caption: Repeal of Rules Governing Reporting of Claims on Professional Liability Insurance Covering Health Care Providers.
Adm. Order No.: ID 1-2008
Filed with Sec. of State: 1-16-2008
Certified to be Effective: 1-16-08
Notice Publication Date: 12-1-2007
Rules Repealed: 836-054-0050, 836-054-0055, 836-054-0060, 836-054-0065
Subject: This rulemaking repeals Department of Consumer and Business Services — Insurance Division rules governing the reporting of claims against professional liability insurance covering licensed health care practitioners. Legislation enacted in the 2007 regular session of the Oregon Legislative Assembly required the reporting to be made to the appropriate state licensing board and deleted the Department's authority to prescribe the reporting forms and requirements.
Rules Coordinator: Sue Munson—(503) 947-7272

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Rule Caption: Small Employer Health Benefit Plans.
Adm. Order No.: ID 2-2008
Filed with Sec. of State: 2-11-2008
Certified to be Effective: 2-11-08
Notice Publication Date: 12-1-2007
Rules Amended: 836-053-0021, 836-053-0030, 836-053-0040, 836-053-0050, 836-053-0060, 836-053-0065
Rules Repealed: 836-053-0016, 836-053-0026, 836-053-0065(T)
Subject: This rulemaking implements chapter 389, Oregon Laws 2007 (Enrolled House Bill 2002) with permanent rulemaking. The legislation made several changes to the statutes governing small employer health benefit plans. The rules add specifics and clarifications to these changes.
Rules Coordinator: Sue Munson—(503) 947-7272

836-053-0021
Plans Offered to Oregon Small Employers

The following provisions apply to health benefit plans offered to small employers:

(1) A small employer carrier shall issue a plan to a small employer if the employee eligibility criteria established by the small employer meet the requirements of this section. After April 1, 2008, a carrier must use the Oregon Standardized Group Profile Form established by the Director to collect data to determine the applicable type of group coverage for an employer and to provide disclosure notices as required for small employers. The eligibility criteria must be based solely on weekly work hours and completion of a group eligibility waiting period, if applicable, and those criteria must meet the following standards:

(a) The work hours requirement may range from 17.5 to 40 hours per week, but a single, uniform requirement must apply to all employees of the employer; and

(b) A waiting period requirement may not exceed 90 days and a single, uniform requirement must apply to all employees of the employer.

(2) A carrier must include a sole proprietor as an employee.

(3) Employee eligibility criteria must be limited to those described in section (1) of this rule. Impermissible criteria include:

(a) Health status;

(b) Disability; and

(c) A requirement that an employee be actively at work when coverage would otherwise begin.

(4) A small employer carrier may provide different health benefit plans to different categories of employees of an employer, as determined by the employer but based on bona fide employment-based classifications that are consistent with the employer's usual business practice. The categories may not relate to the actual or expected health status of the employees or their dependents, regardless of the number of employees in the group.

(5) A small employer carrier may enforce reasonable employer participation and contribution requirements, as specified in OAR 836-053-0040. Such requirements, however, shall be applied uniformly to all small employers with the same number of eligible employees. In determining minimum participation requirements, a carrier shall count only those employees who are not covered by an existing group health benefit plan.

(6) Premium rates for plans issued to small employers are subject to the rating and filing requirements of ORS 743.737 and OAR 836-053-0065 and 836-053-0910.

Stat. Auth.: ORS 731.244, 743.731(4) & 746.240
Stats. Implemented: ORS 743.730 et seq.
Hist.: ID 5-1998, f. & cert. ef. 3-9-98; ID 23-2002, f. & cert. ef. 11-27-02; ID 5-2007(Temp), f. 8-17-07, cert. ef. 8-20-07 thru 2-15-08; ID 2-2008, f. & cert. ef. 2-11-08

836-053-0030
Marketing

The following requirements relating to marketing apply to health benefit plans offered to small employers:

(1) A small employer carrier may offer different small employer health benefit plans in different geographic areas. However, the Basic plan required under ORS 743.734 and a point-of-service plan required of certain carriers under ORS 743.808 must be offered in every geographic area in which the carrier offers or renews its small employer health benefit plans. A small employer carrier may not cease offering or renewing, or offering and renewing, its Basic plan in a geographic area unless the carrier discontinues all plans in the geographic area as provided in ORS 743.737(5)(e).

(2) A small employer carrier must offer all of its approved small employer health benefit plans and plan options, including the Basic plan required under ORS 743.734 and a point-of-service plan required of certain carriers under ORS 743.808, to all small employers on a guaranteed issue basis. A carrier may not serve only a portion of the small employer market, such as employers with more than 25 employees, and a carrier may not establish or maintain a closed plan or plan option or a closed book of business in the small employer market. For purposes of this section, a "closed" arrangement is one in which coverage is maintained and renewed for currently enrolled small employers, but the coverage is not offered or issued to other small employers.

(3) A small employer carrier may not require a small employer to purchase or maintain other lines of coverage, such as group life insurance, in order to purchase or maintain a small employer health benefit plan.

(4) A small employer carrier that offers a particular health benefit plan in the small employer market only through one or more bona fide associations is not required to offer that plan, on a guaranteed issue basis or otherwise, to small employers that are not members of the association.

(5) A small employer carrier must market fairly all of its small employer health benefit plans and plan options and shall not engage in any practice that:

(a) Restricts a small employer's choice of such plans and plan options; or

(b) Has the effect or is intended to influence a small employer's choice of such plans and plan options for reasons of risk selection.

(6) A small employer carrier shall not provide to any insurance producer any financial or other incentive that conflicts with the requirements of section (5) of this rule.

(7) A small employer carrier must use the same sales compensation methodology for all small employer health benefit plans offered by the carrier.

(8) A small employer carrier may not terminate, fail to renew, or limit its contract or agreement of representation with an insurance producer for any reason related to the following: the health status, claims experience, occupation, geographic location of small employer groups, or the type of small employer plans placed by the insurance producer with the carrier.

(9) When a small employer carrier is required to treat an employer as a small employer under ORS 743.733(2), the carrier may limit coverage to categories of employees as authorized by ORS 743.734(6).

Stat. Auth.: ORS 731.244, 743.731 & 746.240
Stats. Implemented: ORS 743.733, 743.734, 743.73 & 746.650
Hist.: ID 17-1992, f. 12-3-92, cert. ef. 12-7-92; ID 12-1996, f. & cert. e.f 9-23-96; ID 5-1998, f. & cert. ef. 3-9-98; ID 5-2000, f. & cert. ef. 5-11-00; ID 8-2005, f. 5-18-05, cert. ef. 8-1-05; ID 5-2007(Temp), f. 8-17-07, cert. ef. 8-20-07 thru 2-15-08; ID 2-2008, f. & cert. ef. 2-11-08

836-053-0040
Underwriting

The following requirements relating to underwriting apply to health benefit plans offered to small employers:

(1) A small employer carrier shall not use health statements when offering small employer health benefit plans, except for late enrollees as provided in ORS 743.734. A health statement that is used for a late enrollee must comply with the requirements of OAR 836-053-0510. After enrollment, health statements or other information may be used by a carrier for the purpose of providing services or arranging for the provision of services under a small employer health benefit plan.

(2) The crediting of prior coverage, as specified in ORS 743.737, shall be applied in either of the following cases:

(a) If creditable coverage remains in effect on the enrollment date, as specified in ORS 743.737(1); or

(b) If creditable coverage terminated no more than 63 days prior to the enrollment date, as specified in ORS 743.737(1).

(3) All policy forms and enrollee summaries for small employer health benefit plans that contain a preexisting conditions provision must clearly disclose how prior creditable coverage will be counted. A carrier may use the following statement, or another similar disclosure, for this purpose:

The duration of the preexisting conditions provision in this policy will be reduced by the amount of your prior "creditable coverage" if:

(a) Your creditable coverage is still in effect on your date of enrollment in this policy; or

(b) Your creditable coverage ended no more than 63 days before your date of enrollment in this policy. "Creditable coverage" means any of the following coverages: Group coverage (including FEHBP and Peace Corps); Individual coverage (including student health plans); Medicaid; Medicare; CHAMPUS; Indian Health Service or tribal organization coverage; state high risk pool coverage; and public health plans. Creditable coverage does not include coverage only for a specified disease or illness or hospital indemnity (income) insurance.

(4) To expedite the accurate crediting of prior coverage, in accordance with section (2) of this rule, a small employer carrier shall:

(a) Include a question about potential creditable coverage in all enrollment forms that are used in conjunction with any small employer health benefit plan containing a preexisting conditions provision; and

(b) Include a notice about potential creditable coverage whenever the carrier notifies an enrollee that a claim has been denied because of a preexisting conditions provision. The notice of claim denial shall also include a telephone number at the carrier that the enrollee may use for additional information regarding the denied claim.

(5) Except as permitted under a preexisting conditions provision, a small employer carrier shall not modify health insurance with respect to an employee or any eligible dependent of an employee by means of a rider, endorsement or otherwise, for the purpose of restricting or excluding coverage for certain diseases or medical conditions otherwise covered by the health benefit plan.

(6) Participation and contribution requirements established by a small employer carrier shall be governed by the following:

(a) Participation requirements must apply on an aggregate basis in which all categories of eligible employees of a small employer are combined;

(b) Except as provided in this subsection, a small employer carrier may not increase any requirement for minimum employee participation or any requirement for minimum employer contribution applicable to a small employer except at plan anniversary. At plan anniversary, the carrier may increase the requirements only to the extent those requirements are applicable to all other small employer groups of the same size. At the anniversary of a plan or at any time other than the anniversary, an insurer may consider the existing group as a new group for purposes of coverage if the eligibility requirements applicable to the group are changed by the employer;

(c) If a carrier requires 100 percent participation of eligible employees, as allowed by ORS 743.737, the carrier shall not impose a contribution requirement upon the employer that exceeds 50 percent of the premium of an employee-only benefit plan; and

(d) Every small employer health benefit plan issued by a small employer carrier must specify all of the participation, contribution, and eligibility requirements that have been agreed upon by the carrier and the small employer. The carrier must apply the participation and eligibility requirements uniformly to all categories of eligible employees and their dependents and may establish and apply contributions for different categories of employees and dependents that exceed the minimum contribution.

(7) A modification to an existing small employer health benefit plan that is required by ORS 743.730 to 743.745 or OAR 836-053-0010 to 836-053-0065 shall be implemented for each policyholder on the next renewal date. For the purposes of this rule, the next renewal date means the first renewal date of the policy issued to the policyholder that occurs on or after the operative date of the governing statutory provision (i.e., October 1, 1996 for SB 152 (1995); August 1, 1997, for SB 98 (1997)). In addition, for small employer health benefit plans, if a certificate holder or dependent has limited coverage because of late enrollment in a plan, credit shall be granted for the time so enrolled against the maximum exclusion or limitation specified in ORS 743.737 and such crediting of time shall be effective as of the next renewal date.

(8) A late enrollee, as defined in ORS 743.730, must be accepted for coverage in a small employer health benefit plan, but may be subject to the coverage limitations specified in ORS 743.737. A health statement may be used to determine a late enrollee's preexisting conditions, but not to determine a late enrollee's eligibility to enroll or enrollment date. If a late enrollee is subject to a preexisting conditions provision, credit for prior creditable coverage must be applied to such provision.

(9) An enrollee who qualifies under a special enrollment period, as specified in ORS 743.737, must be accepted for coverage in a small employer health benefit plan and shall not be considered a late enrollee. Such an enrollee, however, is subject to the preexisting conditions provision, if any, and the creditable coverage requirements that apply to regular enrollees.

(10) A small employer health benefit plan shall be renewable at the option of the policyholder and shall not be discontinued by the carrier during or at the termination of the contract period except in the circumstances specified in ORS 743.737 and consistent with the requirements of HIPAA (42 U.S.C. 300gg-12).

Stat. Auth.: ORS 731.244
Stats. Implemented: ORS 743.736, 743.737 & 746.650
Hist.: ID 17-1992, f. 12-3-92, cert. ef. 12-7-92; ID 1-1994, f. & cert. ef. 1-26-94; ID 2-1995, f. & cert. ef. 4-26-95; ID 12-1996, f. & cert. e.f 9-23-96; ID 5-1998, f. & cert. ef. 3-9-98; ID 5-2000, f. & cert. ef. 5-11-00; ID 5-2007(Temp), f. 8-17-07, cert. ef. 8-20-07 thru 2-15-08; ID 2-2008, f. & cert. ef. 2-11-08

836-053-0050
Trade Practices

The following requirements relating to trade practices apply to health benefit plans offered to small employers:

(1) When offering plans to small employers, a carrier must briefly describe the variety of small employer plans and plan options that are available from the carrier and must specify that all plans and plan options are offered on a guaranteed issue basis.

(2) A small employer health benefit plan must be issued with an effective date no later than 31 days after the carrier actually receives the application.

(3) Neither a small employer carrier nor an insurance producer may encourage or direct a small employer to seek coverage from another carrier because of the small employer's health status, claims experience, industry occupation or geographic location, if within the carrier's service area.

(4) Neither a small employer carrier nor an insurance producer may induce or otherwise encourage a small employer to separate or otherwise exclude an eligible employee from employment or from health coverage or benefits provided in connection with the employee's employment.

(5) A small employer health benefit plan may specify that an enrolled small employer may replace its current coverage with another small employer plan offered by the carrier only on the anniversary date of the current coverage. This limitation also applies to a small employer that discontinues coverage with a carrier, or forfeits coverage because of non-payment of premiums, and then requests new coverage with the same carrier.

Stat. Auth.: ORS 731.244, 743.731(4) & 746.240
Stats. Implemented: ORS 743.736, 743.737 & 746.240
Hist.: ID 17-1992, f. 12-3-92, cert. ef. 12-7-92; ID 12-1996, f. & cert. e.f 9-23-96; ID 5-1998, f. & cert. ef. 3-9-98; ID 8-2005, f. 5-18-05, cert. ef. 8-1-05; ID 5-2007(Temp), f. 8-17-07, cert. ef. 8-20-07 thru 2-15-08; ID 2-2008, f. & cert. ef. 2-11-08

836-053-0060
Benefit Design

The following provisions relating to benefit design apply to health benefit plans offered to small employers:

(1) No limitations or exclusion period may be placed on any benefit in the Basic health benefit plan other than those contained in ORS 743.737 and as specified in **Exhibit 1** of this rule.

(2) A small employer carrier must offer an approved Basic health benefit plan in accordance with ORS 743.736 and may offer additional plans. Additional plans may include greater or lesser benefit coverage than the Basic plan.

(3) For small employer plans other than the Basic plan, a carrier may impose an exclusion period for specified covered services, other than for pregnancy and maternity, that applies to all employees and dependents upon enrollment in the plan. A carrier may determine the excluded services, but the exclusion period shall not exceed 24 months and credit for prior creditable coverage must be applied if the excluded service was covered under the prior creditable coverage, without regard to the level or use of coverage in the prior plan, and:

(a) Creditable coverage remains in effect on the enrollment date, as specified in ORS 743.737(3); or

(b) Creditable coverage terminated no more than 63 days prior to the enrollment date, as specified in ORS 743.737(3).

(4) Prior coverage credit toward an exclusion period must be applied on the basis of elapsed time in the prior coverage. For example, if the exclusion period is 24 months and the enrollee had creditable coverage for 12 months, the applicable exclusion period would be 12 months.

[ED. NOTE: Exhibits referenced are available from the agency.]
Stat. Auth.: OORS 731.244, 743.731 & 746.240
Stats. Implemented: ORS 743.731, 743.737
Hist.: ID 17-1992, f. 12-3-92, cert. ef. 12-7-92; ID 12-1996, f. & cert. e.f 9-23-96; ID 5-1998, f. & cert. ef. 3-9-98; ID 5-2000, f. & cert. ef. 5-11-00; ID 5-2007(Temp), f. 8-17-07, cert. ef. 8-20-07 thru 2-15-08; ID 2-2008, f. & cert. ef. 2-11-08

836-053-0065
Rating

The following provisions relating to rating apply to health benefit plans offered to small employers:

(1) A small employer carrier shall file a single geographic average rate (GAR) for each health benefit plan that is offered to small employers within a geographic area and for each category of family composition. The GAR must be determined on a pooled basis and the pool shall include:

(a) All of the carrier's business in the small employer market; and

(b) Any other business in the group market that the carrier wishes to include in the pool.

(2) There shall be one rating class for each small employer carrier. All small employer health benefit plans of the carrier shall be rated in that class. A rating of a health benefit plan is subject to adjustments reflecting the provision of benefits not required to be covered by the basic health benefit plan and differences in family composition.

(3) The variation in geographic average rates among different small employer health benefit plans offered by a carrier must be based solely on objective differences in plan design or coverage. The variation shall not include differences based on the risk characteristics or claims experience of the actual or expected enrollees in a particular plan, except as authorized by ORS 743.737(8)(b). A variation based on the level of contribution by the small employer or on the level of participation by eligible employees, or on both, must be actuarially sound. A carrier may adjust premium rates to reflect expected claims experience of a small employer as authorized by ORS 743.737(8)(b)(D) only with respect to a renewal of coverage, and the carrier may rely only on the carrier's own claims experience with the small employer.

(4) A small employer carrier shall file its geographic average rates for small employer health benefit plans in accordance with the rate filing requirements of OAR 836-053-0910.

(5) A small employer carrier shall assess administrative expenses in a uniform manner to all small employer health benefit plans, including the Basic health plan. Administrative expenses shall be expressed as a percentage of premium and the percentage may not vary with the size of the small employer.

(6) Plans shall be rated within the following geographic areas comprising counties as follows:

(a) Area 1 shall include: Clackamas, Multnomah, Washington, and Yamhill;

(b) Area 2 shall include: Benton, Lane, and Linn;

(c) Area 3 shall include: Marion and Polk;

(d) Area 4 shall include: Deschutes, Klamath, and Lake;

(e) Area 5 shall include: Clatsop, Columbia, Coos, Curry, Lincoln, and Tillamook;

(f) Area 6 shall include: Baker, Crook, Gilliam, Grant, Harney, Hood River, Jefferson, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, and Wheeler.

(g) Area 7 shall include: Douglas, Jackson and Josephine.

(7) A small employer carrier may use five digit zip code groupings to define the carrier's geographic areas. The zip code groupings may vary from the county areas defined in section (6) of this rule by no more than ten percent of the population of a county. The small employer carrier must use either the zip code system or the county system and shall not modify the geographic areas in any other manner.

(8) A small employer carrier may use the same geographic average rate for multiple rating areas.

(9) A small employer carrier may deviate from the requirements of the rate bands specified in ORS 743.737 for coverage that extends to a geographic area outside the state of Oregon. The carrier must do so in a reasonable fashion and maintain records regarding the basis for the rate charged in the small employer's file.

(10) Premium rates for small employer health benefit plans are subject to the following:

(a) The premium rates charged during a rating period for a health benefit plan issued to a small employer with 2 to 25 employees may not vary from the geographic average rate by more than:

(A) 44.7 percent, for a rate that is filed on or before January 1, 2008 to become effective on or before April 1, 2008.

(B) 46.5 percent, effective January 1, 2009.

(C) 48.2 percent, effective January 1, 2010.

(D) 50.0 percent, effective January 1, 2011.

(b) The premium rates charged during a rating period for a health benefit plan issued to a small employer with 26 to 50 employees may not vary from the geographic average rate by more than:

(A) 62.6 percent, for a rate that is filed on or before January 1, 2008 to become effective on or before April 1, 2008.

(B) 58.3 percent, effective January 1, 2009.

(C) 54.1 percent, effective January 1, 2010.

(D) 50.0 percent, effective January 1, 2011.

(11) The variations in premium rates described in section (10) of this rule may be based on one or more of the following factors as determined by the carrier:

(a)The ages of enrolled employees and their dependents;

(b) The level at which the small employer contributes to the premiums payable for enrolled employees and their dependents;

(c) The level at which eligible employees participate in the health benefit plan;

(d) The level at which enrolled employees and their dependents engage in tobacco use;

(e) The level at which enrolled employees and their dependents engage in health promotion, disease prevention or wellness programs;

(f) The period of time during which a small employer retains uninterrupted coverage in force with the same small employer carrier; and

(g) Adjustments to reflect the provision of benefits not required to be covered by the basic health benefit plan and differences in family composition.

Stat. Auth.: ORS 731.244 & 743.731
Stats. Implemented: ORS 743.731, 743.734 & 743.737
Hist.: ID 17-1992, f. 12-3-92, cert. ef. 12-7-92; ID 1-1994, f. & cert. ef. 1-26-94; ID 12-1996, f. & cert. ef. 9-23-96; Renumbered from 836-053-0020; ID 5-1998, f. & cert. ef. 3-9-98; ID 5-2000, f. & cert. ef. 5-11-00; ID 5-2007(Temp), f. 8-17-07, cert. ef. 8-20-07 thru 2-15-08; ID 2-2008, f. & cert. ef. 2-11-08

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Department of Corrections
Chapter 291

Rule Caption: Mail Services and Electronic Messaging Services for Inmates Incarcerated in ODOC Facilities.
Adm. Order No.: DOC 1-2008
Filed with Sec. of State: 1-25-2008
Certified to be Effective: 1-25-08
Notice Publication Date: 9-1-2007
Rules Amended: 291-131-0010, 291-131-0015, 291-131-0020, 291-131-0025, 291-131-0030, 291-131-0035, 291-131-0037
Subject: These rule amendments are necessary to implement a change in Department policy to permit eligible inmates confined in a limited number of Department institutions to send, receive and possess electronic messages. Other amendments are necessary to clarify authorized receipt of catalogs, brochures, and similar material; further define unauthorized attachments and enclosures; and incorporate housekeeping changes.
Rules Coordinator: Janet R. Worley—(503) 945-0933

291-131-0010
Definitions

(1) Business Transaction: A transaction involving the purchase, sale or delivery of merchandise, commodities or services.

(2) Central Administration: The Director, Deputy Director, Assistant Directors, administrators, or other Department of Corrections officials whose offices or mail boxes are located in the central office at 2575 Center Street NE, Salem, OR 97301-4667.

(3) Confiscate: To remove the item or that portion of the item which violates these rules.

(4) Contraband: Any article or thing which an inmate is prohibited by statute, rule or order from obtaining, possessing, or which the inmate is not specifically authorized to obtain or possess, or which the inmate alters without authorization.

(5) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(6) Electronic Messages: Correspondence exchanged between inmates and subscribers through a department approved third-party electronic messaging vendor by means of computers equipped for internet access.

(7) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of program operations.

(8) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, Deputy Director, an Assistant Director, or an administrator and has responsibility for delivery of program services or coordination of program operations.

(9) Inflammatory Material: Material whose presence in the facility is deemed by the department to constitute a direct and immediate threat to the security, safety, health, good order, or discipline of the facility because it incites or advocates physical violence against others. No publication shall be considered inflammatory solely on the basis of its appeal to a particular ethnic, racial or religious audience. No material shall be considered inflammatory solely because it criticizes the operation, programs or personnel of the Department of Corrections, the State Board of Parole and Post-Prison Supervision, or of any other government agency.

(10) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, probation, or post-prison supervision status.

(11) Inspection: To examine or view, including reading or photocopying.

(12) Inter-Agency Mail System: A system of delivering mail between or among state agencies and other units of government.

(13) Intradepartmental Mail System: A system of delivering mail among functional units within the Department of Corrections.

(14) Legal Mail: Incoming or outgoing mail to or from an attorney, court, or court official which is clearly worded "legal mail" on the addressee side of the envelope. The legal mail designation should be set apart from the return address and mailing address for ease of recognition.

(15) Mail: Incoming or outgoing mail, including electronic messages, authorized by these rules to be sent or received by an inmate and delivered by the United States Postal Service or any other carrier approved by the department including, but not limited to, parcel service enterprises or electronic messaging services.

(16) Money: Cash, money orders, personal checks, warrants, certified checks, and other remittances.

(17) Non-Inmate Sender: The person who is not residing at a Department of Corrections facility who sends mail to an inmate who is residing in a Department of Corrections facility.

(18) Official Mail: Incoming and outgoing mail addressed to or from officials of the confining authority, the Governor, the Secretary of State, Oregon's state legislators, Oregon's United States Congressional delegation, tribal governments, administrators of grievance systems, foreign embassy consulate, and members of the paroling authority, which is clearly worded "official mail" on the addressee side of the envelope. The official mail designation should be set apart from the return address and mailing address for ease of recognition.

(19) Package: A completely wrapped parcel received that is more than 1/4 inch thick regardless of other dimensions, received directly from the source with authorized postage, and legal and official mail up to three inches.

(20) Personal Photograph: Any analog or digital photograph of a person, or any duplication thereof. Personal photographs include any photograph scanned and printed from the internet or other photographs where the identity of the person is unknown to the department or cannot be reasonably ascertained by the department by examining the content of the accompanying material. Any graphic image sent with or attached to an electronic massage will be considered a personal photograph.

(21) Portrayal: The act or process by which an idea or message is depicted or represented, usually by written words or images.

(22) Publication: A book or single issue of a magazine or newspaper, plus such other materials addressed to a specific inmate as flyers, and catalogs, received directly from the publisher.

(23) Publisher, Distributor or Book Vender: A business, organization, or firm that issues and makes available to the public (generally for sale and wide distribution) magazines, newspapers, new and used books and other publications.

(24) Security Threat Group (STG): Any group of two or more individuals who:

(a) Have a common name, identifying symbol, or characteristic which serves to distinguish themselves from others.

(b) Have members, affiliates, or associates who individually or collectively engage, or have engaged, in a pattern of illicit activity or acts of misconduct that violates Oregon Department of Corrections rules.

(c) Have the potential to act in concert to present a threat, or potential threat, to staff, public, visitors, inmates, offenders or the secure and orderly operation of the institution.

(25) Security Threat Group Paraphernalia: Any material, document(s) or items evidencing security threat group involvement or activities (e.g., rosters, constitutions, structures, codes, pictures, training material, clothing, communications or other security threat group-related contraband.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 1-1979, f. & ef. 1-4-79; CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 31-1981(Temp), f. & ef. 6-30-81; CD 43-1981, f. & ef. 10-30-81; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 13-1984, f. & ef. 4-11-84; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 12-2001(Temp) f. & cert. ef. 6-20-01 thru 12-17-01; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 4-2002(Temp), f. & cert. ef. 3-25-02 thru 9-21-02; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 5-2007(Temp), f. & cert. ef. 8-1-07 thru 1-27-08; DOC 1-2008, f. & cert. ef. 1-25-08

291-131-0015
General

(1) The functional unit manager or designee will ensure employees responsible for mail room operations are properly trained prior to assignment.

(2) Inmates shall not send, receive, transfer, or possess mail which violates the provisions of these rules.

(3) Inmates shall not send, receive, transfer, or possess mail to or from the victim(s) of their crime(s) of conviction (both past and present), except as authorized in writing by the functional unit manager or designee.

(4) Inmates shall not conduct business transactions by mail without the prior written consent of the functional unit manager or designee.

(5) Excluding weekends and holidays, incoming and outgoing correspondence should be processed within two days of receipt; publications and packages within four days of receipt, unless the mail is being reviewed for possible violations.

(6) All incoming and outgoing mail is subject to inspection or examination. Legal and official mail is subject to inspection or examination as provided in OAR 291-131-0030.

(7) All mail, excluding packages, shall be routed through the U.S. Postal Service, inter-agency or intra-departmental mail systems. Mail may also be sent by other approved mail service providers for packages and special circumstances, if authorized by the functional unit manager. Other mail service providers includes, but is not limited to, United Parcel Service, U.S. Airborne, Federal Express, approved newspaper delivery, and approved vendors offering electronic messaging services. Authorization may vary among Department of Corrections facilities depending upon security concerns, mail room operations and physical layout of the building and grounds.

(8) Inmates shall be permitted to send business mail to officials of the Department of Corrections in Central Administration through the intra-departmental mail system. Inmates shall not be permitted to send mail through the state inter-agency mail system. Inmates shall be permitted to receive mail from state agencies and officials through the inter-agency and intra-departmental mail systems.

(9) Each month an inmate, who in the previous month has not accumulated the cost of five postage paid envelopes (for less than one ounce) in his/her trust account, will be issued five postage paid envelopes by the facility if he/she requests.

(10) Inmate to Inmate Mail Restriction:

(a) An inmate may be prohibited from corresponding with another inmate(s) when directed by the Department of Corrections facility functional unit manager or designee, and approved by the Assistant Director of Operations/designee, based on specific circumstances or information which in their judgment indicates that the inmate has or may use correspondence with the other inmate(s) in order to violate provisions of law, department administrative rules, or to otherwise engage in activity that threatens or impairs the security, good order, or discipline of the facility, inmate rehabilitation, or the health or safety of inmates, staff or the public, or to engage in other activity that threatens or is detrimental to other legitimate penological objectives.

(b) Affected inmate(s) will be notified of the restriction through written directive. A decision to order an inmate-to-inmate mail restriction under these rules shall be final and not subject to administrative review.

(11) Electronic Messaging:

(a) Availability and Inmate Access:

(A) The Department of Corrections may, in its sole discretion, authorize eligible inmates in certain Department of Corrections facilities to exchange electronic messages with friends and family as a non-monetary incentive, subject to the conditions and circumstances set forth in these and in the Performance Recognition Award System (PRAS) rules (OAR 291-77).

(B) When authorized by the department, electronic messaging will be available only to those inmates that are at the upper two incentive levels at their respective institutions (Levels 2 and 3 at minimum-security and above institutions or Levels 5 and 6 at minimum-security institutions).

(C) In those Department of Corrections facilities in which electronic messaging is authorized, inmates that are otherwise eligible to access electronic messaging in those facilities may do so in accordance with these rules, contingent upon the payment of a fee to the third-party vendor for subscription purposes by the inmates' friends or family.

(b) Processing of Electronic Messages:

(A) Except as otherwise provided in these rules, electronic messages will be processed in the same manner and be subject to the same standards established in these rules for the sending, receipt, and processing of other inmate mail.

(B) Incoming electronic messages from subscribers will be processed by an approved third-party vendor and delivered electronically to department mail rooms for staff review, printing, and delivery to inmates. Outgoing electronic messages from inmates will be reviewed, scanned and processed by department mail room staff and forwarded to the approved third-party vendor for review, scanning, and posting on the vendor's website for access by subscribers.

(C) All electronic messages will be subject to regular mail inspection and examination; no electronic message will be afforded special processing by department staff as legal mail or official mail.

(D) In the event that an inmate is transferred from a Department of Corrections facility where electronic messaging is authorized to a facility where it is not, departmental mail room staff will forward incoming electronic messages to the inmate through the regular mail system for the remainder of the calendar month.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 18(Temp), f. & ef. 12-18-73 thru 4-17-74; CD 22, f. 6-27-74, ef. 7-25-74; CD 1-1979, f. & ef. 1-4-79; Renumbered from 291-010-0300, CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 23-1998(Temp), f. & cert. ef. 12-23-98 thru 6-21-99; DOC 8-1999, f. 5-24-99, cert. ef. 6-1-99; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 4-2002(Temp), f. & cert. ef. 3-25-02 thru 9-21-02; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 16-2004(Temp), f. & cert. ef. 12-28-04 thru 6-26-05; DOC 7-2005, f. & cert. ef. 7-1-05; DOC 5-2007(Temp), f. & cert. ef. 8-1-07 thru 1-27-08; DOC 1-2008, f. & cert. ef. 1-25-08

291-131-0020
Outgoing Mail

(1) Outgoing mail must be written with lead or color pencil, pen, nontoxic markers or be typewritten or photocopied.

(2) Outgoing mail, except business mail to department officials in Central Administration sent through the intra-departmental mail system, shall be enclosed in an approved DOC envelope with U.S. postage. The outside of the envelope shall contain only the inmate's committed name, SID number, and return address, and the addressee's name and address, except official or legal mail labeled as such in accordance with OAR 291-131-0030. If the sender cannot be identified, the mail will be destroyed.

(3) Business mail to Department of Corrections officials in Central Administration shall require the inmate's complete name, SID number, housing assignment, and return address and the official's complete name and address.

(4) Outgoing electronic messages shall include the full name and address of the intended recipient and the name and SID number of the inmate sender.

(5) Inmates shall not send any item "prohibited from receipt by mail" as described under OAR 291-131-0035, except as authorized by the functional unit manager.

(6)Inmate-to-Inmate Correspondence:

(a) Inmates are authorized to correspond with other inmates if the correspondence is otherwise in compliance with department rules. Inmates shall not send newspaper or magazine clippings to another inmate.

(b) All inmate to inmate correspondence shall be routed through the U.S. Postal Service.

(c) Inmates shall not enclose correspondence other than from the inmate sender whose name and return address appears on the front of the envelope. Inmates shall not request another inmate to forward correspondence beyond the immediate addressee.

(d) Inmates shall not send a package to another inmate.

(7) Inmates shall not use electronic messaging to correspond with other inmates.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 18(Temp), f. & ef. 12-18-73 thru 4-17-74; CD 22, f. 6-27-74, ef. 7-25-74; CD 1-1979, f. & ef. 1-4-79; Renumbered from 291-010-0305, CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 5-2007(Temp), f. & cert. ef. 8-1-07 thru 1-27-08; DOC 1-2008, f. & cert. ef. 1-25-08

291-131-0025
Incoming Mail

(1) Incoming mail shall require the sender's name and return address on the front of the envelope and shall be addressed to the inmate using only his/her committed name and SID number. Incoming electronic messages shall include the name and address of the sender as part of the message and the full name and SID number of the inmate recipient.

(a) Mail whose recipient cannot be identified because of incomplete name or number will be returned to the sender. A reasonable attempt will be made to identify the inmate recipient. If the inmate recipient cannot be positively identified, the mail will be returned to the sender.

(b) Mail with no return address or an incomplete name and return address shall be refused and returned to the U.S. Postal Service or other authorized mail service provider.

(c) The placement of the return address for international mail shall be in accordance with the sending country's postal regulations.

(2) Incoming mail must be in pen, lead or color pencil, non-toxic markers or be typewritten or photocopied.

(3) Transfers:

(a) Incoming mail to inmates not residing in the receiving facility will be forwarded to the inmate if he/she resides at another Department of Corrections facility.

(b) Incoming mail for inmates temporarily transferred to another criminal justice agency will be held at the facility for seven consecutive days. If the inmate does not return to the facility within seven days, the facility will forward to the agency all accumulated and subsequent mail received at the facility. If the criminal justice agency refuses the forwarded mail, it will be held at the department facility until the inmate has been returned.

(4) Mail received for an inmate who has been released, discharged, or has escaped shall be refused and returned to the U.S. Postal Service or other authorized mail service provider.

(5) New books, magazines, and newspapers shall only be received directly from the publisher.

(a) Multiple copies of the same publication to an inmate shall be prohibited.

(b) Publications that have been previously rejected by the department and altered (i.e., offending pages removed) shall be prohibited.

(6) Inmates may receive catalogs, advertisements, brochures, promotional materials, pamphlets, sweepstakes, and contest materials solicited by the inmate provided the materials are properly addressed with the inmate's full name and SID number and are received directly at the correct address of where the inmate is currently housed. These materials must conform to any content restrictions contained within this rule.

(7) No notice or administrative review will be provided to the sender or intended inmate recipient for mail refused under subsections (5)(a) and (b) or (6) of this rule.

(8) Packages, except books, magazines, and newspapers received directly from the publisher, require prior authorization from the functional unit manager or designee.

(9) Central Administration Review of Publications:

(a) Facility mailroom staff shall stamp approval of all accepted books, magazines and other publications (except newspapers) on the front or inside front cover of the publication, together with the inmate's name, SID number, date accepted, and the authorizing staff's signature. Books and magazines without the completed stamp on the front or inside the front cover shall be unauthorized and considered contraband.

(b) Unauthorized attachments, enclosures, merchandise, or materials in publications may be removed and destroyed to allow the publication to be delivered to the intended inmate recipient, if the publication is otherwise in compliance with these rules, and doing so would not drastically alter/destroy the publication.

(c) If mailroom staff determine a publication contains material that is prohibited under these or other department administrative rules, the violation notice and prohibited material shall be reviewed by a designated Central Administration official, who will either affirm, reverse or otherwise modify the original rejection decision in writing. The reviewing official shall not take part in any subsequent administrative review of the rejected publication under OAR 291-131-0050.

(10) General correspondence shall be authorized up to 1/4 inch thickness. Legal and official mail received directly from the original source shall be authorized up to three inches thick. Legal and official mail in excess of three inches shall require prior approval from the functional unit manager or designee.

(11) Unauthorized Attachments and Enclosures:

(a) Only the canceled postage stamp, address label, and return address stamp (if used) attached to the front of an envelope or package shall be glued, taped or otherwise affixed to an envelope or package, or its contents.

(b) Only written correspondence, newspaper and magazine clippings, small pamphlets, photocopies, carbon copies, business cards, hand-made drawings, and photographs may be enclosed in the envelope. Inmates shall not receive newspaper or magazine clippings from another inmate. Unauthorized items with minimal monetary value (i.e., paper clip, rubber band, uncancelled stamp(s), book mark, envelope, blank paper, newspaper and magazine clippings and photocopies that violate the content portion of this rule, etc.) may be removed and destroyed and the remaining mail sent to the inmate, if the mail is otherwise in compliance with department rules.

(A) Small pamphlets, photocopies, carbon copies and hand-made drawings shall be allowed provided the contents do not exceed the one fourth inch thickness limitation as specified in section (10) above.

(B) Newspaper and magazine clippings and photographs shall not exceed ten items for each category.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 18(Temp), f. & ef. 12-18-73 thru 4-17-74; CD 22, f. 6-27-74, ef. 7-25-74; CD 1-1979, f. & ef. 1-4-79; Renumbered from 291-010-0310, CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 41-1983(Temp), f. & ef. 10-14-83; CD 13-1984, f. & ef. 4-11-84; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 12-2001(Temp) f. & cert. ef. 6-20-01 thru 12-17-01; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 4-2002(Temp), f. & cert. ef. 3-25-02 thru 9-21-02; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 5-2007(Temp), f. & cert. ef. 8-1-07 thru 1-27-08; DOC 1-2008, f. & cert. ef. 1-25-08

291-131-0030
Examination/Inspection of Legal and Official Mail

(1) Legal or official mail shall be afforded special processing as provided in subsections (2) and (3) of this rule.

(a) To qualify for special processing, mail which otherwise qualifies as legal or official mail under OAR 291-131-0010 (13) or (17) must have affixed to the addressee side of the envelope or parcel the words "LEGAL MAIL" or "OFFICIAL MAIL", as appropriate. The "LEGAL MAIL" or "OFFICIAL MAIL" designation should be set apart from both the return address and the mailing address, and should be of sufficient size, to permit easy recognition by facility mailroom employees.

(b) Mail which otherwise qualifies as legal and official mail under OAR 291-131-010 (13) or (17) but lacks the proper designation shall be processed as ordinary mail (i.e., shall be subject to inspection (e.g., opening, examination, reading or photocopying)) outside the inmate's presence.

(2) Legal and official mail sent from or received in a Department of Corrections facility in sealed envelopes or parcels shall be opened and examined for contraband in the presence of the inmate, but shall not be read or photocopied, except as authorized in subsection (3) of this rule.

(3) Legal and official mail may be inspected (i.e., opened, examined, read or photocopied) outside of the inmate's presence only when directed by the Department of Corrections facility functional unit manager or designee, and approved by the Assistant Director of Operations or the Inspector General, based on specific circumstances or specific information indicating that an inmate or other person has or may be in the process of violating provisions of law, department administrative rules, or may otherwise be engaged in activity which threatens or impairs the security, good order, or discipline of the facility and officials, staff, or inmates.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 18(Temp), f. & ef. 12-18-73 thru 4-17-74; CD 22, f. 6-27-74, ef. 7-25-74; CD 1-1979, f. & ef. 1-4-79; CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 1-2008, f. & cert. ef. 1-25-08

291-131-0035
Prohibited Mail

The following materials constitute prohibited mail which shall be confiscated or returned to the sender:

(1) Sexually Explicit Material:

(a) Sexually explicit material which by its nature or content poses a threat or is detrimental to the security, good order or discipline of the facility, inmate rehabilitation, or facilitates criminal activity including, but not limited to, the following:

(A) Sexual Acts or Behaviors:

(i) Portrayal of actual or simulated sexual acts or behaviors between human beings including, but not limited to, intercourse, sodomy, fellatio, cunnilingus or masturbation.

(ii) Portrayal of actual or simulated penetration of the vagina or anus, or contact between the mouth and the breast, genitals, or anus.

(iii) Portrayal of actual or simulated stimulation of the breast, genitals, or anus.

(iv) Portrayal of actual or simulated acts or threatened acts of force or violence in a sexual context, including, but not limited to, forcible intercourse (rape) or acts of sadomasochism emphasizing the infliction of pain.

(v) Portrayal of actual or simulated sexual acts or behaviors in which one of the participants is a minor, or appears to be under the age of 18.

(vi) Bestiality: Portrayal of actual or simulated sexual acts or behaviors between a human being and an animal.

(B) Excretory Functions: Portrayal of actual or simulated human excretory functions, including, but not limited to, urination, defecation, or ejaculation.

(C) Personal photographs in which the subject is nude; displays male or female genitalia, pubic area, or anus; or exposes the areola.

(b) No distinction shall be made between depictions of heterosexual and homosexual activity in applying these standards.

(c) Sexually explicit material does not include material of a news or information type, for example, publications covering the activities of gay rights or gay religious groups.

(d) Literary publications shall not be excluded solely because of homosexual themes or references, except for violations of these rules.

(e) Sexually explicit material may be admitted if it has scholarly value, or general social or literary value.

(2) Material That Threatens or is Detrimental to the Security, Safety, Health, Good Order or Discipline of the Facility, Inmate Rehabilitation, or Facilitates Criminal Activity: Material which by its nature or content poses a threat or is detrimental to the security, safety, health, good order or discipline of the facility, inmate rehabilitation, or facilitates criminal activity, including, but not limited to, material that meets one or more of the following criteria:

(a) It incites, advocates, aids or abets criminal activity such as illegal drug use, or instructs in the manufacture, use or conversion of weapons.

(b) It incites, advocates, aids or abets escape, such as picking locks or digging tunnels.

(c) It consists of threats of physical harm to any person or threats of criminal activity.

(d) It contains or concerns sending contraband within, into or out of the facility.

(e) It concerns plans for activities in violation of other Department of Corrections administrative directives.

(f) It contains code that directly threatens or is detrimental to the security, safety, health, good order, or discipline of the facility, inmate rehabilitation, or facilitates criminal activity.

(g) It contains information which, if communicated, would create a clear and present danger of violence and physical harm to a human being.

(h) It contains contraband material.

(i) It contains STG-related paraphernalia.

(j) It contains inflammatory material.

(k) It contains role-playing or similar fantasy games or materials.

(3) Credit or Deferred Billing Transactions: Mail involving credit or deferred billing (e.g., "bill me later" or "payment after delivery") transactions for the purchase of or subscription to publications (e.g., books, newspapers, magazines) or other items or merchandise is prohibited. Mail prohibited under this subsection includes:

(a) Outgoing inmate requests or purported agreements to enter into a credit or deferred billing transaction.

(b) Incoming publications or other items or merchandise, including promotions (e.g., free gift or premium) items given in exchange for purchase or subscription, received in a Department of Corrections facility which are accompanied by a billing or other statement requiring payment upon delivery or at a later date.

(4) Unauthorized Business Transactions: Mail involving a business transaction not previously approved by the functional unit manager or designee.

(5) Items Prohibited From Receipt by Mail:

(a) Any item or material which an inmate shall not possess within the Department of Corrections facility to which the inmate is assigned.

(b) Material which an inmate shall not possess within the facility or which meets one of the following criteria:

(A) Weapons or explosives;

(B) Narcotics or narcotics paraphernalia;

(C) Intoxicants or medications;

(D) Escape devices;

(E) Money, negotiable instruments, deposit and withdrawal slips, uncancelled stamps, and stamp collections;

(F) Any item larger than 18" x 18" except subscription newspapers;

(G) Any electronic items, including batteries;

(H) Any substance that is unauthorized, including lipstick, crayon, water colors, paint, correction fluid, etc.; or

(I) Polaroid type photographs with a chemical substance on the back of the photograph.

(6) Mail Subject to Outgoing Mail Restriction: Outgoing mail to a person or address to which the inmate has been ordered by the functional unit manager or designee not to send mail.

(7) Any other material that the department deems to pose a threat or to be detrimental to legitimate penological objectives.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 18(Temp), f. & ef. 12-18-73 through 4-17-74; CD 22, f. 6-27-74, ef. 7-25-74; CD 1-1979, f. & ef. 1-4-79; Renumbered from 291-010-0315, CD 11-1980(Temp), f. & ef. 4-10-80; CD 16-1980(Temp), f. & ef. 4-18-80; CD 28-1980, f. & ef. 8-22-80; CD 22-1983(Temp), f. & ef. 6-3-83; CD 27-1983, f. & ef. 7-11-83; CD 13-1984, f. & ef. 4-11-84; CD 57-1985, f. & ef. 8-16-85; CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 16-2001(Temp), f. 7-9-01, cert. ef. 7-11-01 thru 1-7-02; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 1-2008, f. & cert. ef. 1-25-08

291-131-0037
Disposition of Prohibited Mail

(1) Mail, if not confiscated, will be returned to the U.S. Postal Service, or to the applicable mail service provider for not meeting requirements provided in these rules.

(2) Contraband:

(a) Illegal contraband or evidence of crime shall be confiscated and turned over to the Oregon State Police. No notice of confiscation shall be given.

(b) Non-Inmate Sender:

(A) Contraband (including unauthorized attachments [and/] or enclosures) not illegal or evidence of crime shall be returned to the non-inmate sender with the contents of the envelope or package intact, together with a Mail Violation Notice (CD 618a).

(B) Unauthorized items with minimal monetary value (i.e., paper clip, rubber band, uncancelled stamp(s), book mark, envelope, blank paper, photocopies, newspaper and magazine clippings in violation of the content portion of this rule, etc.) may be removed and destroyed and the remaining mail sent to the inmate, if the mail is otherwise in compliance with department rules. No notice shall be provided to the sender or inmate recipient for the removal and destruction of minimally valued items.

(c) Inmate Sender: Any enclosures (i.e., photographs, hand-made drawings in excess of that allowed) that are not illegal or evidence of crime shall be returned to the inmate sender with the contents of the envelope or package intact, together with a Mail Violation Notice (CD 618a). Any item that poses a threat or is a detriment to the security, good order, or discipline of the facility, or that would encourage or instruct in criminal activity, may be confiscated and retained pending an investigation. If appropriate, the inmate may be issued a misconduct report, in accordance with the rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(3) Money:

(a) Cash contained in mail shall be confiscated and deposited to the Inmate Welfare Fund. Notice of the confiscation shall be provided to the sender on a Mail Confiscation Notice (CD 618b). A copy of the notice shall also be provided to the intended inmate recipient.

(A) If the cash was concealed in the mail, a written entry shall be made on the Mail Confiscation Notice (CD 618b) to document the method of concealment. If, after an administrative review of the confiscation, it is

determined that the sender did not conceal the cash, the money shall be returned to the sender.

(B) Correspondence received in an envelope from which cash has been confiscated shall be delivered to the intended inmate recipient if the correspondence is otherwise in compliance with department rules.

(b) Monies other than cash (e.g., money orders, warrants, personal checks, withdrawal and deposit slips, and certified checks) contained in mail shall be returned to the sender with the contents of the envelope or package intact, together with a Mail Violation Notice (CD 618a). A copy of the Mail Violation Notice shall be provided to the intended inmate recipient.

(A) Prior to returning the mail to the sender, the offending money item shall be photocopied together with the addressee side of the envelope or package.

(B) The photocopy shall be retained by the facility according to archive standards.

(4) Mail with unauthorized or insufficient postage shall be refused and returned to the U.S. Postal Service. Notice of the reason(s) for the mail rejection shall be provided on a form label or stamp affixed to the outside of the envelope or package.

(5) Unauthorized Attachments or Enclosures:

(a) Mail received with unauthorized attachment(s) affixed to the outside of an envelope or package shall remain unopened, be refused and returned to the U.S. Postal Service or applicable mail service provider. Notice of the reason(s) for the mail rejection shall be provided on a form label or stamp affixed to the outside of the envelope or package.

(b) Mail received with unauthorized attachments affixed to the inside of an envelope or package or affixed to the contents of an envelope or package, or mail received with unauthorized enclosure(s), except for that with minimal monetary value as described in section (2)(b) above, shall be refused and returned to the sender with the contents of the envelope or package intact, together with a Mail Violation Notice.

(6) Correspondence and Publications: When, after opening, mail is rejected for violation of these or other department rules the following procedures shall be followed:

(a) Rejected Mail:

(A) Non-inmate sender: The sender and intended inmate recipient shall be notified of the rejection of mail, including the reasons, on a Mail Violation Notice (CD 618a) for correspondence, or a Publication Violation Notice for a publication. If the rejection is based upon written or pictorial content, the notice shall advise that an independent review of the rejection may be obtained by writing to the functional unit manager within 30 days of the date of the notice. Mail rejected based on written or pictorial content shall be returned intact to the sender. The rejected portion(s) of the mail shall be photocopied and retained pending any administrative review. If no administrative review is requested, the photocopy shall be maintained according to archive standards.

(B) Inmate Sender: The inmate sender shall receive the same standards as the non-inmate sender, however, the intended recipient shall not be notified of the rejection for any mail sent by an inmate in a Department of Corrections facility and shall not be eligible for an administrative review.

(b) No administrative review shall be available if the rejection is based on the presence of an unauthorized attachment, substance or enclosure on or with the mail, or if the rejection is based on any violation not related to the written or pictorial content.

(c) Confiscated Mail:

(A) Non-inmate Sender: If the mail is confiscated, notice shall be made to the sender and intended inmate recipient on a Mail Confiscation Notice (CD 618b), unless it includes plans for a discussion or commission of a crime or evidence of a crime. In such cases, no notice shall be given and the mail shall be turned over to the Special Investigations Unit of the department or the Oregon State Police. Confiscated mail not involving evidence of a crime shall be retained intact pending any administrative review. If no administrative review is requested, the mail shall be maintained according to archive standards.

(B) Inmate Sender: If the mail is confiscated, no notice shall be given to the sender or the intended inmate recipient. Mail which includes plans for a discussion or commission of a crime or evidence of a crime shall be turned over to the Special Investigations Unit of the department or the Oregon State Police. Confiscated mail which poses a threat or detriment to the security, good order, or discipline of the facility, or would encourage or instruct in criminal activity shall be retained intact pending an investigation. The inmate may be issued a misconduct report in accordance with the rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105). Otherwise, after the investigation is completed, the inmate will be notified of the confiscation. If no administrative review is requested, the mail shall be maintained according to archive standards.

(7) Packages: When a package is rejected, the following procedures shall be followed:

(a) Packages received without prior authorization of the functional unit manager or designee, or which have unauthorized attachments affixed to the outside of the package shall be refused and returned to the U.S. Postal Service or to the applicable mail service provider.

(b) Prior-authorized packages which after opening are found to contain contraband not illegal (including unauthorized attachments or enclosures) or evidence of crime or otherwise to be in violation of these or other department rules, shall be returned to the sender with the contents of the package intact, together with a Mail Violation Notice.

(c) Intended Inmate Recipient: If a prior-authorized package is returned to the sender after opening, the intended inmate recipient shall be promptly notified in writing of the rejection, along with the reason(s) for the rejection, on a Mail Violation Notice. No administrative review shall be available to the intended inmate recipient.

(d) Sender: The sender shall be notified in writing of the rejection of any package received in a Department of Corrections facility and addressed to an inmate, along with the reason(s) for rejection, on a form label or stamp affixed to the outside of the package if the package is refused without opening or; if the package is returned to the sender after opening, on a Mail Violation Notice inserted into the package. No administrative review shall be available to the sender.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 14-1988, f. & cert. ef. 10-7-88 (and corrected 10-25-88); CD 1-1992, f. & cert. ef. 1-29-92; CD 10-1993, f. 5-5-93, cert. ef. 7-1-93; CD 25-1994, f. 12-21-94, cert. ef. 1-3-95; DOC 20-1998, f. 9-22-98, cert. ef. 12-1-98; DOC 20-2001, f. & cert. ef. 12-17-01; DOC 4-2002(Temp), f. & cert. ef. 3-25-02 thru 9-21-02; DOC 13-2002, f. 9-11-02 cert. ef. 9-20-02; DOC 1-2008, f. & cert. ef. 1-25-08

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Rule Caption: Searches of Persons, Property and Areas Within and on the Grounds if DOC Correctional Institutions.
Adm. Order No.: DOC 2-2008
Filed with Sec. of State: 2-1-2008
Certified to be Effective: 2-4-08
Notice Publication Date: 9-1-2007
Rules Adopted: 291-041-0017
Rules Amended: 291-041-0010, 291-041-0015, 291-041-0016, 291-041-0020, 291-041-0030, 291-041-0035
Rules Repealed: 291-041-0040
Subject: Modifications of these rules is necessary to clarify and update procedures for conducting searches in department correctional institutions, including searches of inmate hair, religious activity areas, religious and spiritual items, and inmate legal store boxes.
Rules Coordinator: Janet R. Worley—(503) 945-0933

291-041-0010
Definitions

(1) Authorized Legal Material: Pleadings (i.e., complaint, petition or answer), legal motions and memoranda, affidavits, court orders and judgments, correspondence, and other necessary documents (including discovery and exhibits), in or directly pertaining to an inmate's own pending and active case(s), lawsuit(s) before the courts or paroling authorities.

(2) Confiscation: To take control of or possession of after the search.

(3) Contraband: Any article or thing which an inmate is prohibited by statue, rule or order from obtaining, possessing, or which the inmate is not specifically authorized to obtain or possess or which the inmate alters without authorization.

(4) Department of Corrections (DOC) Employee: Any person employed full-time, part-time, or under temporary appointment by the Department of Corrections; any person under contractual arrangement to provide services to the department; any person employed by private or public sector agencies who is serving under department-sanctioned special assignment to provide services or support to department programs.

(5) Emergency: Any condition or situation where life, health, or safety may be threatened or where time frame considerations necessitate an immediate response or remedial action.

(6) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of programs.

(7) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, an Assistant Director, or

administrator and has responsibility for delivery of program services or coordination of program operations.

(8) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision, or probation status.

(9) Inspection Device: Any device (i.e., metal detector, fluoroscope, etc.) which is used to detect contraband in the form of metal or other foreign objects.

(10) Non-Intrusive Sensors: Electronic or mechanical devices which do not physically intrude nor permeate human body orifices, manufactured for the purpose of detecting materials or various types which may be considered contraband, i.e., narcotics, narcotic paraphernalia, weapons. (Examples: metal detectors, heartbeat monitor equipment to detect the presence of persons.)

(11) Officer-in-Charge: That person designated by the functional unit manager to supervise the institution and make operational decisions in accordance with policy, rule, or procedure during periods when the functional unit manager or the officer-of-the-day is not readily available.

(12) Officer-of-the-Day: That person designated by the functional unit manager and approved by the Assistant Director for Operations or the Institutions Administrator to act on behalf of the functional unit manager during non-business hours and other periods in which the functional unit manager may be absent.

(13) Oregon Corrections Enterprises: A semi-independent state agency that is a non-Department of Corrections agency or division, which is under the authority of the Director of the Department of Corrections. For purposes of this rule only, Oregon Corrections Enterprises shall not be considered an external organization.

(14) Oregon Corrections Enterprises (OCE) Employee: Any person employed full-time, part-time, or under temporary appointment by the Oregon Corrections Enterprises. For the purposes of this rule only, employee shall also include any person under contractual arrangement to provide services to the agency; any person employed by private or public sector agencies who is serving under agency-sanctioned special assignment to provide services or support to agency programs.

(15) Other Agency Liaison: Employees from other state and local agencies that have an ongoing business need serving inmates and employees of the department. These employees include, but are not limited to, county parole and probation officers, local law enforcement, and state police.

(16) Reasonable Suspicion: An apparent state of objective facts and rational inferences drawn there from that would permit a reasonable and experienced correctional staff person to conclude that an individual or set of circumstances poses a threat to the safety, security, health and good order of the facility, or the safety and security of inmates, staff, visitors, volunteers, contractors or the community, including, but not limited to, committing a crime or rule violation or conspiring or attempting the same.

(17) Search: A close inspection, including touching in an impartial manner, of a person, a person's cell or other living unit, vehicle, possessions, or other property, or buildings or premises. For purposes of entering a correctional institution, searches often require the removal and separate inspection of shoes, belts, jackets, and other accessories during processing. Types of searches include the following:

(a) Consent: Inspections of a person or their property conducted with prior permission of the person being searched or of a person who own or has in his/her possession that property which is searched.

(b) Frisk: To search a person for something by running the hands over the clothed person, through the hair, inspecting pockets and cuffs, and other items in his/her possession.

(c) Skin: A search procedure wherein the person being searched removes all of his/her clothing and is visually examined and clothing removed is carefully inspected before return and redressing, for the purpose of detecting contraband.

(d) Internal: Digital intrusion of body orifices and interiors of rectum or vagina in search for contraband. Also used to describe more than sight inspection of nostrils, ears, and mouth.

(18) Security Inspection: A distinction is made between search and security inspection. The later is accomplished by means of an inspection device (i.e., metal detector), without the element of a personal contact search, although accompanying property will be subject to a visual or hand examination.

(19) Special Housing: Housing for inmates whose assignment is Administrative Segregation Unit, Disciplinary Segregation Unit, Special Management Unit, Intensive Management Unit, and Death Row.

(20) Visitor: Any person, not a DOC or OCE employee, volunteer or other agency liaison who is within the boundaries of Department of Corrections facility property.

(21) Volunteer: An approved person who donates time, knowledge, skills, and effort to enhance the mission, activities, and programs of the department.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 42-1978, f. 12-19-78, ef. 12-20-78; CD 3-1980(Temp), f. & ef. 3-5-80; CD 24-1980, f. & ef. 7-3-80; CD 10-1981(Temp), f. & ef. 5-5-81; CD 42-1981, f. & ef. 10-30-81; CD 52-1981(Temp), f. & ef. 11-20-81; CD 6-1982, f. & ef. 1-29-82; CD 36-1983(Temp), f. & ef. 10-14-83; CD 11-1984, f. & ef. 4-11-84; CD 46-1985, f. & ef. 8-16-85; CD 12-1989, f. & cert. ef. 6-30-89; CD 4-1991, f. & cert. ef. 1-22-91; DOC 25-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-99; DOC 13-2000, f. & cert. ef. 6-19-00; DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08

291-041-0015
General Guidelines

(1) All inmates, DOC and OCE employees, volunteers and visitors confined, working or visiting in a Department of Corrections facility will be subject to search of their persons, cells or other living units, work areas, vehicles, possessions, and other property in accordance with the procedures provided in this rule.

(a) In addition, all such persons will be subject to security inspection by means of a security device such as a metal detector, if such exists.

(b) Accompanying property brought into, or taken out of a Department of Corrections facility by a visitor or a DOC or OCE employee may also be subject to visual or hand examination by staff members assigned to such duty by the functional unit manager or designee, or the Department of Corrections Inspector General or designee.

(c) Drug detection dogs may be used to assist authorized Department of Corrections personnel to detect and control contraband within Department of Corrections facilities and property.

(2) Vehicular Traffic: Careful inspection of all vehicular traffic and supplies coming into or leaving the institution will be conducted. Use of detectors at compound gates and entrances to the facility may be used to facilitate searches of all persons, packages, brief cases, etc.

(3) Vehicles brought onto Department of Corrections premises are subject to search.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 42-1978, f. 12-19-78, ef. 12-20-78; CD 24-1980, f. & ef. 7-3-80; CD 42-1981, f. & ef. 10-30-81; CD 46-1985, f. & ef. 8-16-85; CD 12-1989, f. & cert. ef. 6-30-89; CD 4-1991, f. & cert. ef. 1-22-91; DOC 25-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-99; DOC 13-2000, f. & cert. ef. 6-19-00; DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08

291-041-0016
Religious Activity Areas and Religious Items

(1) In accordance with these rules and the rules on Religious Activities (OAR 291-143), searches of inmate religious activity areas and religious or spiritual items (including hair and garments worn) shall be conducted in a manner that reflects an awareness of and sensitivity to individual religious beliefs, practices, and respect for the objects or symbols (including hairstyle) used in the religious practice.

(2) Staff shall follow the DOC policies on Searches of Dreadlocks (90.2.1) and Searches of Medicine Bags (90.2.2) and any other policies that are relevant when conducting such searches.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 1-1996, f. 1-26-96, cert. ef. 2-1-96; DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08

291-041-0017
Inmate Legal Storage Boxes

(1) Storage boxes for inmate legal materials, whether provided by the department or purchased by the inmate, may be inspected by staff at any time for the presence of non-legal materials.

(2) Any material found that fits the definition of contraband will be confiscated, except for material that might also fit the definition of authorized legal material. (Refer to Definitions, OAR 291-041-0010) Staff should not read, copy, or retain any material that might be construed as being authorized legal material (i.e. papers, folders, letters, etc.).

(3) If the inspecting staff member has reason to believe the box contains materials not authorized by the DOC rule on Property (Inmate), OAR 291-117, as authorized legal material, the staff member will seal the box and securely store it.

(a) As soon as possible, a designated staff member will review the contents of the box with the inmate to make a determination about whether or not the materials in question fit the definition of authorized legal materials.

(b) Unless a disciplinary report is issued, any material confiscated will be placed in a sealed envelope, initialed and addressed by the inmate, and sent out of the institution at the inmate's expense to a person of their choosing.

(c) If a disciplinary report is issued, the material will be placed in a sealed envelope, initialed by the inmate, and placed in evidence pending the result of the disciplinary hearing.

Stat Auth: ORS 179.040, 423.020, 423.030 and 423.075
Stat Implemented: ORS 179.040, 423.020, 423.030 and 423.075
Hist.: DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08

291-041-0020
Inmates

(1) Search of inmates, living units, work areas, other places they inhabit or frequent, and their property will be conducted regularly on an unannounced and unscheduled basis.

(2) An inspection of each cell, room or dormitory area will occur prior to occupancy by a new inmate.

(3) In conducting searches of an inmate's living unit, place of work, or other places frequented or inhabited, the employee conducting the search will be expected to leave the search area in an orderly and neat condition. Care will be exercised to ensure that authorized property is not damaged or disposed of.

(4) Inmates may be subject to search at any time; but no more frequently than is necessary to control contraband or to recover stolen or missing property. However, all inmates will be subject to a search on each occasion before and after they leave a Department of Corrections facility, and on each occasion before and after visits, entering or exiting special housing units and before or after contact with persons outside the facility.

(5) The type of search administered will avoid unnecessary force, embarrassment, or indignity to the inmate. Non-intrusive sensors and inspection devices may be used when appropriate.

(6) Inmates may be searched only by authorized Department of Corrections personnel or a sworn police officer in the performance of his/her official duty.

(7) Skin Searches: Skin searches conducted by DOC staff will be of the same gender as the inmate, unless there is an emergency. Except in emergencies, inmates undergoing skin searches will be removed to a private area for the search.

(8) Visual inspections for security reasons may be conducted by authorized personnel. All internal examinations must be conducted by medical personnel only upon authorization of the functional unit manager or the officer-of-the-day and only when there is reasonable suspicion as defined in OAR 291-041-0010(16) to justify the search. The inmate's written consent will not be required; however, an internal search will not be conducted if it could result in injury to the inmate or the personnel conducting the search.

(9) Hair:

(a) If staff need to conduct a hair search, it may be necessary to require the inmate to unbraid, loosen or cut the hair to complete the search.

(b) The inmate will be given an adequate amount of time to unbraid or loosen the hair.

(c) An inmate who refuses to unbraid or loosen the hair is subject to disciplinary action in accordance with the rule on Prohibited Inmate Conduct and Processing of Disciplinary Actions (OAR 291-105).

(d) If the inmate is unable to unbraid or loosen the hair so a search can be accomplished, staff shall conduct the search if possible in the least intrusive manner (e.g., hand wand, visual inspection, etc.). At no time shall staff cut an inmate's hair to complete a search WITHOUT approval of the functional unit manager or officer-of-the-day.

(e) If an inmate's hair creates a significant security or operational concern, a religious sincerity test may be conducted as outlined in DOC policy on Searching of Dreadlocks (90.2.1). Based on the results of the sincerity test, the functional unit manager or designee will determine what further action shall be taken.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 42-1978, f. 12-19-78, ef. 12-20-78; CD 3-1980(Temp), f. & ef. 3-5-80; CD 24-1980, f. & ef. 7-3-80; CD 42-1981, f. & ef. 10-30-81; CD 36-1983(Temp), f. & ef. 10-14-83; CD 11-1984, f. & ef. 4-11-84; CD 46-1985, f. & ef. 8-16-85; CD 12-1989, f. & cert. ef. 6-30-89; CD 4-1991, f. & cert. ef. 1-22-91; DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08

291-041-0030
Employees, Volunteers and Other Agency Liaison

(1) When to Search: Except as provided in rule OAR 291-041-0015, a DOC or OCE employee may be requested to submit to personal search of his/her person or vehicle or other possessions on Department property only when there is reasonable suspicion that the employee, volunteer or other agency liaison is in possession of unauthorized property or contraband and that the search and confiscation is necessary to substantiate the suspected violation.

(2) Who is Involved in the Search:

(a) Upon reasonable suspicion, a functional unit manager or his/her designee may request the security manager or officer-in-charge to conduct the search of a DOC or OCE employee, volunteer or other agency liaison, his/her vehicle, or other possessions. The employee, volunteer or other agency liaison shall be present during the search of his/her vehicle or other possessions.

(b) DOC or OCE employees, volunteers or other agency liaison will be afforded privacy during the search, which will be conducted in a professional manner so as to avoid any undue embarrassment or indignity to the individual.

(c) Refusal of a DOC or OCE employee to submit to a reasonable suspicion search may constitute grounds for disciplinary action.

(3) Searches conducted by DOC staff shall be the same gender as the employee, volunteer or other agency liaison.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 42-1978, f. 12-19-78, ef. 12-20-78; CD 24-1980, f. & ef. 7-3-80; CD 10-1981(Temp), f. & ef. 5-5-81; CD 42-1981, f. & ef. 10-30-81; CD 46-1985, f. & ef. 8-16-85; CD 12-1989, f. & cert. ef. 6-30-89; CD 4-1991, f. & cert. ef. 1-22-91; DOC 25-1999(Temp), f. & cert. ef. 12-22-99 thru 6-19-99; DOC 13-2000, f. & cert. ef. 6-19-00; DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08

291-041-0035
Visitors

(1) When to Search: A search of a visitor will generally occur only when the visitor consents and there is reasonable suspicion that the visitor is in possession of contraband, and that the search and confiscation is vitally necessary to substantiate the suspected violation.

(a) Consent is not required when a delay or nonconsent would constitute a direct and immediate threat to the safety and security of the facility.

(b) Consent is not required when the search is conducted pursuant to an arrest or to protect the safety of staff or other persons.

(2) If a Crime is Suspected: If alleged commission of a criminal offense is involved, the matter will fall within the jurisdiction of appropriate law enforcement agencies, who will be promptly notified.

(3) Conduct the Search: Searches of visitors at a Department of Corrections facility will be conducted at the direction of the functional unit manager or designee, or the Department of Corrections Inspector General or designee, based upon reasonable suspicion that the visitor is in possession of unauthorized property or contraband.

(a) Visitor searches may be conducted by authorized Corrections staff or by an authorized law enforcement officer. If requested, authorized Corrections staff may assist law enforcement officers in conducting any search, investigation, or arrest of a visitor. Searches conducted by DOC staff shall be the same gender as the visitor.

(b) Adequate facilities must be provided for the search which shall be done in a professional manner so as not to cause undue embarrassment to the visitor. The subject of the search will be advised of search procedures (i.e., removal of clothing, visual inspection of cavities, etc.) prior to the search.

(c) If an internal examination is indicated, this shall be done only by competent medical personnel at the direction of the law enforcement official conducting the search.

(4) After Search or Inspection: Those individuals who refuse to be searched or, who after being searched were found to be in possession of unauthorized property or contraband, shall have their visiting status immediately suspended and will be sanctioned as provided in the Department of Corrections rule on Visiting (Inmate) (OAR 291-127).

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 42-1978, f. 12-19-78, ef. 12-20-78; CD 24-1980, f. & ef. 7-3-80; CD 46-1985, f. & ef. 8-16-85; CD 12-1989, f. & cert. ef. 6-30-89; CD 4-1991, f. & cert. ef. 1-22-91; DOC 2-2008, f. 2-1-08, cert. ef. 2-4-08

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Department of Energy
Chapter 330

Rule Caption: Establish Renewable Energy Certificate tracking and Reporting System for Oregon Renewable Portfolio Standard.
Adm. Order No.: DOE 1-2008
Filed with Sec. of State: 1-30-2008
Certified to be Effective: 1-30-08
Notice Publication Date: 11-1-2007

Rules Adopted: 330-150-0005, 330-150-0015, 330-150-0020, 330-150-0025, 330-150-0030
Subject: Implement details of the Oregon Renewable Portfolio Standard (RPS) as follows:

(1) Designate the Western Renewable Energy Generation Information System (WREGIS) as the renewable energy certificate tracking and reporting mechanism for the Oregon RPS.

(2) Relate definitions for renewable energy certificates in the Oregon RPS to specific system elements in WREGIS.

(3) Designate the date of establishment for the Oregon renewable energy certificate system as January 1, 2007.
Rules Coordinator: Kathy Stuttaford—(503) 378-4128

330-150-0005
Purpose

The purpose of these rules is to establish a system of renewable energy certificates to provide a means of compliance with the Oregon Renewable Portfolio Standard (RPS).

Stat. Auth.: SB 838-C, Sec. 14.
Stats. Implemented: SB 838-C, Sec. 14 -17a.
Hist.: DOE 1-2008, f. & cert. ef. 1-30-08

330-150-0015
Definitions

(1) "Banked Renewable Energy Certificate" has the meaning in SB 838-C, Section 1.

(2) "Bundled Renewable Energy Certificate" has the meaning in ORS SB 838-C, Section 1.

(3) "Compliance Year" has the meaning in SB 838-C, Section 1.

(4) "Director" means the Director of the Oregon Department of Energy.

(5) "Electricity Service Supplier" has the meaning in SB 838-C, Section 1.

(6) "Electric Utility" has the meaning in ORS SB 838-C, Section 1.

(7) "Qualifying Electricity" has the meaning in SB 838-C, Section 1.

(8) "Renewable Energy Certificate" (REC or Certificate) means a unique representation of the environmental, economic, and social benefits associated with the generation of electricity from renewable energy sources that produce Qualifying Electricity. One Certificate is created in association with the generation of one megaWatt-hour (MWh) of Qualifying Electricity. While a Certificate is always directly associated with the generation of one MWh of electricity, transactions for Certificates may be conducted independently of transactions for the associated electricity.

(9) "Renewable Energy Source" has the meaning in SB 838-C, Section 1.

(10) "Unbundled Renewable Energy Certificate" has the meaning in SB 838-C, Section 1.

(11) "Vintage" means the month and year that qualifying electricity was created in accordance with WREGIS protocol.

(12) "Western Renewable Energy Generation Information System" means the renewable energy certificate tracking and reporting system established by the California Energy Commission and the Western Governors Association and governed by the Western Electricity Coordinating Council for use by states and provinces throughout the western power interconnection.

Stat. Auth.: SB 838-C, Sec. 14.
Stats. Implemented: SB 838-C, Sec. 14 -17a.
Hist.: DOE 1-2008, f. & cert. ef. 1-30-08

330-150-0020
Establishment of Renewable Energy Certificate System

(1) Renewable energy certificates that are issued, monitored, accounted for and transferred by or through the regional renewable energy certificate system and trading mechanism known as the Western Renewable Energy Generation Information System (WREGIS) shall be the only renewable energy certificates that can be used by an electric utility or electricity service supplier to establish compliance with the Oregon Renewable Portfolio Standard (RPS).

(2) All entities that wish to demonstrate compliance or participate in the renewable energy certificate system associated with the Oregon RPS must establish and maintain accounts in good standing with the WREGIS renewable energy certificate system. These entities must comply with all information, data reporting and verification requirements of WREGIS and the WREGIS Operating Rules, including costs required for compliance. These accounts must be established before January 1, 2009 or before the earliest vintage of Certificate to be used to comply with the Oregon RPS, whichever is later.

(3) All entities that wish to demonstrate compliance or participate in the renewable energy certificate system associated with the Oregon RPS must participate in the system in accordance with the WREGIS Operating Rules. The Operating Rules for WREGIS are publicly available from the WREGIS web site at www.wregis.org/content/blogcategory/26/47/ under the "Operating Rules" section. If there are substantial changes to the WREGIS Operating Rules which, at the Director's discretion, may significantly impact the ability of the WREGIS renewable energy certificate system to facilitate the Oregon RPS the Director may, after public consultation with interested parties, implement rulemaking to address those concerns.

Stat. Auth.: SB 838-C, Sec. 14.
Stats. Implemented: SB 838-C, Sec. 14.
Hist.: DOE 1-2008, f. & cert. ef. 1-30-08

330-150-0025
Types of Renewable Energy Certificates

A bundled or unbundled renewable energy certificate may be used to comply with the RPS when it is issued through the WREGIS renewable energy certificate system, is identified within the WREGIS as Oregon-eligible, and is otherwise consistent with the rules and requirements of the Oregon RPS. The Department, acting through the appropriate WREGIS protocol, will identify those generating facilities eligible for creation of Certificates that can be used to satisfy the Oregon RPS.

(1) A bundled renewable energy certificate must include documentation that one megawatt-hour of energy was associated with the transfer of the WREGIS renewable energy certificate to the electric utility or electricity service supplier. This documentation shall consist of a completed data field in the WREGIS certificate that contains a valid North American Electric Reliability Corporation (NERC) electronic tagging number ("e-Tag") or another unique identification value adopted by the WREGIS that indicates one megawatt-hour of energy was delivered to:

(a) The transmission system of the electric utility, or to a delivery point designated by an electric utility for the purposes of subsequent delivery to the electric utility; or

(b) The Bonneville Power Administration for delivery, or subsequent delivery, to an electric utility.

(2) A bundled renewable energy certificate does not need to demonstrate that the electricity identified by the NERC e-Tag is qualifying electricity or that the originating source identified by the NERC e-Tag is a renewable energy source.

Stat. Auth.: SB 838-C, Sec. 14.
Stats. Implemented: SB 838-C, Sec. 15 -17a.
Hist.: DOE 1-2008, f. & cert. ef. 1-30-08

330-150-0030
Allowed Vintage of Renewable Energy Certificates

(1) The system of renewable energy certificates established through this rule may be used to comply with or participate in the Oregon RPS through the use of Certificates with a vintage of January 1, 2007 or later.

(2) No renewable energy certificate that derives from the WREGIS renewable energy certificate system with a vintage before January 1, 2007 will be eligible for compliance with the Oregon RPS.

(3) Banked renewable energy certificates with a vintage of January 1, 2007 or later, both bundled and unbundled, may be held for future use within the WREGIS renewable energy certificate system to comply with the Oregon RPS.

(4) Generating facilities that produce qualifying electricity shall be eligible to receive certificates associated with generation beginning on January 1, 2007.

Stat. Auth.: SB 838-C, Sec. 14.
Stats. Implemented: SB 838-C, Sec. 14.
Hist.: DOE 1-2008, f. & cert. ef. 1-30-08

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Department of Fish and Wildlife
Chapter 635

Rule Caption: Amended Rules for the Issuance and Management of Developmental Fishery Permits.
Adm. Order No.: DFW 4-2008
Filed with Sec. of State: 1-23-2008
Certified to be Effective: 1-23-08
Notice Publication Date: 1-1-2008
Rules Amended: 635-005-0005, 635-005-0064, 635-005-0065, 635-005-0066, 635-006-0850, 635-006-0910, 635-006-0930
Rules Repealed: 635-006-0850(T)

Subject: Amended rules as necessary to update the Developmental Fishery Program administrative rules and set the 2008 Developmental Fisheries list per statutory requirement, housekeeping and technical corrections were made to ensure rule consistency.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-005-0005
Prohibited

It is *unlawful* to take abalone for commercial purposes except for the following:

(1) Under OAR 635-006-0800 or;

(2) A commercial aquaculture facility may take abalone for use as broodstock under the terms and conditions specified in a permit issued by the Oregon Department of Fish and Wildlife. Application for such a permit shall be in writing and shall include a description of the commercial aquaculture facility, the methods for collecting and returning broodstock abalone to and from the wild, the methods for checking abalone and imported kelp food for pathogens or exotic fauna, the procedures for isolating and culturing abalone to prevent contamination of wild abalone stock and such other information as the Department may require. Permit applications shall be mailed to: Marine Regional Office, Department of Fish and Wildlife, 2040 SE Marine Science Drive, Newport, OR, 97365.

Stat. Auth.: ORS 506.119 & 506.129
Stats. Implemented: ORS 506.129
Hist.: FC 241, f. 4-5-72, ef. 4-15-72; Renumbered from 625-010-0320, 1975; Renumbered from 635-036-0190, 1979; FWC 24-1995, f. 3-29-95, cert. ef. 4-1-95; DFW 4-2008, f. & cert. ef. 1-23-08

635-005-0064
Closed Season

(1) Except as authorized under a Developmental Fisheries Species Permit (OAR 635-006-0900), it is *unlawful* to take Tanner, Oregon hair, and scarlet king crab from the Pacific Ocean from November 1 until the opening of the next ocean Dungeness crab season in that area.

(2) It is *unlawful* to retain red rock and box crab when the Dungeness crab fishery is closed (635-005-0045).

Stat. Auth.: ORS 506.119
Stats. Implemented: ORS 506.109, 506.129 & 506.450 - 506.465
Hist.: FWC 12-1982, f. & ef. 2-16-82; FWC 17-1982, f. & ef. 3-22-82; FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 84-1994, f. 10-31-94, cert. ef. 12-1-94; DFW 93-1998, f. & cert. ef. 11-25-98; DFW 4-2008, f. & cert. ef. 1-23-08

635-005-0065
Fishing Gear

(1) Except as provided in OAR 635-005-0063, it is unlawful to take, Tanner, Oregon hair, and scarlet king crab for commercial purposes except by rings, pots, and crab longline gear. Rings are defined as any fishing device that allows crab unrestricted entry or exit while fishing. Pots, and crab longline gear must comply with the provisions contained in OAR 635-004-0035.

(2) Except as provided in OAR 635-005-0063, it is unlawful to take red rock and box crab for commercial purposes except by rings and pot gear. Rings and pot gear must comply with the provisions contained in OAR 635-005-0055.

Stat. Auth.: ORS 506.119 & 506.129
Stats. Implemented: ORS 506.129
Hist.: FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 84-1994, f. 10-31-94, cert. ef. 12-1-94; DFW 4-2008, f. & cert. ef. 1-23-08

635-005-0066
Fishing Area

It is *unlawful* to take Tanner, Oregon hair, and scarlet king crab from the Pacific Ocean shoreward of the 40 fathom contour line.

Stat. Auth.: ORS 506.119 & 506.129
Stats. Implemented: ORS 506.129
Hist.: FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 84-1994, f. 10-31-94, cert. ef. 12-1-94; DFW 4-2008, f. & cert. ef. 1-23-08

635-006-0850
Developmental Fisheries Species List

(1) The Developmental Fisheries species, permit and gear restrictions, and landing requirements for renewal of Category A permits are as follows:

(a) FISH.

(A) Pacific hagfish (*Eptatretus stouti*) fishery has a qualifying requirement of five landings. Annual renewal requirements are five landings of at least 1,000 pounds each or a total of 25,000 pounds. In addition, landings must be made in at least three different months. Hagfish permits are valid for 90 days from date of issue, unless five landings of at least 1,000 pounds each or a total of 25,000 pounds are made within 90 days from date of issue, in which case the permit is valid for the remainder of the year. There are 25 permits for harvest of which there are no trawl permits;

(B) Blue shark (*Prionace glauca*) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. There are 10 permits for harvest of which there are no high seas drift net permits and no large mesh gill net permits. No permit is needed for hand lines or hand harvest. Experimental gear permits may be required;

(C) Swordfish (*Xiphias gladius*) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. Permits are valid for and renewal requirements are calculated from February 1 through January 31 of the following year. There are 20 permits for harvest by floating longline and 10 permits for harvest by other gear. Specially adapted drift/gill net may be permitted. Experimental gear permits may be required. Five single-delivery permits will be issued to those who applied by annual filing date, but did not receive a Developmental Fishery Permit. Gill net gear must conform to California gear restrictions;

(D) Northern anchovy (*Engraulis mordax*) and Pacific herring (*Clupea pallasi*) fishery has a qualifying and annual renewal requirement of either five landings consisting of at least 500 pounds each landing or one landing consisting of at least 5000 pounds. There are 15 permits for ocean harvest. Specially adapted small mesh drift/gill net may be permitted. No permit is needed for hand lines or hand harvest. Experimental gear permits may be required;

(b) INVERTEBRATES:

(A) Box crab (Lopholithodes foraminatus) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 25 permits for harvest with pots only. A valid Oregon Dungeness crab permit is required to receive a developmental fisheries box crab permit;

(B) Grooved tanner crab (*Chionoecetes tanneri*), Oregon hair crab (*Paralomis mulitspina*) and scarlet king crab (*Lithodes couesi*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for harvest with pots only. Buoys must be marked with a number assigned by the Department through the Developmental Fisheries Program;

(C) Spot prawn (Pandalus platyceros) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds (round weight) each landing or one landing consisting of at least 1000 pounds. After 2002, new permits for trawl gear will not be issued and trawl permits may be renewed as pot permits. After 2003, permits will be issued for pot gear only; no new permits will be issued until the number of permits issued is below 10, after which there may continue to be 10 permits. Permits are area specific. Experimental gear permits may be required. Permits are issued geographically, split at Heceta Head with 50 percent issued north and 50 percent issued south of Heceta Head, until after the date of the lottery;

(D) Coonstripe shrimp (*Pandalus danae*) and sidestripe shrimp (*Pandalopsis dispar*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds (round weight) each landing. There are 10 permits for harvest by pot gear;

(E) Giant octopus (*Octopus dofleini*) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for harvest using octopus pots only;

(F) Marine snails (various species) fishery has a qualifying and annual renewal requirement of five landings consisting of at least 100 pounds each landing. There are 10 permits for subtidal harvest only;

(G) Flat abalone (*Haliotis walallensis*) fishery has a single permit authorized, a 2,000 pound annual quota limit, an annual renewal requirement of 10 landings of at least 20 pounds each landing, a 4-3/4 inch minimum size, year-round season, taken from non-intertidal areas with an abalone iron, and such additional permit conditions as the Director deems appropriate as required by OAR 635-006-870 and OAR 635-006-0880.

(2) The Developmental Fisheries Species List, Category "B," is as follows:

(a) FISH.

(A) Salmon shark (*Lamna ditropis*);

(B) Carp (*Cyprinus carpio*);

(C) Black hagfish (*Eptatretus deani*);

(D) Yellow perch (*Perca flavescens*);

(E) Eelpouts (family *Zoarcidae*);

(F) Brown bullhead (*Ameiurus nebulosus*);

(G) Skilfish (*Erilepis zonifer*);

(H) Northern squawfish (*Ptychocheilus oregonensis*);
(I) Pacific saury (*Cololabis saira*);
(J) Pacific sandfish (*Trichodon trichodon*);
(K) Eulachon (*Thaleichthys pacificus*), whitebait smelt (*Allosmerus elongatus*), night smelt (*Spirinchus starksi*), longfin smelt (*Spirinchus thaleichthys*) and surf smelt (*Hypomesus pretiosus*);
(L) Pacific pomfret (*Brama japonica*);
(M) Slender sole (*Eopsetta exilis*).
(b) INVERTEBRATES:
(A) Pacific sand crab (*Emerita analoga*);
(B) Freshwater mussels (families *Margaritifera*, *Anodonta, Gonidea*, and *Corbicula*);
(C) Ocean cockle clams (*Clinocardium nuttallii*);
(D) California market squid (*Loligo opalescens*) and other squid (several species);
(E) Fragile urchin (*Allocentrotus fragilis*);
(F) Sea cucumber (*Parastichopus spp*.).
(3) The Developmental Fisheries Species List, Category "C," is as follows:
(a) FISH.
(A) Spiny dogfish (*Squalus acanthias*);
(B) Soupfin shark (*Galeorhinus zyopterus*);
(C) Skate (family *Rajidae*);
(D) American shad (*Alosa sapidissima*);
(E) Pacific cod (*Gadus macrocephalus*);
(F) Pacific flatnose (*Antimora microlepis*);
(G) Pacific grenadier (*Coryphaenoides acrolepis*);
(H) Jack mackerel (*Trachurus symmetricus*);
(I) Chub (Pacific) mackerel (*Scomber japonicus*);
(J) Greenstriped rockfish (*Sebastes elongatus*);
(K) Redstripe rockfish (*Sebastes proriger*);
(L) Shortbelly rockfish (*Sebastes jordani*);
(M) Sharpchin rockfish (*Sebastes zacentrus*);
(N) Splitnose rockfish (*Sebastes diploproa*);
(O) Pacific sanddab (*Citharichthys sordidus*);
(P) Butter sole (*Pleuronectes isolepis*);
(Q) English sole (*Pleuronectes vetulus*);
(R) Rex sole (*Errex zechirus*);
(S) Rock sole (*Pleuronectes bilineatus*);
(T) Sand sole (*Psettichthys melanostictus*);
(U) Curlfin (lemon) sole (*Pleuronichthys decurrens*);
(V) Spotted ratfish (*Hydrolagus colliei*);
(W) Wolf-eel (*Anarrhichthys ocellatus*);
(X) Walleye pollock (*Theragra chalcogramma*).
(b) INVERTEBRATES:
(A) Red rock crab (*Cancer productus*);
(B) Purple sea urchins (*Strongylocentrotus purpuratus*);
(C) Crayfish (*Pacifastacus leniusculus*).
Stat. Auth.: ORS 506.109 & 506.119
Stats. Implemented: ORS 506.129, 506.450, 506.455, 506.460 & 506.465
Hist.: FWC 85-1994, f. 10-31-94, cert. ef. 11-1-94; FWC 87-1995, f. 11-17-95, cert. ef. 11-20-95; FWC 1-1997, f. & cert. ef. 1-16-97; FWC 18-1997(Temp), f. & cert. ef. 3-18-97; FWC 34-1997, f. 6-11-97, cert. ef. 6-15-97; DFW 3-1998, f. & cert. ef. 1-12-98; DFW 17-1998(Temp), f. & cert. ef. 3-6-98 thru 7-31-98; DFW 93-1998, f. & cert. ef. 11-25-98; DFW 85-1999, f. & cert. ef. 11-1-99, DFW 89-1999, f. & cert. ef. 11-15-99; DFW 76-2000, f. 11-21-00, cert. ef. 1-1-01; DFW 30-2001, f. & cert. ef. 5-4-01; DFW 119-2001, f. & cert. ef. 12-24-01; DFW 116-2002, f. & cert. ef. 10-21-02; DFW 117-2002, f. & cert. ef. 10-21-02; DFW 135-2002, f. 12-23-02, cert. ef. 1-1-03; DFW 25-2003, f. & cert. ef. 3-26-03; DFW 41-2003(Temp), f. & cert. ef. 5-12-03 thru 6-21-03; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 24-2004, f. & cert. ef. 3-23-04; DFW 121-2004, f. 12-13-04, cert. ef. 12-15-04; DFW 67-2005(Temp), f. 7-5-05, cert. ef. 7-6-05 thru 12-31-05: DFW 122-2005(Temp), f. & cert. ef. 10-18-05 thru 11-30-05; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 132-2007, f. 12-20-07, cert. ef. 1-1-08 thru 1-31-08; DFW 4-2008, f. & cert. ef. 1-23-08

635-006-0910
Procedures for Issuance, Transfer and Renewal of Developmental Fisheries Species Permits

(1) Applications:

(a) An applicant for a permit must submit a complete application in writing accompanied by an annual fee of $75. The application shall include the species of fish to be taken, the method and gear proposed to be used, and the area from which the Developmental Fisheries Species are to be taken, the vessel operator, and other information as the Oregon Department of Fish and wildlife (Department) may require;

(b) Except as listed below, complete applications must be received postmarked or date-stamped by January 1 of the year of issue for new species added to the developmental fishery list in OAR 635-006-0850, and thereafter by the annual filing date of February 1 of the year of issue.

(A) Applications for box crab permits must be postmarked or date-stamped by January 1 of the year of issue; and

(B) Applications for new hagfish permits will be accepted on a first-come, first-serve basis.

(c) An application shall be considered complete if it is legible, has all information requested on the form, and is accompanied by the required fee in full. Any application which is not complete shall be returned and, unless it is thereafter resubmitted and deemed complete by the filing date, the individual shall not be considered to have applied in a timely manner;

(d) Before applying for a permit, an applicant must first have obtained the appropriate vessel license (or individual license if permit is issued to individual) for the year the permit will be issued.

(e) Applications for new hagfish permits must include a business plan. The plan format is provided by ODFW. The business plan may include, but is not limited to, a description of vessels and gear currently owned or expected to purchase, identification of the market, and a letter of intent to buy from a processor.

(f) The vessel operator designated in subsection (a) above may change up to twice a year, with at least three work days' notice by the permit holder to ODFW, Newport office.

(2) Number of permits allowed:

(a) An individual shall not submit more than one application, per vessel (or per person for individual permits), for each developmental fishery species gear category;

(b) A permit holder who holds a valid developmental fisheries permit may not apply for any additional permits for the same vessel (or person for an individual permit) and species gear category unless the Department proposes to deny that permit;

(c) If a permit holder who holds a permit at issue either before the Commercial Fishery Permit Board or a court of law, is awarded another permit for the same species gear category through the lottery and thereafter prevails before the Commercial Fishery Permit Board or in court, the permit holder shall immediately surrender one of the permits to any Department office, so that only one valid permit per species gear category is held.

(3) Issuance of permits:

(a) Except for new hagfish permits, if the number of applications received by the filing date is less than the number of permits available, all applicants who have submitted complete applications shall be issued a permit within 14 days of the filing date.

(A) Any remaining permits shall be issued on a first-come, first-served basis, within 14 days of receipt of each completed application, until the maximum number of permits is issued. Priority shall be based on postmark or date-stamped date;

(B) The names of applicants who did not receive a permit shall be placed on an alternates list, in the order they are received, until the next annual filing date. Applicants whose names are placed on the alternates list shall be refunded their permit fee minus a $10 application fee. Permits which become available before the end of the year shall be made available to the alternates list, in the order listed. The applicant shall be notified of an available permit and shall resubmit a complete application and permit fee within 30 days of the date the notification is mailed. The permit shall be issued within 14 days of receipt of the resubmitted application and fee. If an alternate fails to apply, he shall forfeit the permit and the permit shall then be made available to the next name on the alternates list.

(b) Except for new hagfish permits, if the number of applications received by the filing date is greater than the number of permits available, the Department shall determine first how many applications there are with preference points as accrued under OAR 635-006-0915, except for new species that have qualification restrictions set forth in OAR 635-006-0850. Evidence of landings must be supplied by the applicant and submitted with the application.

(A) If the number of these applicants does not exceed the number of permits, they shall be given all available permits and any remaining applicants shall be placed in a lottery;

(B) If the number of applicants who have preference points exceeds the number of permits, then these applicants only shall be placed in a lottery, and grouped by the number of preference points they have accrued for each species gear category. Applicants with the highest number of preference points for each species gear category will be drawn first. Applicants having the highest number of preference points per species gear category will be drawn next. This permit issuance process will continue through descending numbers of preference points until all the available permits have been issued, unless all qualified applicants with preference points

have been issued permits prior to that point. Permits shall be issued within 14 days of the lottery;

(C) In addition, remaining applicants (who do not have preference points) shall be placed in a lottery and their names shall be drawn;

(D) The Department then shall prepare an alternates list, in which applicants who have preference points are listed first (in the order drawn), and thereafter remaining applicants are listed, in the order in which they were drawn. All applicants whose names are placed on the alternates list shall be refunded their permit fee minus a $10 application fee. Any permits available before the end of the year shall be made available to the first name on the alternates list. The applicant shall be notified of an available permit and shall resubmit a complete application and permit fee within 30 days of the date the notification is mailed. The permit shall be issued within 14 days of receipt of the resubmitted application and fee. If an alternate fails to apply for the lottery permit within 30 days, he shall forfeit such permit and the permit shall then be made available to the next name on the alternates list.

(c) Permits may be made available before the end of the year by a permit holder voluntarily turning in a permit.

(d) A subcommittee of the Developmental Fishery Board shall evaluate the business plans submitted by hagfish fishery applicants to determine if the applicant is likely to actively prosecute the fishery. If more applicants submit acceptable business plans than there are available new permits, then the available permits will be distributed as otherwise specified in subsections (3)(a) and (b) of this rule.

(4) Persons to whom permits are issued: Permits shall be issued to an individual person or entity and assigned to a vessel, except when hand harvest methods are used. The permit holder is the owner or controller of the vessel or the individual person when hand harvest methods are used.

(5) Transfer of permits: Permits for Developmental Fisheries Species are not transferable to another person or entity; provided however that permits may be reassigned to another vessel owned or leased and controlled by the permit holder up to two times annually.

(a) In the event of the death of a permit holder, the permit of the deceased may be issued to an immediate family member as defined by OAR 635-006-0810. Permit transfer shall require a copy of the death certificate and the original permit, and must be requested by the family member to the deceased which shall be presumed by possession of the permit and death certificate.

(b) To reassign the vessel on a permit, a permit holder shall first apply on a form provided by the Department and shall include a $25 fee;

(c) If the permit holder is not the registered owner of the vessel to which a permit is being reassigned, a copy of a signed lease agreement with the owner of the vessel must accompany the application. The lease agreement must show the permit holder will be in control of the daily activities of the vessel during the time of the lease.

(d) No reassignment shall be effective until the permit holder has received approval from the Department and an updated permit.

(e) If a permit is reassigned to a vessel under the ownership of other than the permit holder, the permit holder or designated vessel operator must be aboard the vessel during harvest activities under the permit.

(6) Renewal of permits:

(a) Permits may be renewed by submission, to the Department, of the appropriate fee and a complete application date-stamped or postmarked before January 1 of the year for which renewal is sought, except renewal applications for box crab permits must be postmarked or date-stamped before December 1 of the year prior to which renewal is sought;

(b) An application for renewal shall be considered complete if it is legible and has all information requested on the form and is accompanied by the required fee in full. Any application which is not complete shall be returned, and unless it is thereafter resubmitted and deemed complete before the deadline listed in (6)(a) above, the individual shall not be considered to have applied for renewal in a timely manner;

(c) It is the responsibility of the permit holder to ensure an application is complete and is filed in a timely manner. Failure of the Department to return an application for incompleteness or of an individual to receive a returned application shall not be grounds for treating the application as having been filed in a timely and complete manner;

(d) In addition to timely and complete filing to renew a permit, a permit holder must annually lawfully land the required pounds and/or landings listed in OAR 635-006-0850. However, if a permit holder obtained a permit later than July 1 of the prior year, the permit holder shall not be required to make the annual landing requirement by the following January. Instead, at the next renewal thereafter, the permit holder shall be required to demonstrate the annual landing requirement was fulfilled during the first full year in which the permit was held.

(e) Landings made by one vessel can not be used for qualification to renew more than one permit per permit category in any given year.

(f) In addition to the above landing requirements, logbooks required under OAR 635-006-0890 must be turned into an ODFW office by the application deadline for renewal of a permit.

(7) Authority of Director: Consistent with OAR 635-006-0810 through 635-006-0950, the Director is authorized to issue Developmental Fisheries Permits under the authority of ORS 506.460.

Stat. Auth.: ORS 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 506.450
Hist.: FWC 85-1994, f. 10-31-94, cert. ef. 11-1-94; FWC 2-1996, f. & cert. ef. 1-23-96; FWC 1-1997, f. & cert. ef. 1-16-97; DFW 3-1998, f. & cert. ef. 1-12-98; DFW 93-1998, f. & cert. ef. 11-25-98; DFW 30-2001, f. & cert. ef. 5-4-01; DFW 102-2001, f. & cert. ef. 10-23-01; DFW 119-2001, f. & cert. ef. 12-24-01; DFW 48-2002(Temp), f. & cert. ef. 5-13-02 thru 11-8-02; DFW 116-2002, f. & cert. ef. 10-21-02; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 6-2004(Temp), f. 1-28-04, cert. ef. 1-31-04 thru 3-31-04; DFW 24-2004, f. & cert. ef. 3-23-04; DFW 121-2004, f. 12-13-04, cert. ef. 12-15-04; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 4-2008, f. & cert. ef. 1-23-08

635-006-0930
Review of Denials (Developmental Fisheries Program)

(1) An individual whose application for issuance, renewal or transfer of a permit established pursuant to OAR 635-006-0910 is denied may make written request, to the Commercial Fishery Permit Board (Board) for review of the denial. The review provided in this subsection is in lieu of any such review by the State Department of Fish and Wildlife or the State Fish and Wildlife Commission. The request shall be in such form and shall contain such information as the Board considers appropriate.

(2) The Board shall review a denial of an application for issuance, renewal, or request to transfer a permit according to the applicable provisions of ORS chapter 183. Orders issued by the Board are not subject to review by the Commission, but may be appealed as provided in ORS 183.480 to 183.500. The Board may waive requirements for renewal of permits if the Board finds that the individual failed to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(3) A party must petition for Board review of the hearing officer's proposed order within 30 days of service of the proposed order if the party wants the proposed order changed. A party must identify what parts of the proposed order it objects to, and refer to parts of the administrative record and legal authority supporting its position.

(4) The Board may delegate to the department its authority to waive requirements for renewal of permits.

Stat. Auth.: ORS 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 506.450
Hist.: FWC 85-1994, f. 10-31-94, cert. ef. 11-1-94; DFW 48-2002(Temp), f. & cert. ef. 5-13-02 thru 11-8-02; DFW 116-2002, f. & cert. ef. 10-21-02; DFW 121-2004, f. 12-13-04, cert. ef. 12-15-04; DFW 4-2008, f. & cert. ef. 1-23-08

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Rule Caption: Additional Harvest Opportunity for Trout and Warmwater Fish Prior to Drawdown of Roslyn Lake.
Adm. Order No.: DFW 5-2008(Temp)
Filed with Sec. of State: 1-25-2008
Certified to be Effective: 2-1-08 thru 7-6-08
Notice Publication Date:
Rules Amended: 635-017-0090
Rules Suspended: 635-017-0090(T)
Subject: This rules suspends daily bag limit and size restrictions for harvest of trout and warmwater fish in Roslyn Lake effective February 1, 2008. The amended rules also incorporates language for Carmen Reservoir carried over from the temporary rule which was effective January 9 through July 6, 2008.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-017-0090
Inclusions and Modifications

(1) The **2008 Oregon Sport Fishing Regulations** provide requirements for the Willamette Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2008 Oregon Sport Fishing Regulations**.

(2) Pacific Lamprey Harvest:

(a) Pursuant to OAR 635-044-0130(1)(b), authorization from the Oregon Fish and Wildlife Commission must be in possession by individu-

als collecting or possessing Pacific lamprey for personal use. Permits are available from ODFW, 17330 SE Evelyn Street, Clackamas, OR 97015;

(b) Open fishing period is June 1 through July 31 from 7:00 A.M. to 6:00 P.M.; personal use harvest is permitted Friday through Monday each week. All harvest is prohibited Tuesday through Thursday;

(c) Open fishing area is the Willamette River at Willamette Falls on the east side of the falls only, excluding Horseshoe Area at the peak of the falls;

(d) Gear is restricted to hand or hand-powered tools only;

(e) Catch must be recorded daily on a harvest record card prior to leaving the open fishing area. Harvest record cards will be provided by ODFW. All harvest record cards must be returned to the ODFW Clackamas office by August 31 to report catch. Permit holders who do not return the harvest record cards by August 31 will be ineligible to receive a permit in the following year.

(f) Harvesters must allow sampling or enumeration of catches by ODFW personnel.

(3) Carmen Reservoir (Linn County) is open to angling for trout all year.

(a) The daily catch limit for trout is 5 per day, minimum length is 8 inches, only 1 trout over 20 inches in length may be taken per day.

(b) Use of bait is allowed.

(4) Effective February 1, 2008 there are no size restrictions or bag limits on trout or warmwater fish in Roslyn Lake.

(a) All other General Statewide and Willamette Zone regulations as provided in the **2008 Oregon Sport Fishing Regulations** apply.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119
Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129
Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 3-1994, f. 1-25-94, cert. ef. 1-26-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 86-1994(Temp), f. 10-31-94, cert. ef. 11-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 32-1995, f. & cert. ef. 4-24-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 22-1996(Temp), f. 5-9-96 & cert. ef. 5-10-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 13-1997, f. 3-5-97, cert. ef. 3-11-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 24-1997(Temp), f. & cert. ef. 4-10-97; FWC 31-1997(Temp), f. 5-14-97, cert. ef. 5-15-97; FWC 39-1997(Temp), f. 6-17-97, cert. ef. 6-18-97; FWC 69-1997, f. & cert. ef. 11-6-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 19-1998, f. & cert. ef. 3-12-98; DFW 28-1998(Temp), f. & cert. ef. 4-9-98 thru 4-24-98; DFW 31-1998(Temp), f. & cert. ef. 4-24-98 thru 7-31-98; DFW 33-1998(Temp), f. & cert. ef. 4-30-98 thru 5-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 35-1998(Temp), f. & cert. ef. 5-10-98 thru 5-15-98; DFW 37-1998(Temp), f. & cert. ef. 5-15-98 thru 7-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 15-1999, f. & cert. ef. 3-9-99; DFW 16-1999(Temp), f. & cert. ef. 3-10-99 thru 3-19-99; DFW 19-1999(Temp), f. & ef. 3-19-99 thru 4-15-99; DFW 27-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 30-1999(Temp), f. & cert. ef. 4-27-99 thru 5-12-99; DFW 35-1999(Temp), f. & cert. ef. 5-13-99 thru 7-31-99; DFW 39-1999(Temp), f. 5-26-99, cert. ef. 5-27-99 thru 7-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 88-1999(Temp), f. 11-5-99, cert. ef. 11-6-99 thru 11-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 22-2000, f. 4-14-00, cert. ef. 4-16-00 thru 7-31-00; DFW 23-2000(Temp), f. 4-19-00, cert. ef. 4-22-00 thru 7-31-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 6-2001, f. & cert. ef. 3-1-01; DFW 23-2001(Temp), f. & cert. ef. 4-23-01 thru 10-19-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 46-2001(Temp) f. 6-8-01, cert. ef. 6-16-01 thru 12-13-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 95-2001(Temp), f. 9-27-01, cert. ef. 10-20-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp) f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 42-2002, f. & cert. ef. 5-3-02; DFW 44-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 11-3-02; DFW 70-2002(Temp), f. 7-10-02 cert ef. 7-12-02 thru 12-31-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 42-2003, f. & cert. ef. 5-16-03; DFW 53-2003(Temp), f. 6-17-03, cert. ef. 6-18-03 thru 12-14-03; DFW 57-2003(Temp), f. & cert. ef. 7-8-03 thru 12-31-03; DFW 59-2003(Temp), f. & cert. ef. 7-11-03 thru 12-31-03; DFW 70-2003(Temp), f. & cert. ef. 7-23-03 thru 12-31-03; DFW 71-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 12-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 33-2004, f. 4-22-04, cert ef. 5-1-04; DFW 48-2004(Temp), f. 5-26-04, cert. ef. 5-28-04 thru 11-23-04; DFW 69-2004(Temp), f. & cert. ef. 7-12-04 thru 11-23-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 24-2005, f. 4-15-05, cert. ef. 5-1-05; DFW 78-2005(Temp), f. 7-19-05, cert. ef. 7-21-05 thru 7-22-05; Administrative correction 8-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 36-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 121-2006(Temp), f. & cert. ef. 10-20-06 thru 12-31-06; DFW 32-2007, f. 5-14-07, cert. ef. 6-1-07; DFW 65-2007(Temp), f. & cert. ef. 8-6-07 thru 10-31-07; DFW 105-2007(Temp), f. 10-4-07, cert. ef. 10-6-07 thru 11-30-07; Administrative correction 12-20-07; DFW 134-2007, f. 12-26-07, cert. ef. 1-1-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 1-2008(T), f. & cert. ef. 1-9-08 thru 7-6-08; DFW 5-2008(Temp), f. 1-25-08, cert. ef. 2-1-08 thru 7-6-08

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Rule Caption: 2008 Commercial Winter Salmon and Sturgeon Fisheries for the Columbia River and Select Areas.
Adm. Order No.: DFW 6-2008(Temp)
Filed with Sec. of State: 1-29-2008
Certified to be Effective: 1-31-08 thru 7-28-08
Notice Publication Date:
Rules Amended: 635-041-0065, 635-042-0135, 635-042-0145, 635-042-0160, 635-042-0180
Rules Suspended: 635-042-0135(T)
Subject: Amended rules modify 2008 winter commercial Treaty Indian fisheries in the mainstream Columbia River above Bonneville Dam and 2008 non-Indian commercial fishing seasons for sturgeon and winter salmon in the mainstream Columbia River and Select Areas below Bonneville Dam. Modifications are consistent with action taken January 24, 2008 by the Columbia River Compact.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-041-0065
Winter Salmon Season

(1) Chinook salmon, steelhead, shad, sturgeon, walleye and carp may be taken for commercial purposes from the Columbia River Treaty Indian Fishery, from 6:00 a.m. February 1 to 6:00 p.m. March 21, 2008.

(2) There are no mesh size restrictions.

(3) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(4) White sturgeon between 48-60 inches in length in The Dalles and John Day pools and white sturgeon between 42-60 inches in the Bonneville Pool may be sold or kept for subsistence use.

(5) Sale of platform and hook-and-line caught fish is allowed during open commercial fishing seasons.

Stat. Auth.: ORS 183.325 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79; FWC 13-1979(Temp), f. & ef. 3-30-1979, Renumbered from 635-035-0065; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. 1-21-83, ef. 2-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. l-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 3-1988(Temp), f. & cert. ef. 1-29-88; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 13-1989(Temp), f. & cert. ef. 3-21-89; FWC 15-1990(Temp), f. 2-8-90, cert. ef. 2-9-90; FWC 20-1990, f. 3-6-90, cert. ef. 3-15-90; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 12-1993(Temp), f. & cert. ef. 2-22-93; FWC 18-1993(Temp), f. & cert. ef. 3-2-93; FWC 7-1994, f. & cert. ef. 2-1-94; FWC 11-1994(Temp), f. & cert. ef. 2-28-94; FWC 9-1995, f. & cert. ef. 2-1-95; FWC 19-1995(Temp), f. & cert. ef. 3-3-95; FWC 5-1996, f. & cert. ef. 2-7-96; FWC 4-1997, f. & cert. ef. 1-30-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 20-1998(Temp), f. & cert. ef. 3-13-98 thru 3-20-98; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 2-1999(Temp), f. & cert. ef. 2-1-99 through 2-19-99; DFW 9-1999, f. & cert. ef. 2-26-99; DFW 14-1999(Temp), f. 3-5-99, cert. ef. 3-6-99 thru 3-20-99; Administrative correction 11-17-99; DFW 6-2000(Temp), f. & cert. ef. 2-1-00 thru 2-29-00; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 19-2000, f. 3-18-00, cert. ef. 3-18-00 thru 3-21-00; DFW 26-2000(Temp), f. 5-4-00, cert. ef. 5-6-00 thru 5-28-00; Administrative correction 5-22-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 14-2001(Temp), f. 3-12-01, cert. ef. 3-14-01 thru 3-21-01; Administrative correction 6-20-01; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 17-2002(Temp), f. 3-7-02, cert. ef. 3-8-02 thru 9-1-02; DFW 18-2002(Temp), f. 3-13-02, cert. ef. 3-15-02 thru 9-11-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 20-2003(Temp), f. 3-12-03, cert. ef. 3-13-03 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 5-2004(Temp), f. 1-26-04, cert. ef. 2-2-04 thru 4-1-04; DFW 15-2004(Temp), f. 3-8-04, cert. ef. 3-10-04 thru 4-1-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 4-2005(Temp), f. & cert. ef 1-31-05 thru 4-1-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 3-2006(Temp), f. & cert. ef. 1-27-06 thru 3-31-06; Administrative correction 4-19-06; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 14-2007(Temp), f. & cert. ef. 3-9-07 thru 9-4-07; DFW 15-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; Administrative correction 9-16-07; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08

635-042-0135
Sturgeon Season

(1) White sturgeon may be taken for commercial purposes from the Columbia River below Bonneville Dam during commercial salmon fishing seasons with the same fishing gear authorized for the taking of salmon.

(2) Retention of green sturgeon in all mainstem Columbia River and Select Area commercial fisheries is prohibited.

(3) White sturgeon, adipose fin-clipped salmon, and shad may be taken for commercial purposes from the Columbia River below Bonneville Dam during commercial sturgeon/salmon fishing seasons using gill nets with a minimum mesh size of nine inches and a maximum mesh size of 9 3/4 inches. The open fishing periods are:

6:00 p.m. Tuesday January 8 to 6:00 p.m. Wednesday January 9, 2008;
6:00 p.m. Tuesday January 15 to 6:00 p.m. Wednesday January 16, 2008;
6:00 p.m. Tuesday January 22 to 6:00 p.m. Wednesday January 23, 2008;
6:00 p.m. Tuesday January 29 to 6:00 p.m. Wednesday January 30, 2008;
6:00 p.m. Thursday January 31 to 12:00 noon Friday February 1, 2008;
6:00 p.m. Tuesday February 5 to 6:00 p.m. Wednesday February 6, 2008;
6:00 p.m. Thursday February 7 to 12:00 noon Friday February 8, 2008;
6:00 p.m. Tuesday February 12 to 6:00 p.m. Wednesday February 13, 2008.

(4) White sturgeon and salmon must be delivered to wholesale fish dealers, canners, or fish buyers undressed (in the round).

(5) It is unlawful to:

(a) Take sturgeon and salmon by angling from any vessel that is engaged in commercial fishing (including the period of time the gear is fished) or has been engaged in commercial fishing on that same day or has commercially caught sturgeon or salmon aboard;

(b) Steal or otherwise molest or disturb any lawful fishing gear;

(c) Keep any fish taken under a commercial license for personal use;

(d) Remove the head or tail of any white sturgeon taken for commercial purposes prior to being received at the premises of a wholesale fish dealer or canner;

(e) Sell or attempt to sell unprocessed or processed sturgeon eggs that have been taken from the Columbia River below Bonneville Dam;

(f) Purchase from commercial fishermen sturgeon eggs which have been removed from the body cavity prior to sale;

(g) Have in possession any white sturgeon smaller than 48 inches or larger than 60 inches in overall length;

(h) Gaff or penetrate sturgeon in any way while landing or releasing it.

(6) The Sandy River closed sanctuary, described in OAR 625-042-0005, is in effect during the fishing periods described in subsection (3) of this rule.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 85, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79; Renumbered from 635-035-0320; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 20-1982(Temp), f. & ef. 3-25-82; FWC 3-1983, f. & ef. 1-21-83; FWC 4-1984, f. & ef. 1-31-84; FWC 4-1986 (Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 8-1992, f. & cert. ef. 2-11-92; FWC 11-1993, f. 2-11-93, cert. ef. 2-16-93; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; FWC 16-1994(Temp), f. & cert. ef. 3-3-94; FWC 3-1997, f. & cert. ef. 1-27-97; FWC 8-1997(Temp), f. & cert. ef. 2-14-97; FWC 42-1997, f. & cert. ef. 8-4-97; DFW 2-1998(Temp), f. 1-9-98, cert. ef. 1-12-98 thru 1-23-98; DFW 58-1998(Temp.), f. & cert. ef. 8-4-98 thru 8-21-98; DFW 82-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; DFW 84-1998(Temp), f. & cert. ef. 10-22-98 thru 10-23-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 87-1998(Temp), f. & cert. ef 11-5-98 thru 11-6-98; DFW 101-1998, f. & cert. ef. 12-24-98; DFW 7-1999(Temp), f. 2-12-99 & cert. ef. 2-15-99 thru 2-19-99; DFW 11-1999(Temp), f. 2-24-99, cert. ef. 2-25-99 thru 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; Administrative correction 11-17-99; DFW 95-1999(Temp), f. 12-22-99, cert. ef. 12-26-99 thru 1-21-00; DFW 3-2000, f. & cert. ef. 1-24-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 80-2000(Temp), f, 12-22-00, cert. ef. 1-1-01 thru 3-31-01; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 115-2001(Temp), f. 12-13-01, cert. ef. 1-1-02 thru 3-31-02; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 8-2003(Temp), f. 1-27-03, cert. ef. 1-28-03 thru 4-1-03; DFW 10-2003(Temp), f. & cert. ef. 2-3-03 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 7-2004(Temp), f. & cert. ef. 2-2-04 thru 4-1-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 7-2005(Temp), f. & cert. ef. 2-22-05 thru 4-1-05; Administrative correction 4-20-05; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 3-2006(Temp), f. & cert. ef. 1-27-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 8-2007(Temp), f. 2-12-07, cert. ef. 2-13-07 thru 8-11-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 135-2007, f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08

635-042-0145

Youngs Bay Salmon Season

(1) Salmon, white sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay.

(a) The open fishing periods are established in three segments categorized as the winter fishery, paragraph (A); the spring fishery, paragraph (B); and summer fishery, paragraph (C), as follows:

(A) Winter Season:

(i) Entire Youngs Bay: Noon Wednesday, February 13 to 6:00 a.m. Thursday, February 14, 2008; Noon Sunday, February 17 to 6:00 a.m. Monday, February 18, 2008; Noon Wednesday, February 20 to 6:00 a.m. Thursday, February 21, 2008; Noon Sunday, February 24 to 6:00 a.m. Monday, February 25, 2008; Noon Wednesday, February 27 to 6:00 a.m. Thursday, February 28, 2008.

(ii) Upstream of old Youngs Bay Bridge: To be determined at a later date.

(iii) Walluski Area: To be determined at a later date.

(B) Spring Season:

(i) To be determined at a later date.

(C) Summer Season:

(i) To be determined at a later date.

(b) The fishing areas for the winter fisheries are:

From February 13, 2008 through February 28, 2008 the fishing area is identified as the waters of Youngs Bay upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers.

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(a) It is unlawful to use a gill net having a mesh size that is less than 7-inches during the winter season from February 13 to 28, 2008.

(b) The use of additional weights or anchors attached directly to the leadline is allowed upstream of markers located approximately 200 yards upstream of the mouth of the Walluski River during all Youngs Bay commercial fisheries.

(3) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fisheries are open. During the fishing periods identified in (1)(a)(A), (1)(a)(B) and (1)(a)(C), the weekly aggregate sturgeon limit applies to possessions and sales in the Youngs Bay fishery and other open Select Area fisheries.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert.ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08

635-042-0160

Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon, white sturgeon, and shad may be taken for commercial purposes during open fishing periods described as the winter fishery and the spring fishery in paragraphs (1)(a)(A) or (1)(a)(B) of this rule in those waters of Blind Slough and Knappa Slough. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the winter fishery in Blind Slough only in paragraph (A), and the spring fishery in Blind Slough and Knappa Slough in paragraph (B). The seasons

are open nightly from 7:00 p.m. to 7:00 a.m. the following morning (12 hours), as follows:

(A) Blind Slough Only:

(i) Wednesday February 20 to Thursday February 21, 2008; Sunday February 24 to Monday February 25, 2008; Wednesday February 27 to Thursday February 28, 2008.

(B) Blind and Knappa Sloughs:

(i) To be determined at a later date.

(b) The fishing areas for the winter and springs seasons are:

(A) Blind Slough are those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(B) Knappa Slough are all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

(C) During the periods identified above in (1)(a)(B), the Knappa Slough fishing area extends downstream to the boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore.

(2) Gear restrictions are as follows:

(a) Gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted.

(A) During the winter fishery, outlined above in (1)(a)(A), it is unlawful to use a gill net having a mesh size that is less than 7-inches.

(B) During the spring fishery, outlined above in (1)(a)(B), it is unlawful to use a gill net having a mesh size that is more than 8-inches.

(3) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in (1)(a)(A) and (1)(a)(B) the weekly aggregate sturgeon limit applies to possessions and sales in the Youngs Bay fishery and other open Select Area fisheries.

(4) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp) f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert.ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 16-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. 3-23-06 & cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. 4-7-06, cert. ef. 4-9-06 thru 7-27-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 75-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. 9-1-06, cert. ef. 9-5-06 thru 12-31-06; DFW 98-2006(Temp), f. & cert. ef. 9-12-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08

635-042-0180

Deep River Select Area Salmon Season

(1) Salmon, shad, and white sturgeon may be taken for commercial purposes from the US Coast Guard navigation marker #16 upstream to the Highway 4 Bridge.

(2) The fishing seasons are open:

(a) Winter season: nightly from 7:00 p.m. to 7:00 a.m. the following morning (12 hours), Monday, February 18 to Tuesday, February 19, 2008; Monday, February 25 to Tuesday, February 26, 2008.

(b) Spring season: To be determined at a later date.

(3) Gill nets may not exceed 100 fathoms in length and there is no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. Nets may not be tied off to stationary structures and may not fully cross navigation channel.

(a) During the winter season, outlined above in (2)(a), it is *unlawful* to use a gill net having a mesh size that is less than 7-inches;

(b) During the spring season, outlined above in (2)(b) it is *unlawful* to use a gill net having a mesh size that is more than 8-inches.

(4) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in (2)(a) and (2)(b) above, the weekly aggregate sturgeon limit applies to possessions and sales in the Youngs Bay fishery and other open Select Area fisheries.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. 3-12-03, cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 39-2004(Temp), f. 5-5-04, cert.ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 77-2006(Temp), f. 8-8-06, cert. ef. 9-4-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08

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Rule Caption: Housekeeping and Technical Corrections to Rule for Recreational Sturgeon Seasons in the Willamette Zone.
Adm. Order No.: DFW 7-2008
Filed with Sec. of State: 2-11-2008
Certified to be Effective: 2-11-08
Notice Publication Date: 1-1-2008
Rules Amended: 635-017-0095
Rules Repealed: 635-017-0095(T)
Subject: Amended rules relating to sport sturgeon fishing in the Willamette Zone, specifically the Willamette River downstream of Willamette Falls (including Multnomah Channel).
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-017-0095

Sturgeon Season

(1) The **2008 Oregon Sport Fishing Regulations** provide requirements for the Willamette Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2008 Oregon Sport Fishing Regulations**.

(2) The Willamette River downstream of Willamette Falls (including Multnomah Channel) is open to the retention of white sturgeon four days per week, Thursday, Friday, Saturday and Sunday during the following periods:

(a) January 1 through July 31; and

(b) October 1 through December 31.

(3) The retention of white sturgeon in the areas identified in section (2) of this rule is prohibited August 1 through September 30.

(4) Retention of green sturgeon is prohibited all year in all areas.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 2-2005(Temp), f. & cert. ef. 1-21-05 thru 7-19-05; DFW 55-2005, f. & cert. ef. 6-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 74-2007(Temp), f. 8-17-07, cert. ef. 8-18-07 thru 12-31-07; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 7-2008, f. & cert. ef. 2-11-08

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Rule Caption: Housekeeping and Technical Corrections to Rules for Recreational Sturgeon Seasons in the Columbia River Zone.
Adm. Order No.: DFW 8-2008
Filed with Sec. of State: 2-11-2008
Certified to be Effective: 2-11-08
Notice Publication Date: 1-1-2008
Rules Amended: 635-023-0095
Rules Repealed: 635-023-0095(T)
Subject: Amended rules relating to sport sturgeon fishing in the Columbia River Zone, specifically from the mouth at Buoy 10 (including Youngs Bay) upstream to Bonneville Dam.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-023-0095
Sturgeon Season

(1) The **2008 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2008 Oregon Sport Fishing Regulations**.

(2) The Columbia River from Wauna powerlines (River Mile 40) upstream to Bonneville Dam is open to the retention of white sturgeon four days per week, Thursdays through Sundays, during the following periods:

(a) January 1 through July 31; and

(b) October 1 through December 31.

(3) The retention of white sturgeon in the area identified in section (2) of this rule is prohibited August 1 through September 30.

(4) The Columbia River from Wauna powerlines (River Mile 40) downstream to the mouth at Buoy 10, including Youngs Bay is open to the retention of white sturgeon seven days per week during the following periods:

(a) January 1 through April 30; and

(b) May 10 through June 24.

(5) The retention of white sturgeon in the area identified in section (4) of this rule is prohibited May 1 through May 9 and from June 25 through December 31.

(6) During the fishing period as identified in subsection (4)(a) of this rule, only white sturgeon between 42-60 inches in overall length may be retained.

(7) During the fishing period as identified in subsection (4)(b) of this rule, only white sturgeon between 45-60 inches in overall length may be retained.

(8) Angling for sturgeon is prohibited from Marker 85 upstream to Bonneville Dam, from Highway 395 Bridge upstream to McNary Dam, and from the west end of the grain silo at Rufus upstream to John Day Dam during May 1 through July 31.

(9) Retention of green sturgeon is prohibited all year in all areas.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 129-2004(Temp), f. 12-23-04, cert. ef 1-1-05 thru 2-28-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 22-2005(Temp), f. 4-1-05, cert. ef. 4-30-05 thru 7-31-05; DFW 50-2005(Temp), f. 6-3-05, cert. ef. 6-11-05 thru 11-30-05; DFW 60-2005(Temp), f. 6-21-05, cert. ef. 6-24-05 thru 12-21-05; DFW 65-2005(Temp), f. 6-30-05, cert. ef. 7-10-05 thru 12-31-05; DFW 76-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 19-2006(Temp), f. 4-6-06, cert. ef. 4-8-06 thru 7-31-06; DFW 54-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-27-06; DFW 62-2006(Temp), f. 7-13-06, cert. ef. 7-24-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 20-2007(Temp), f. 3-26-07, cert. ef. 3-28-07 thru 7-30-07; DFW 38-2007(Temp), f. & cert. ef. 5-31-07 thru 11-26-07; DFW 59-2007(Temp), f. 7-18-07, cert .ef. 7-29-07 thru 12-31-07; DFW 75-2007(Temp), f. 8-17-07, cert. ef. 8-18-07 thru 12-31-07; DFW 102-2007(Temp), f. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 8-2008, f. & cert. ef. 2-11-08

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Rule Caption: Amendment to Gear Rule for Columbia River Treaty Indian Fisheries Above Bonneville Dam.
Adm. Order No.: DFW 9-2008
Filed with Sec. of State: 2-11-2008
Certified to be Effective: 2-11-08
Notice Publication Date: 1-1-2008
Rules Amended: 635-041-0050
Subject: Amended rule relating to fishing gear used for Treaty Indian commercial, subsistence and ceremonial fishing in the Columbia River above Bonneville Dam.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-041-0050
Commercial Fishing Gear

It is *unlawful* to:

(1) Take fish for commercial purposes by any means other than set nets, gill nets, dip nets, bag nets, hoop nets, or any gear expressly authorized for subsistence fishing by OAR 635-041-0025.

(2) Fish a set net which is more than 400 feet in length or a drift gill net which is more than 800 feet in length.

(3) Fish more than one set net at any one location.

(4) Fish more than five set nets at any one time.

(5) Use or operate any gill net, set net, or hoop net which does not have the tribal affiliation and tribal enrollment number of the owner of the net placed upon or adjacent to each end cork or float of the gill net or set net and upon the upper side of the hoop net.

(6) Have spoiled fish in any fishing gear.

Stat. Auth.: ORS 506 & 507

Stats. Implemented: ORS 506.129, 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0050; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 4-1984, f. & ef. 1-31-84; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; DFW 9-2008, f. & cert. ef. 2-11-08

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Rule Caption: housekeeping and Technical Corrections to Commercial Fishing Rules for the Columbia River Below Bonneville Dam.
Adm. Order No.: DFW 10-2008
Filed with Sec. of State: 2-11-2008
Certified to be Effective: 2-11-08
Notice Publication Date: 1-1-2008
Rules Amended: 635-042-0010, 635-042-0130, 635-042-0135
Rules Repealed: 635-042-0130(T), 635-042-0135(T)
Subject: Amended rules relating to non-Indian commercial fishing gear; areas; and open periods in the Columbia River Zone below Bonneville Dam.
Rules Coordinator: Casaria Tuttle—(503) 947-6033

635-042-0010
Fishing Gear

(1) As used in these Columbia River fishing rules, gill net includes drift gill net, floater gill net, diver gill net, and is a monofilament or multifilament mesh net with a cork and lead line which is in a position to drift with the tide or current at all times while it is being fished. There must be sufficient buoyancy in the corks and/or floats on the cork line so the net is free to drift with the current. The lead or weight on the lead line of a gill net shall not exceed two pounds in total weight on any one fathom, measurement to be taken along the cork line of the net. However, should extra or added weights appear necessary to operate a net, permission to use in excess of two pounds weight per fathom of net may be granted by the Director upon written application which includes adequate justification for the additional leads or weights.

(2) It is *unlawful*:

(a) For a gill net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished;

(b) To take any species of salmon from the Columbia River for commercial purposes by any means other than by gill net;

(c) To fish more than one gill net from a licensed commercial fishing boat at any one time;

(d) To fish with or have on the boat while fishing a gill net which exceeds 1,500 feet in length;

(e) To fish with or have on the boat while fishing any gill net of a mesh size not authorized for use at that time, except:

(A) During December 1-March 31 when the following applies:

(i) While fishing during open salmon and/or sturgeon seasons, smelt gill nets with a mesh size not more than two inches may be onboard the boat;

(ii) While fishing during open smelt seasons, gill nets with a mesh size greater than two inches may be onboard the boat.

(B) Nets with a minimum mesh size of 9.0 inches may be onboard the boat.

(C) When specifically authorized, nets not lawful for use at that time and area may be onboard the boat if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(f) Fish with or have on the boat while fishing any gill net of a mesh size greater than 9-3/4 inches, except that snagging nets as described in ORS 509.240 are permitted;

(g) Fish with or have on the boat while fishing a gill net which does not meet the construction requirements for a gill net as set forth in section (1) of this rule, except while fishing during the Tongue Point Select Area Salmon Season (OAR 635-042-0170) gill nets with leadline in excess of two pounds per fathom may be stored on the boat.

(3) The mesh size of any gill net is determined only after the meshes are wet from soaking in water not less than one hour. Three consecutive meshes are then placed under ten pounds of vertical tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh.

(4) As used in these rules, "slackers" means a single piece of material or cord, not webbing or mesh, connected vertically or woven in the mesh of the net between the cork and lead lines. It is used to tie netting in a shortened state to give the net surface flexibility.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 85, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 23-1978, f. & ef. 5-478; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0110; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 13-1981, f. & ef. 4-3-81; FWC 6-1982, f. & ef. 1-28-82; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 11-1993, f. 2-11-93, cert. ef. 2-16-93; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; Administrative correction 9-16-07; DFW 10-2008, f. & cert. ef. 2-11-08

635-042-0130
Smelt Season

(1) Smelt may be taken for commercial purposes from the Columbia River in Zones 1 through 5 during the following times:

(a) 24 hours per day from 12:01 a.m. December 1 through 11:59 p.m. December 31;

(b) Mondays and Thursdays from 7:00 a.m. to 4:00 p.m. (9 hrs.) during the period from January 1 through March 31.

(2) It is unlawful to use any gear other than those listed below for the taking of smelt in the Columbia River:

(a) Gill nets of a mesh size not more than two inches. Nets may consist of, but are not limited to, monofilament webbing;

(b) Dip nets having a bag frame no greater than 36 inches in diameter;

(c) Trawl nets with:

(A) Head rope not to exceed 25 feet in length;

(B) Foot rope or groundline not to exceed 25 feet in length;

(C) Door size not to exceed three feet by four feet;

(D) Mesh size not to exceed two inches;

(E) Bag length from the center of the head rope to the terminal end of the bunt not to exceed 35 feet;

(F) Breast rope not to exceed five feet;

(G) Bridle rope from rear of doors to foot rope and head rope not to exceed eight feet.

(3) No more than one trawl net at a time may be fished from any fishing vessel to take smelt.

(4) In the Columbia River upstream from Zone 1, it is unlawful to take smelt from a trawl vessel which exceeds 32 feet in overall length.

(5) For the purposes of this rule, Zone 1 is the area downstream of a straight line from a beacon light at Grays Point on the Washington bank to the flashing 4-second red buoy "44" off the easterly tip of Tongue Point on the Oregon Bank.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 2-1985, f. & ef. 1-30-85; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; FWC 15-1995, f. & cert. ef. 2-15-95; DFW 82-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; DFW 95-1999(Temp), f. 12-22-99, cert. ef. 12-26-99 thru 1-21-00; DFW 3-2000, f. & cert. ef. 1-24-00; DFW 8-2000(Temp), f. 2-18-00, cert. ef. 2-20-00 thru 2-29-00; Administrative correction 3-17-00; DFW 80-2000(Temp), f, 12-22-00, cert. ef. 1-1-01 thru 3-31-01; DFW 10-2001(Temp), f. & cert. ef. 3-6-01 thru 3-31-01; Administrative correction 6-21-01; DFW 115-2001(Temp), f. 12-13-01, cert. ef. 1-1-02 thru 3-31-02; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; Administrative correction 8-19-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 8-2005(Temp), f. & cert. ef. 2-24-05 thru 4-1-05; Administrative correction 4-20-05; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; Administrative correction 8-22-06; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; Administrative correction 9-16-07; DFW 125-2007(Temp), f. 11-29-07, cert. ef. 12-1-07 thru 5-28-08; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 10-2008, f. & cert. ef. 2-11-08

635-042-0135
Sturgeon Season

(1) White sturgeon may be taken for commercial purposes from the Columbia River below Bonneville Dam during commercial salmon fishing seasons with the same fishing gear authorized for the taking of salmon.

(2) Retention of green sturgeon in all mainstem Columbia River and Select Area commercial fisheries is prohibited.

(3) White sturgeon and adipose fin-clipped salmon may be taken for commercial purposes from the Columbia River below Bonneville Dam during commercial sturgeon/salmon fishing seasons using gill nets with a minimum mesh size of nine inches and a maximum mesh size of 9 3/4 inches. Only white sturgeon and adipose fin-clipped salmon may be sold from this fishery. The open fishing periods are:

(a) 6:00 p.m. Tuesday January 8 to 6:00 p.m. Wednesday January 9, 2008;

(b) 6:00 p.m. Tuesday January 15 to 6:00 p.m. Wednesday January 16, 2008;

(c) 6:00 p.m. Tuesday January 22 to 6:00 p.m. Wednesday January 23, 2008;

(d) 6:00 p.m. Tuesday January 29 to 6:00 p.m. Wednesday January 30, 2008;

(e) 6:00 p.m. Tuesday February 5 to 6:00 p.m. Wednesday February 6, 2008; and

(f) 6:00 p.m. Tuesday February 12 to 6:00 p.m. Wednesday February 13, 2008.

(4) White sturgeon and salmon must be delivered to wholesale fish dealers, canners, or fish buyers undressed (in the round).

(5) It is unlawful to:

(a) Take sturgeon and salmon by angling from any vessel that is engaged in commercial fishing (including the period of time the gear is fished) or has been engaged in commercial fishing on that same day or has commercially caught sturgeon or salmon aboard;

(b) Steal or otherwise molest or disturb any lawful fishing gear;

(c) Keep any fish taken under a commercial license for personal use;

(d) Remove the head or tail of any white sturgeon taken for commercial purposes prior to being received at the premises of a wholesale fish dealer or canner;

(e) Sell or attempt to sell unprocessed or processed sturgeon eggs that have been taken from the Columbia River below Bonneville Dam;

(f) Purchase from commercial fishermen sturgeon eggs which have been removed from the body cavity prior to sale;

(g) Have in possession any white sturgeon smaller than 48 inches or larger than 60 inches in overall length;

(h) Gaff or penetrate sturgeon in any way while landing or releasing it.

(6) The Sandy River closed sanctuary, described in OAR 625-042-0005, is in effect during the fishing periods described in subsection (2) of this rule.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 85, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79; Renumbered from 635-035-0320; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 20-1982(Temp), f. & ef. 3-25-82; FWC 3-1983, f. & ef. 1-21-83; FWC 4-1984, f. & ef. 1-31-84; FWC 4-1986 (Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 8-1992, f. & cert. ef. 2-11-92; FWC 11-1993, f. 2-11-93, cert. ef. 2-16-93; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; FWC 16-1994(Temp), f. & cert. ef. 3-3-94; FWC 3-1997, f. & cert. ef. 1-27-97; FWC 8-1997(Temp), f. & cert. ef. 2-14-97; FWC 42-1997, f. & cert. ef. 8-4-97; DFW 2-1998(Temp), f. 1-9-98, cert. ef. 1-12-98 thru 1-23-98; DFW 58-1998(Temp.), f. & cert. ef. 8-4-98 thru 8-21-98; DFW 82-1998(Temp), f. 10-6-98,

cert. ef. 10-7-98 thru 10-23-98; DFW 84-1998(Temp), f. & cert. ef. 10-22-98 thru 10-23-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 87-1998(Temp), f. & cert. ef 11-5-98 thru 11-6-98; DFW 101-1998, f. & cert. ef. 12-24-98; DFW 7-1999(Temp), f. 2-12-99 & cert. ef. 2-15-99 thru 2-19-99; DFW 11-1999(Temp), f. 2-24-99, cert. ef. 2-25-99 thru 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; Administrative correction 11-17-99; DFW 95-1999(Temp), f. 12-22-99, cert. ef. 12-26-99 thru 1-21-00; DFW 3-2000, f. & cert. ef. 1-24-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 80-2000(Temp), f, 12-22-00, cert. ef. 1-1-01 thru 3-31-01; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 115-2001(Temp), f. 12-13-01, cert. ef. 1-1-02 thru 3-31-02; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 8-2003(Temp), f. 1-27-03, cert. ef. 1-28-03 thru 4-1-03; DFW 10-2003(Temp), f. & cert. ef. 2-3-03 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 7-2004(Temp), f. & cert. ef. 2-2-04 thru 4-1-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 7-2005(Temp), f. & cert. ef. 2-22-05 thru 4-1-05; Administrative correction 4-20-05; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 3-2006(Temp), f. & cert. ef. 1-27-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 8-2007(Temp), f. 2-12-07, cert. ef. 2-13-07 thru 8-11-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 10-2008, f. & cert. ef. 2-11-08

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Department of Human Services, Addictions and Mental Health Division: Addiction Services Chapter 415

Rule Caption: Suspension of temporary Rules on OAR Chapter 415 to Respond to A "State of Emergency."
Adm. Order No.: ADS 1-2008(Temp)
Filed with Sec. of State: 2-12-2008
Certified to be Effective: 2-12-08 thru 6-2-08
Notice Publication Date:
Rules Suspended: 415-010-0005
Subject: The Addictions and Mental Health Division is repealing the temporary rule that suspended rules in OAR Chapter 415 such as Building Requirements and Food Service for Oregon counties that are declared by the Governor to be in a state of emergency due to flooding. The rule suspension was effective on December 2, 2007.
Rules Coordinator: Richard Luthe—(503) 947-1186

415-010-0005
Providing Services During An Emergency

(1) The purpose of these rules is to ensure that DHS clients who reside in the counties which the Governor has declared a state of emergency receive all appropriate and necessary services during the emergency flooding of those counties. These rules take effect on December 2, 2007, and expire when the Director of the Department of Human Services determines the appropriate and necessary services can resume in normal operating mode in each county.

(2) The Addictions and Mental Health Division is suspending rules in OAR Chapter 415 for the counties designated in (1) of this rule such as Building Requirements and Food Service, including but not limited to: 415-051-0067; and 415-051-0072.

(3) This rule suspension shall be effective on December 2nd, 2007.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Hist.: ADS 5-2007(Temp), f. & cert. ef. 12-5-07 thru 6-2-08; Suspended by ADS 1-2008(Temp), f. & cert. ef. 2-12-08 thru 6-2-08

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Department of Human Services, Addictions and Mental Health Division: Mental Health Services Chapter 309

Rule Caption: Suspension of Temporary Rules in OAR Chapter 309 to Respond to A "State of Emergency."
Adm. Order No.: MHS 1-2008(Temp)
Filed with Sec. of State: 2-12-2008
Certified to be Effective: 2-12-08 thru 6-2-08
Notice Publication Date:
Rules Suspended: 309-011-0100
Subject: The Addictions and Mental Health Division is repealing the temporary rule that suspended rules in OAR Chapter 309 such as Licensing, Record-keeping, Facilities, and Health Services for Oregon counties that are declared by the Governor of Oregon to be in a state of Emergency due to flooding. The rule suspension was effective on December 2, 2007.
Rules Coordinator: Richard Luthe—(503) 947-1186

309-011-0100
Providing Services During An Emergency

(1) The purpose of these rules is to ensure that DHS clients who reside in the counties which the Governor has declared a state of emergency receive all appropriate and necessary services during the emergency flooding of those counties. These rules take effect on December 2, 2007, and expire when the Director of the Department of Human Services determines the appropriate and necessary services can resume in normal operating mode in each county.

(2) The Addictions and Mental Health Division is suspending rules in OAR Chapter 309 for the counties designated in (1) of this rule, such as Licensing, Record-keeping, Facilities, and Health Services, including but not limited to:

(a) 309-035-0270;
(b) 309-035-0300;
(c) 309-035-0320;
(d) 309-035-0350;
(e) 309-035-0440;
(f) 309-035-0110;
(g) 309-035-0117;
(h) 309-035-0125;
(i) 309-035-0140;
(j) 309-035-0175;
(k) 309-040-0380;
(l) 309-040-0385; and
(m) 309-040-0390.

(2) This rule suspension shall be effective on December 2nd, 2007.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.050
Hist.: MHS 15-2007(Temp), f. & cert. ef. 12-5-07 thru 6-2-08; Suspended by MHS 1-2008(Temp), f. & cert. ef. 2-12-08 thru 6-2-08

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Department of Human Services, Administrative Services Division and Director's Office Chapter 407

Rule Caption: Electronic Data Transmission Rule Move, Amendment, and Adoption.
Adm. Order No.: DHSD 1-2008
Filed with Sec. of State: 2-1-2008
Certified to be Effective: 2-1-08
Notice Publication Date: 1-1-2008
Rules Adopted: 407-120-0112, 407-120-0114, 407-120-0116, 407-120-0118, 407-120-0165
Rules Repealed: 407-120-0112(T), 407-120-0114(T), 407-120-0116(T), 407-120-0118(T), 407-120-0165(T)
Rules Ren. & Amend: 410-001-0100 to 407-120-0100, 410-001-0110 to 407-120-0110, 410-001-0120 to 407-120-0120, 410-001-0130 to 407-120-0130, 410-001-0140 to 407-120-0140, 410-001-0150 to 407-120-0150, 410-001-0160 to 407-120-0160, 410-001-0170 to 407-120-0170, 410-001-0180 to 407-120-0180, 410-001-0190 to 407-120-0190, 410-001-0200 to 407-120-0200
Subject: The Department of Human Services is filing these rules to ensure the Department's electronic data transmission rules compliment the new functionality of the Oregon Replacement Medicaid Management Information System (MMIS) in conjunction with the Health Insurance Portability and Accountability Act (HIPAA) transactions and codes set standards for the exchange of electronic data. The temporary electronic data transmission rules in chapter 410 are concurrently repealed with this filing.
Rules Coordinator: Jennifer Bittel—(503) 947-5250

407-120-0100
Definitions

The following definitions apply to OAR 407-120-0100 through 407-120-0200:

(1) "Access" means the ability or means necessary to read, write, modify, or communicate data or information or otherwise use any information system resource.

(2) "Agent" means a third party or organization that contracts with a provider, allied agency, or prepaid health plan (PHP) to perform designated services in order to facilitate a transaction or conduct other business functions on its behalf. Agents include billing agents, claims clearinghouses, vendors, billing services, service bureaus, and accounts receivable man-

agement firms. Agents may also be clinics, group practices, and facilities that submit billings on behalf of providers but the payment is made to a provider, including the following: an employer of a provider, if a provider is required as a condition of employment to turn over his fees to the employer; the facility in which the service is provided, if a provider has a contract under which the facility submits the claim; or a foundation, plan, or similar organization operating an organized health care delivery system, if a provider has a contract under which the organization submits the claim. Agents may also include electronic data transmission submitters.

(3) "Allied Agency" means local and regional allied agencies and includes local mental health authority, community mental health programs, Oregon Youth Authority, Department of Corrections, local health departments, schools, education service districts, developmental disability service programs, area agencies on aging, federally recognized American Indian tribes, and other governmental agencies or regional authorities that have a contract (including an interagency, intergovernmental, or grant agreement, or an agreement with an American Indian tribe pursuant to ORS 190.110) with the Department to provide for the delivery of services to covered individuals and that request to conduct electronic data transactions in relation to the contract.

(4) "Clinic" means a group practice, facility, or organization that is an employer of a provider, if a provider is required as a condition of employment to turn over his fees to the employer; the facility in which the service is provided, if a provider has a contract under which the facility submits the claim; or a foundation, plan, or similar organization operating an organized health care delivery system, if a provider has a contract under which the organization submits the claim; and the group practice, facility, or organization is enrolled with the Department, and payments are made to the group practice, facility, or organization. If the entity solely submits billings on behalf of providers and payments are made to each provider, then the entity is an agent.

(5) "Confidential Information" means information relating to covered individuals which is exchanged by and between the Department, a provider, PHP, clinic, allied agency, or agents for various business purposes, but which is protected from disclosure to unauthorized individuals or entities by applicable state and federal statutes such as ORS 344.600, 410.150, 411.320, 418.130, or the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and its implementing regulations. These statutes and regulations are collectively referred to as "Privacy Statutes and Regulations."

(6) "Contract" means a specific written agreement between the Department and a provider, PHP, clinic, or allied agency that provides or manages the provision of services, goods, or supplies to covered individuals and where the Department and a provider, PHP, clinic, or allied agency may exchange data. A contract specifically includes, without limitation, a Department provider enrollment agreement, fully capitated heath plan managed care contract, dental care organization managed care contract, mental health organization managed care contract, chemical dependency organization managed care contract, physician care organization managed care contract, a county financial assistance agreement, or any other applicable written agreement, interagency agreement, intergovernmental agreement, or grant agreement between the Department and a provider, PHP, clinic, or allied agency.

(7) "Covered Entity" means a health plan, health care clearing house, health care provider, or allied agency that transmits any health information in electronic form in connection with a transaction, including direct data entry (DDE), and who must comply with the National Provider Identifier (NPI) requirements of 45 CFR 162.402 through 162.414.

(8) "Covered Individual" means individuals who are eligible for payment of certain services or supplies provided to them or their eligible dependents by or through a provider, PHP, clinic, or allied agency under the terms of a contract applicable to a governmental program for which the Department processes or administers data transmissions.

(9) "Data" means a formalized representation of specific facts or concepts suitable for communication, interpretation, or processing by individuals or by automatic means.

(10) "Data Transmission" means the transfer or exchange of data between the Department and a web portal or electronic data interchange (EDI) submitter by means of an information system which is compatible for that purpose and includes without limitation, web portal, EDI, electronic remittance advice (ERA), or electronic media claims (EMC) transmissions.

(11) "Department" means the Department of Human Services.

(12) "Department Network and Information Systems" means the Department's computer infrastructure that provides personal communications, confidential information, regional, wide area and local networks, and the internetworking of various types of networks on behalf of the Department.

(13) "Direct Data Entry (DDE)" means the process using dumb terminals or computer browser screens where data is directly keyed into a health plan's computer by a provider or its agent, such as through the use of a web portal.

(14) "Electronic Data Interchange (EDI)" means the exchange of business documents from application to application in a federally mandated format or, if no federal standard has been promulgated, using bulk transmission processes and other formats as the Department designates for EDI transactions. For purposes of these rules (OAR 407-120-0100 through 407-120-0200), EDI does not include electronic transmission by web portal.

(15) "Electronic Data Interchange Submitter" means an individual or entity authorized to establish the electronic media connection with the Department to conduct an EDI transaction. An EDI submitter may be a trading partner or an agent of a trading partner.

(16) "Electronic Media" means electronic storage media including memory devices in computers or computer hard drives; any removable or transportable digital memory medium such as magnetic tape or disk, optical disk, or digital memory card; or transmission media used to exchange information already in electronic storage media. Transmission media includes but is not limited to the internet (wide-open), extranet (using internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks, and the physical movement of removable or transportable electronic storage media. Certain transmissions, including paper via facsimile and voice via telephone, are not considered transmissions by electronic media because the information being exchanged did not exist in electronic form before transmission.

(17) "Electronic Media Claims (EMC)" means an electronic media means of submitting claims or encounters for payment of services or supplies provided by a provider, PHP, clinic, or allied agency to a covered individual.

(18) "Electronic Remittance Advice (ERA)" means an electronic file in X12 format containing information pertaining to the disposition of a specific claim for payment of services or supplies rendered to covered individuals which are filed with the Department on behalf of covered individuals by providers, clinics, or allied agencies. The documents include, without limitation, the provider name and address, individual name, date of service, amount billed, amount paid, whether the claim was approved or denied, and if denied, the specific reason for the denial. For PHPs, the remittance advice file contains information on the adjudication status of encounter claims submitted.

(19) "Electronic Data Transaction (EDT)" means a transaction governed by the Health Insurance Portability and Accountability Act (HIPAA) transaction rule, conducted by either web portal or EDI.

(20) "Envelope" means a control structure in a mutually agreed upon format for the electronic interchange of one or more encoded data transmissions either sent or received by an EDI submitter or the Department.

(21) "HIPAA Transaction Rule" means the standards for electronic transactions at 45 CFR Part 160 and 162 (version in effect on January 1, 2008) adopted by the Department of Health and Human Services (DHHS) to implement the Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d et. seq.

(22) "Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of an information system or information asset including but not limited to unauthorized disclosure of information, failure to protect user IDs, and theft of computer equipment using or storing Department information assets or confidential information.

(23) "Individual User Profile (IUP)" means Department forms used to authorize a user, identify their job assignment, and the required access to the Department's network and information system. It generates a unique security access code used to access the Department's network and information system.

(24) "Information Asset" means all information, also known as data, provided through the Department, regardless of the source, which requires measures for security and privacy of the information.

(25) "Information System" means an interconnected set of information resources under the same direct management control that shares common functionality. A system normally includes hardware, software, information, data, applications, communications, and trained personnel necessary for successful data transmission.

(26) "Lost or Indecipherable Transmission" means a data transmission which is never received by or cannot be processed to completion by

the receiving party in the format or composition received because it is garbled or incomplete, regardless of how or why the message was rendered garbled or incomplete.

(27) "Mailbox" means the term used by the Department to indicate trading partner-specific locations on the Department's secure file transfer protocol (SFTP) server to deposit and retrieve electronic data identified by a unique Department assigned trading partner number.

(28) "Password" means the alpha-numeric codes assigned to an EDI submitter by the Department for the purpose of allowing access to the Department's information system, including the web portal, for the purpose of successfully executing data transmissions or otherwise carrying out the express terms of a trading partner agreement or provider enrollment agreement and these rules.

(29) "Personal Identification Number (PIN)" means the alpha-numeric codes assigned to web portal submitters by the Department for the purpose of allowing access to the Department's information system, including the web portal, for the purpose of successfully executing DDE, data transmissions, or otherwise carrying out the express terms of a trading partner agreement, provider enrollment agreement, and these rules.

(30) "Prepaid Health Plan (PHP) or Plan" means a managed health care, dental care, chemical dependency, physician care organization, or mental health care organization that contracts with the Department on a case managed, prepaid, capitated basis under the Oregon Health Plan (OHP).

(31) "Provider" means an individual, facility, institution, corporate entity, or other organization which supplies or provides for the supply of services, goods or supplies to covered individuals pursuant to a contract, including but not limited to a provider enrollment agreement with the Department. A provider does not include billing providers as used in the Division of Medical Assistance (DMAP) general rules. DMAP billing providers are defined in these rules as agents, except for DMAP billing providers that are clinics.

(32) "Provider Enrollment Agreement" means an agreement between the Department and a provider for payment for the provision of covered services to covered individuals.

(33) "Registered Transaction" means each type of EDI transaction applicable to a trading partner that must be registered with the Department before it can be tested or approved for EDI transmission.

(34) "Security Access Codes" means the alpha-numeric codes assigned by the Department to the web portal submitter or EDI submitter for the purpose of allowing access to the Department's information system, including the web portal, to execute data transmissions or otherwise carry out the express terms of a trading partner agreement, provider enrollment agreement, and these rules. Security access codes may include passwords, PINs, or other codes.

(35) "Source Documents" means documents or electronic files containing underlying data which is or may be required as part of a data transmission with respect to a claim for payment of charges for medical services or supplies provided to a covered individual, or with respect to any other transaction. Examples of data contained within a specific source document include but are not limited to an individual's name and identification number, claim number, diagnosis code for the services provided, dates of service, service procedure description, applicable charges for the services provided, and a provider's, PHP's, clinic's, or allied agency's name, identification number, and signature.

(36) "Standard" means a rule, condition, or requirement describing the following information for products, systems, or practices:

(a) Classification of components;

(b) Specification of materials, performance, or operations; or

(c) Delineation of procedures.

(37) "Standards for Electronic Transactions" mean a transaction that complies with the applicable standard adopted by DHHS to implement standards for electronic transactions.

(38) "Transaction" means the exchange of data between the Department and a provider using web portal access or a trading partner using electronic media to carry out financial or administrative activities.

(39) "Trade Data Log" means the complete written summary of data and data transmissions exchanged between the Department and an EDI submitter during the period of time a trading partner agreement is in effect and includes but is not limited to sender and receiver information, date and time of transmission, and the general nature of the transmission.

(40) "Trading Partner" means a provider, PHP, clinic, or allied agency that has entered into a trading partner agreement with the Department in order to satisfy all or part of its obligations under a contract by means of EDI, ERA, or EMC, or any other mutually agreed means of electronic exchange or transfer of data.

(41) "Trading Partner Agreement (TPA)" means a specific written request by a provider, PHP, clinic, or allied agency to conduct EDI transactions that governs the terms and conditions for EDI transactions in the performance of obligations under a contract. A provider, PHP, clinic, or allied agency that has executed a TPA will be referred to as a trading partner in relation to those functions.

(42) "User" means any individual or entity authorized by the Department to access network and information systems or information assets.

(43) "User Identification Security (UIS)" means a control method required by the Department to ensure that only authorized users gain access to specified information assets. One method of control is the use of passwords and PINs with unique user identifications.

(44) "Web Portal" means a site on the World Wide Web that typically provides personalized capabilities to its visitors and a pathway to other content. It is designed to use distributed applications, different numbers, and types of middleware and hardware to provide services from a number of different sources.

(45) "Web Portal Submitter" means an individual or entity authorized to establish an electronic media connection with the Department to conduct a DDE transaction. A web portal submitter may be a provider or a provider's agent.

Stat. Auth.: ORS 409.050, 414.065
Stats. Implemented: ORS 414.065
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03; DMAP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-28-08; Renumbered from 410-001-0100, DHSD 1-2008, f. & cert. ef. 2-1-08

407-120-0110
Purpose

(1) These rules establish requirements applicable to providers, PHPs, and allied agencies that want to conduct electronic data transactions with the Department. These rules govern the conduct of all web portal or EDI transactions with the Department. These rules only apply to services or items that are paid for by the Department. If the service or item is paid for by a plan or an allied agency, these rules do not apply.

(2) These rules establish the Department's electronic data transaction requirements for purposes of the Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d — 1320d-8, Public Law 104-191, sec. 262 and sec. 264, and the implementing standards for electronic transactions rules. Where a federal HIPAA standard has been adopted for an electronic data transaction, this rule implements and does not alter the federal standard.

(3) These rules establish procedures that must be followed by any provider, PHP, or allied agency in the event of a security or privacy incident, regardless of whether the incident is related to the use of an electronic data transaction.

Stat. Auth.: ORS 409.050, 414.065
Stats. Implemented: ORS 414.065
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03; DMAP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-28-08; Renumbered from 410-001-0110, DHSD 1-2008, f. & cert. ef. 2-1-08

407-120-0112
Scope and Sequence of Electronic Data Transmission Rules

(1) The Department communicates with and receives communications from its providers, PHPs, and allied agencies using a variety of methods appropriate to the services being provided, the nature of the entity providing the services, and constantly changing technology. These rules describe some of the basic ways that the Department will exchange data electronically. Additional details may be provided in the Department's access control rules, provider-specific rules, or the applicable contract documents.

(2) Access to eligibility information about covered individuals may occur using one or more of the following methods:

(a) Automated voice response, via a telephone;

(b) Web portal access;

(c) EDI submitter access; or

(d) Point of sale (POS) for pharmacy providers.

(3) Claims for which the Department is responsible for payment or encounter submissions made to the Department may occur using one or more of the following methods:

(a) Paper, using the form specified in the provider specific rules and supplemental billing guidance. Providers may submit paper claims, except that pharmacy providers are required to use the POS process for claims submission and plans are required to use the 837 electronic formats;

(b) Web portal access;

(c) EDI submitter access; or

(d) POS for pharmacy providers.

(4) Department informational updates, provider record updates, depository for plan reports, or EDT as specified by the Department for contract compliance.

(5) Other Department network and information system access is governed by specific program requirements, which may include but is not limited to IUP access. Affected providers, PHPs, and allied agencies will be separately instructed about the access and requirements. Incidents are subject to these rules.

(6) Providers and allied agencies that continue to use only paper formats for transactions are only subject to the confidentiality and security rule, OAR 407-120-0170.

Stat. Auth.: ORS 409.050, 414.065
Stats. Implemented: ORS 414.065
Hist.: DHSD 13-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-28-08; DHSD 1-2008, f. & cert. ef. 2-1-08

407-120-0114
Provider Enrollment Agreement

(1) When a provider applies to enroll, the application form will include information about how to participate in the web portal for use of DDE and automated voice response (AVR) inquiries. The enrollment agreement will include a section describing the process that will permit the provider, once enrolled, to participate in DDE over the Internet using the secure Department web portal.

(2) When the provider number is issued by the Department, the provider will also receive two PINs: one that may be used to access the web portal and one that may be used for AVR.

(a) If the PINs are not activated within 60 days of issuance, the Department will initiate a process to inactivate the PIN. If the provider wants to use PIN-based access to the web portal or AVR after deactivation, the provider must submit an update form to obtain another PIN.

(b) Activating the PIN will require Internet access and the provider must supply security data that will be associated with the use of the PIN.

(c) Providers using the PIN are responsible for protecting the confidentiality and security of the PIN pursuant to OAR 407-120-0170.

Stat. Auth.: ORS 409.050, 414.065
Stats. Implemented: ORS 414.065
Hist.: DHSD 13-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-28-08; DHSD 1-2008, f. & cert. ef. 2-1-08

407-120-0116
Web Portal Submitter

(1) Any provider activating their web portal access for web portal submission may be a web portal submitter. The provider will be referred to as the web portal submitter when functioning in that capacity, and shall be required to comply with these rules governing web portal submitters.

(2) The authorized signer of the provider enrollment agreement shall be the individual who is responsible for the provider's DDE claims submission process.

(a) If a provider submits their own claims directly, the provider will be referred to as the web portal submitter when functioning in that capacity and shall be required to comply with these rules governing web portal submitters.

(b) If a provider uses an agent or clinic to submit DDE claims using the Department's web portal, the agent or clinic will be referred to as the web portal submitter when functioning in that capacity and shall be required to comply with these rules governing web portal submitters.

Stat. Auth.: ORS 409.050, 414.065
Stats. Implemented: ORS 414.065
Hist.: DHSD 13-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-28-08; DHSD 1-2008, f. & cert. ef. 2-1-08

407-120-0118
Conduct of Direct Data Entry Using the Web Portal

(1) The web portal submitter is responsible for the conduct of the DDE transactions submitted on behalf of the provider, as follows:

(a) Accuracy of Web Portal Submissions. The web portal submitter must take reasonable care to ensure that data and DDE transmissions are timely, complete, accurate, and secure, and must take reasonable precautions to prevent unauthorized access to the information system or the DDE transmission. The Department will not correct or modify an incorrect DDE transaction prior to processing. The transactions may be rejected and the web portal submitter will be notified of the rejection.

(b) Cost of Equipment. The web portal submitter and the Department must bear their own information system costs. The web portal submitter must, at their own expense, obtain access to Internet service that is compatible with and has the capacity for secure access to the Department's web portal. Web portal submitters must pay their own costs for all charges, including but not limited to charges for equipment, software and services, Internet connection and use time, terminals, connections, telephones, and modems. The Department is not responsible for providing technical assistance for access to or use of Internet web portal services or the processing of a DDE transaction.

(c) Format of DDE Transactions. The web portal submitter must send and receive all data transactions in the Department's approved format. Any attempt to modify or alter the DDE transaction format may result in denial of web portal access.

(d) Re-submissions. The web portal submitter must maintain source documents and back-up files or other means sufficient to re-create a data transmission in the event that re-creation becomes necessary for any purpose, within timeframes required by federal or state law, or by contractual agreement. Back ups, archives, or related files are subject to the terms of these rules to the same extent as the original data transmission.

(2) Security and Confidentiality. To protect security and confidentiality, web portal submitters must comply with the following:

(a) Refrain from copying, reverse engineering, disclosing, publishing, distributing, or altering any data or data transmissions, except as permitted by these rules or the contract, or use the same for any purpose other than that which the web portal submitter was specifically given access and authorization by the Department or the provider.

(b) Refrain from obtaining access by any means to any data or the Department's network and information system for any purpose other than that which the web portal submitter has received express authorization to receive access. If the web portal submitter receives data or data transmissions from the Department which are clearly not intended for the receipt of web portal submitter, the web portal submitter will immediately notify the Department and make arrangements to return or re-transmit the data or data transmission to the Department. After re-transmission, the web portal submitter must immediately delete the data contained in the data transmission from its information system.

(c) Install necessary security precautions to ensure the security of the DDE transmission or records relating to the information system of either the Department or the web portal submitter when the information system is not in active use by the web portal submitter.

(d) Protect and maintain, at all times, the confidentiality of security access codes issued by the Department. Security access codes are strictly confidential and specifically subject, without limitation, to all of the restrictions in OAR 407-120-0170. The Department may change the designated security access codes at any time and in any manner as the Department in its sole discretion considers necessary.

(e) Install, maintain, and use security measures for confidential information transmitted between a provider and the web portal submitter if a provider uses an agent or clinic as the web portal submitter.

Stat. Auth.: ORS 409.050, 414.065
Stats. Implemented: ORS 414.065
Hist.: DHSD 13-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-28-08; DHSD 1-2008, f. & cert. ef. 2-1-08

407-120-0120
Registration Process – EDI Transactions

(1) The EDI transaction process is preferred by providers, PHPs, and allied agencies for conducting batch or real time transactions, rather than the individual data entry process used for DDE. EDI registration is an administrative process governed by these rules. The EDI registration process begins with the submission of a TPA by a provider, PHP, clinic, or allied agency, including all requirements and documentation required by these rules.

(2) Trading partners must be Department providers, PHPs, clinics, or allied agencies with a current Department contract. The Department will not accept a TPA from individuals or entities who do not have a current contract with the Department.

(a) The Department may receive and hold the TPA for individuals or entities that have submitted a provider enrollment agreement or other pending contract, subject to the satisfactory execution of the pending document.

(b) Termination, revocation, suspension, or expiration of the contract will result in the concurrent termination, revocation, suspension, or expiration of the TPA without any additional notice; except that the TPA will remain in effect to the extent necessary for a trading partner or the Department to complete obligations involving EDI under the contract for dates of service when the contract was in effect. Contracts that are period-

ically renewed or extended do not require renewal or extension of the TPA unless there is a lapse of time between contracts.

(c) Failure to identify a current Department contract during the registration process will result in a rejection of the TPA. The Department will verify that the contract numbers identified by a provider, PHP, clinic, or allied agency are current contracts.

(d) If contract number or contract status changes, the trading partner must provide the Department with updated information within five business days of the change in contract status. If the Department determines that a valid contract no longer exists, the Department shall discontinue EDI transactions applicable for any time period in which the contract no longer exists; except that the TPA will remain in effect to the extent necessary for the trading partner or the Department to complete obligations involving EDI under the contract for dates of service when the contract was in effect.

(3) Trading Partner Agreement. To register as a trading partner with the Department, a provider, PHP, clinic, or allied agency must submit a signed TPA to the Department.

(4) Application for Authorization. In addition to the requirements of section (3) of this rule, a trading partner must submit an application for authorization to the Department. The application provides specific identification and legal authorization from the trading partner for an EDI submitter to conduct EDI transactions on behalf of a trading partner.

(5) Trading Partner Agents. A trading partner may use agents to facilitate the electronic transmission of data. If a trading partner will be using an agent as an EDI submitter, the application for authorization required under section (4) of this rule must identify and authorize an EDI submitter and must include the EDI certification signed by an EDI submitter before the Department may accept electronic submission from or send electronic transmission to an EDI submitter.

(6) EDI Registration. In addition to the requirements of section (3) of this rule, a trading partner must also submit its EDI registration form. This form requires the trading partner or its authorized EDI submitter to register an EDI submitter and the name and type of EDI transaction they are prepared to conduct. Signature of the trading partner or authorized EDI submitter is required on the EDI registration form. The registration form will also permit the trading partner to identify the individuals or EDI submitters who are authorized to submit or receive EDI registered transactions.

(7) Review and Acceptance Process. The Department will review the documentation provided to determine compliance with sections (1) through (6) of this rule. The information provided may be subject to verification by the Department. When the Department determines that the information complies with these rules, the Department will notify the trading partner and EDI submitter by email about any testing or other requirements applicable to place the registered transaction into a production environment.

Stat. Auth.: ORS 409.050, 414.065
Stats. Implemented: ORS 414.065
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03; DMAP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-28-08; Renumbered from 410-001-0120, DHSD 1-2008, f. & cert. ef. 2-1-08

407-120-0130
Trading Partner as EDI Submitter – EDI Transactions

(1) A trading partner may be an EDI submitter. Registered trading partners that also qualify as an EDI submitter may submit their own EDI transactions directly to the Department. A trading partner will be referred to as an EDI submitter when functioning in that capacity and will be required to comply with applicable EDI submitter rules, except as provided in section (3) of this rule.

(2) Authorization and Registration Designating Trading Partner as EDI Submitter. Before acting as an EDI submitter, a trading partner must designate in the application for application that they are an EDI submitter who is authorized to send and receive data transmissions in the performance of EDI transactions. A trading partner must complete the "Trading Partner Application for Authorization to Submit EDI Transactions" and the "EDI Submitter Information" required in the application. A trading partner must also submit the EDI registration form identifying them as an EDI submitter. A trading partner must notify the Department of any material changes in the information no less than ten days prior to the effective date of the change.

(3) EDI Submitter Certification Conditions. Where a trading partner is acting as its own EDI submitter, the trading partner is not required to submit the EDI submitter certification conditions in the application for authorization applicable to agents.

Stat. Auth.: ORS 409.050, 414.065
Stats. Implemented: ORS 414.065
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03; DMAP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-28-08; Renumbered from 410-001-0130, DHSD 1-2008, f. & cert. ef. 2-1-08

407-120-0140
Trading Partner Agents as EDI Submitters — EDI Transactions

(1) Responsibility for Agents. If a trading partner uses the services of an agent, including but not limited to an EDI submitter in any capacity in order to receive, transmit, store, or otherwise process data or data transmissions or perform related activities, a trading partner shall be fully responsible to the Department for the agent's acts.

(2) Notices Regarding EDI Submitter. Prior to the commencement of an EDI submitter's services, a trading partner must designate in the application for authorization the specific EDI submitters that are authorized to send and receive data transmissions in the performance of EDI transactions of a trading partner. A trading partner must complete the "Trading partner Authorization of EDI Submitter" and the "EDI Submitter Information" required in the application. A trading partner must also submit the EDI registration form identifying and providing information about an EDI submitter. A trading partner or authorized EDI submitter must notify the Department of any material changes in the EDI submitter authorization or information no less than five days prior to the effective date of the changes.

(3) EDI Submitter Authority. A trading partner must authorize the actions that an EDI submitter may take on behalf of a trading partner. The application for authorization permits a trading partner to authorize which decisions may only be made by a trading partner and which decisions are authorized to be made by an EDI submitter. The EDI submitter information authorized in the application for authorization will be recorded by the Department in an EDI submitter profile. The Department may reject EDI transactions from an EDI submitter acting without authorization from a trading partner.

(4) EDI Submitter Certification Conditions. Each authorized EDI submitter acting as an agent of a trading partner must execute and comply with the EDI submitter certification conditions that are incorporated into the application for authorization. Failure to include the signed EDI submitter certification conditions with the application shall result in a denial of EDI submitter authorization by the Department. Failure of an EDI submitter to comply with the EDI submitter certification conditions may result in termination of EDI submitter registration for EDI transactions with the Department.

(5) EDI Submitters Responsibilities. In addition to the requirements of section (1) of this rule, a trading partner is responsible for ensuring that an EDI submitter makes no unauthorized changes in the data content of all data transmissions or the contents of an envelope, and that an EDI submitter will take all appropriate measures to maintain the timeliness, accuracy, truthfulness, confidentiality, security, and completeness of each data transmission. A trading partner is responsible for ensuring that its EDI submitters are specifically advised of, and will comply with, the terms of these rules and any TPA.

Stat. Auth.: ORS 409.050, 414.065
Stats. Implemented: ORS 414.065
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03; DMAP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-28-08; Renumbered from 410-001-0140, DHSD 1-2008, f. & cert. ef. 2-1-08

407-120-0150
Testing – EDI Transactions

(1) When a trading partner or authorized EDI submitter registers an EDI transaction with the Department, the Department may require testing before authorizing the transaction. Testing may include business-to-business testing. An EDI submitter must be able to demonstrate its capacity to send and receive each transaction type for which it has registered. The Department will reject any EDI transaction if an EDI submitter either refuses or fails to comply with the Department testing requirements.

(2) The Department may require EDI submitters to complete compliance testing at an EDI submitter's expense for each transaction type if either the Department or an EDI submitter has experienced a change to hardware or software applications by entering into business-to-business testing.

(3) When business-to-business testing is completed to the Department's satisfaction, the Department will notify an EDI submitter that it will register and accept the transactions in the production environment. This notification authorizes an EDI submitter to submit the registered EDI transactions to the Department for processing and response, as applicable. If there are any changes in the trading partner or EDI submitter authorization, profile data or EDI registration information on file with the Department, updated information must be submitted to the Department as required in OAR 407-120-0190.

(4) Testing will be conducted using secure electronic media communications methods.

(5) An EDI submitter may be required to re-test with the Department if the Department format changes or if the EDI submitter format changes.

Stat. Auth.: ORS 409.050, 414.065
Stats. Implemented: ORS 414.065
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03; DMAP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-28-08; Renumbered from 410-001-0150, DHSD 1-2008, f. & cert. ef. 2-1-08

407-120-0160
Conduct of Transactions — EDI Transactions

(1) EDI Submitter Obligations. An EDI submitter is responsible for the conduct of the EDI transactions registered on behalf of a trading partner, including the following:

(a) EDI Transmission Accuracy. An EDI submitter shall take reasonable care to ensure that data and data transmissions are timely, complete, accurate, and secure; and shall take reasonable precautions to prevent unauthorized access to the information system, the data transmission, or the contents of an envelope which is transmitted either to or from the Department. The Department will not correct or modify an incorrect transaction prior to processing. The transaction may be rejected and an EDI submitter notified of the rejection.

(b) Re-transmission of Indecipherable Transmissions. Where there is evidence that a data transmission is lost or indecipherable, the sending party must make best efforts to trace and re-transmit the original data transmission in a manner which allows it to be processed by the receiving party as soon as practicable.

(c) Cost of Equipment. An EDI submitter and the Department will pay for their own information system costs. An EDI submitter shall, at its own expense, obtain and maintain its own information system. An EDI submitter shall pay its own costs for all charges related to data transmission including, without limitation, charges for information system equipment, software and services, electronic mailbox maintenance, connect time, terminals, connections, telephones, modems, any applicable minimum use charges, and for translating, formatting, sending, and receiving communications over the electronic network to the electronic mailbox, if any, of the Department. The Department is not responsible for providing technical assistance in the processing of an EDI transaction.

(d) Back-up Files. EDI submitters must maintain adequate data archives and back-up files or other means sufficient to re-create a data transmission in the event that re-creation becomes necessary for any purpose, within timeframes required by state and federal law, or by contractual agreement. Data archives or back-up files shall be subject to these rules to the same extent as the original data transmission.

(e) Transmissions Format. Except as otherwise provided herein, EDI submitters must send and receive all data transmissions in the federally mandated format, or (if no federal standard has been promulgated) other formats as the Department designates.

(f) Testing. EDI submitters must, prior to the initial data transmission and throughout the term of a TPA, test and cooperate with the Department in the testing of information systems as the Department considers reasonably necessary to ensure the accuracy, timeliness, completeness, and confidentiality of each data transmission.

(2) Security and Confidentiality. To protect security and confidentiality of transmitted data, EDI submitters must comply with the following:

(a) Refrain from copying, reverse engineering, disclosing, publishing, distributing, or altering any data, data transmissions, or the contents of an envelope, except as necessary to comply with the terms of these rules or the TPA, or use the same for any purpose other than that which an EDI submitter was specifically given access and authorization by the Department or a trading partner;

(b) Refrain from obtaining access by any means to any data, data transmission, envelope, mailbox, or the Department's information system for any purpose other than that which an EDI submitter has received express authorization. If an EDI submitter receives data or data transmissions from the Department which clearly are not intended for an EDI submitter, an EDI submitter shall immediately notify the Department and make arrangements to return or re-transmit the data or data transmission to the Department. After re-transmission, an EDI submitter shall immediately delete the data contained in the data transmission from its information system;

(c) Install necessary security precautions to ensure the security of the information systems or records relating to the information systems of either the Department or an EDI submitter when the information system is not in active use by an EDI submitter;

(d) Protect and maintain the confidentiality of security access codes issued by the Department to an EDI submitter; and

(e) Provide special protection for security and other purposes, where appropriate, by means of authentication, encryption, the use of passwords, or other means. Unless otherwise provided in these rules, the recipient of a protected data transmission must at least use the same level of protection for any subsequent transmission of the original data transmission.

(3) Department Obligations. The Department shall:

(a) Make available to an EDI submitter, by electronic media, those types of data and data transmissions which an EDI submitter is authorized to receive.

(b) Inform an EDI submitter of acceptable formats in which data transmissions may be made and provide notification to an EDI submitter within reasonable time periods consistent with HIPAA transaction standards, if applicable, or at least 30 days prior by electronic notice of other changes in formats.

(c) Provide an EDI submitter with security access codes that will allow an EDI submitter access to the Department's information system. Security access codes are strictly confidential and EDI submitters must comply with all of the requirements of OAR 407-120-0170. The Department may change the designated security access codes at any time and manner as the Department, in its sole discretion, deems necessary. The release of security access codes shall be limited to authorized electronic data personnel of an EDI submitter and the Department with a need to know.

Stat. Auth.: ORS 409.050, 414.065
Stats. Implemented: ORS 414.065
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03; DMAP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-28-08; Renumbered from 410-001-0160, DHSD 1-2008, f. & cert. ef. 2-1-08

407-120-0165
Pharmacy Point of Sale Access

Pharmacy providers who electronically bill pharmaceutical claims must participate in and submit claims using the POS system, except as provided in OAR 410-121-0150.

Stat. Auth.: ORS 409.050, 414.065
Stats. Implemented: ORS 414.065
Hist.: DHSD 13-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-28-08; DHSD 1-2008, f. & cert. ef. 2-1-08

407-120-0170
Confidentiality and Security

(1) Individually Identifiable Health Information. All providers, PHPs, and allied agencies are responsible for ensuring the confidentiality of individually identifiable health information, consistent with the requirements of the privacy statutes and regulations, and shall take reasonable action to prevent any unauthorized disclosure of confidential information by a provider, PHP, allied agency, or other agent. A provider, web portal submitter, trading partner, EDI submitter, or other agent must comply with any and all applicable privacy statutes and regulations relating to confidential information.

(2) General Requirements for Electronic Submitters. A provider (web portal submitter), trading partner (EDI submitter), or other agent must maintain adequate security procedures to prevent unauthorized access to data, data transmissions, security access codes, or the Department's information system, and must immediately notify the Department of all unauthorized attempts by any individual or entity to obtain access to or otherwise tamper with the data, data transmissions, security access codes, or the Department's information system.

(3) Notice of Unauthorized Disclosures. All providers, PHPs, and allied agencies must promptly notify the Department of all unlawful or unauthorized disclosures of confidential information that come to its agents' attention, and shall cooperate with the Department if corrective action is required by the Department. The Department will promptly notify a provider, PHP, or allied agency of all unlawful or unauthorized disclosures of confidential information in relation to a provider, PHP, or allied agency that come to the Department's or its agents' attention, and will cooperate with a provider, PHP, or allied agency if corrective action is required.

(4) Wrongful use of the web portal, EDI systems, or the Department's network and information system, or wrongful use or disclosure of confidential information by a provider, allied agency, electronic submitters, or their agents may result in the immediate suspension or revocation of any access granted under these rules or other Department rules, at the sole discretion of the Department.

(5) A provider, allied agency, PHP, or electronic submitter must report to the Department's Information Security Office at dhsinfo.security@state.or.us and to the Department program contact individual, any privacy or security incidents that compromise, damage, or cause a loss of protection

to confidential information, information assets, or the Department's network and security system. Reports must be made in the following manner:

(a) No later than five business days from the date on which a provider, allied agency, PHP, or electronic submitter becomes aware of the incident; and

(b) Provide the results of the incident assessment findings and resolution strategies no later than 30 business days after the report is due under section (4)(a).

(6) A provider, allied agency, PHP, or electronic submitter must comply with the Department's requests for corrective action concerning a privacy or security incident and with applicable laws requiring mitigation of harm caused by the unauthorized use or disclosure of confidential information.

Stat. Auth.: ORS 409.050, 414.065
Stats. Implemented: ORS 414.065
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03; DMAP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-28-08; Renumbered from 410-001-0170, DHSD 1-2008, f. & cert. ef. 2-1-08

407-120-0180
Record Retention and Audit

(1) Records Retention. A provider, web portal submitter, trading partner, and EDI submitter shall maintain, for a period of no less than seven years from the date of service, complete, accurate, and unaltered copies of all source documents associated with all data transmissions.

(2) EDI Trade Data Log. An EDI submitter must establish and maintain a trade data log that must record all data transmissions taking place between an EDI submitter and the Department during the term of a TPA. A trading partner and EDI submitter must take necessary and reasonable steps to ensure that the trade data log constitutes a current, truthful, accurate, complete, and unaltered record of all data transmissions between the parties and must be retained by each party for no less than 24 months following the date of the data transmission. The trade data log may be maintained on electronic media or other suitable means provided that, if necessary, the information may be timely retrieved and presented in readable form.

(3) Right to Audit. A provider must allow and require any web portal submitter to allow, and a trading partner must allow and require an EDI submitter or other agent to allow access to the Department, the Oregon Secretary of State, the Oregon Department of Justice Medicaid Fraud Unit, or its designees, and DHHS or its designees to audit relevant business records, source documents, data, data transmissions, trade data logs, or information systems of a provider and its web portal submitter, and a trading partner, and its agents, as necessary, to ensure compliance with these rules. A provider must allow and require its web portal submitter to allow, and a trading partner must allow and require an EDI submitter or other agent to allow the Department, or its designee, access to ensure that adequate security precautions have been made and are implemented to prevent unauthorized disclosure of any data, data transmissions, or other information.

Stat. Auth.: ORS 409.050, 414.065
Stats. Implemented: ORS 414.065
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03; DMAP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-28-08; Renumbered from 410-001-0180, DHSD 1-2008, f. & cert. ef. 2-1-08

407-120-0190
Material Changes

(1) Changes in Any Material Information – EDT Process. A trading partner must submit an updated TPA, application for authorization, or EDI registration form to the Department within ten business days of any material change in information. A material change includes but is not limited to mailing or email address change, contract number or contract status (termination, expiration, extension), identification of authorized individuals of a trading partner or EDI submitter, the addition or deletion of authorized transactions, or any other change that may affect the accuracy of or authority for an EDI transaction. The Department may act on data transmissions submitted by a trading partner and its EDI submitter based on information on file in the application for authorization and EDI registration forms until an updated form has been received and approved by the Department. A trading partner's signature or the signature of an authorized EDI submitter is required to ensure that an updated TPA, authorization, or EDI registration form is valid and authorized.

(2) Changes in Any Material Information – Web Portal Access. Providers must submit an updated web portal registration form to the Department within ten business days of any material changes in information. A material change includes but is not limited to mailing or email address change, contract number or contract status (termination, suspension, expiration), identification of web portal submitter contact information, or any other change that may affect the accuracy of or authority for a DDE transaction. The Department is authorized to act on data transmissions submitted by a provider and its web portal submitter based on information on file in the web portal registration form until an updated form has been received and approved by the Department. A provider's signature or the signature of an authorized business representative is required to ensure that an updated web portal registration form is valid and authorized.

(3) Failure to submit a timely updated form may impact the ability of a data transaction to be processed without errors. Failure to submit a signed, updated form may result in the rejection of a data transmission.

Stat. Auth.: ORS 409.050, 414.065
Stats. Implemented: ORS 414.065
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03; DMAP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-28-08; Renumbered from 410-001-0190, DHSD 1-2008, f. & cert. ef. 2-1-08

407-120-0200
Department System Administration

(1) No individual or entity shall be registered to conduct a web portal or an EDI transaction with the Department except as authorized under these the rules. Eligibility and continued participation as a provider or web portal submitter in the conduct of DDE transactions, or as a trading partner or EDI submitter in the conduct of registered transactions, is conditioned on the execution and delivery of the documents required in these rules, the continued accuracy of that information consistent with OAR 407-120-0190, and compliance with a requirements of these rules. Data, including confidential information, governed by these rules may be used for purposes related to treatment, payment, and health care operations and for the administration of programs or services by the Department.

(2) In addition to the requirements of section (1) of this rule, in order to qualify as a trading partner:

(a) An individual or entity must be a Department provider, PHP, clinic, or allied agency pursuant to a current valid contract; and

(b) A provider, PHP, clinic, or allied agency must have submitted an executed TPA and all related documentation, including the application for authorization, that identifies and authorizes an EDI submitter.

(3) In addition to the requirements of section (1) of this rule, in order to qualify as an EDI submitter:

(a) A trading partner must have identified the individual or entity as an authorized EDI submitter in the application for authorization;

(b) If a trading partner identifies itself as an EDI submitter, the application for authorization must include the information required in the "Trading Partner Authorization of EDI Submitter" and the "EDI Submitter Information"; and

(c) If a trading partner uses an agent as an EDI submitter, the application for authorization must include the information described in section (3)(b) and the signed EDI submitter certification.

(4) The EDI registration process described in these rules provides the Department with essential profile information that the Department may use to confirm that a trading partner or EDI submitter is not otherwise excluded or disqualified from submitting EDI transactions to the Department.

(5) Nothing in these rules or a TPA prevents the Department from requesting additional information from a trading partner or an EDI submitter to determine their qualifications or eligibility for registration as a trading partner or EDI submitter.

(6) The Department shall deny a request for registration as a trading partner or for authorization of an EDI submitter or an EDI registration if it finds any of the following:

(a) A trading partner or EDI submitter has substantially failed to comply with the applicable administrative rules or laws;

(b) A trading partner or EDI submitter has been convicted of (or entered a plea of nolo contendre) a felony or misdemeanor related to a crime or violation of federal or state public assistance laws or privacy statutes or regulations;

(c) A trading partner or EDI submitter is excluded from participation in the Medicare program, as determined by the DHHS secretary; or

(d) A trading partner or EDI submitter fails to meet the qualifications as a trading partner or EDI submitter.

(7) Failure to comply with these rules, trading partner agreement, or EDI submitter certification or failure to provide accurate information on an application or certification may also result in sanctions and payment recovery pursuant to applicable Department program contracts or rules.

(8) For providers using the DDE submission system by the Department web portal, failure to comply with the terms of these rules, a web portal registration form, or failure to provide accurate information on the registration form may result in sanctions or payment recovery pursuant to the applicable Department program contracts or rules.

Stat. Auth.: ORS 409.050, 414.065
Stats. Implemented: ORS 414.065
Hist.: OMAP 25-2003(Temp), f. & cert. ef. 3-21-03 thru 9-8-03; OMAP 55-2003, f. & cert. ef. 8-22-03; DMAP 30-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-28-08; Renumbered from 410-001-0200, DHSD 1-2008, f. & cert. ef. 2-1-08

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Department of Human Services,
Children, Adults and Families Division:
Self-Sufficiency Programs
Chapter 461

Rule Caption: Changing OARs affecting public assistance, medical assistance or food stamp clients.
Adm. Order No.: SSP 1-2008(Temp)
Filed with Sec. of State: 1-24-2008
Certified to be Effective: 1-24-08 thru 6-30-08
Notice Publication Date:
Rules Amended: 461-155-0180, 461-155-0235
Subject: OAR 461-155-0180, about poverty related income standards for certain Oregon Health Plan (OHP) Medicaid and SCHIP medical programs and OAR 461-155-0235, about OHP-OPU (usually referred to as OHP Standard) premium requirements are being amended to reflect the annual increase in the federal poverty levels published in the Federal Register.
Rules Coordinator: Annette Tesch—(503) 945-6067

461-155-0180
Poverty Related Income Standards; Not OSIP, OSIPM, QMB, TANF

(1) A Department program may cite this rule if the program uses a monthly income standard based on the federal poverty level.

(2) A monthly income standard set at 100 percent of the 2008 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(3) A monthly income standard set at 133 percent of the 2008 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(4) A monthly income standard set at 150 percent of the 2008 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(5) A monthly income standard set at 185 percent of the 2008 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(6) A monthly income standard set at 200 percent of the 2008 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 411.060, 411.070, 411.816, 418.100
Stats. Implemented: ORS 411.060, 411.070, 411.816, 418.100
Hist.: SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 1-2007, f. & cert. ef. 1-24-07; SSP 1-2008(Temp), f. & cert. ef. 1-24-08 thru 6-30-08

461-155-0235
OHP Premium Standards

In the OHP program, the following steps are followed to determine the amount of the monthly premium for the *filing group* (see OAR 461-110-0400):

(1) The number of persons in the OHP *need group* is determined in accordance with OAR 461-110-0630.

(2) The countable income of the *financial group* (see OAR 461-110-0530) is determined in accordance with OAR 461-150-0055 and 461-160-0700.

(3) Based on the number in the *need group* and the countable income, the monthly premium for each non-exempt OHP-OPU client in the *benefit group* (see OAR 461-110-0750) is determined from the following table: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 411.060, 411.598, 411.600
Stats. Implemented: ORS 411.060, 411.070, 411.598, 411.600
Hist.: AFS 35-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 22-1996, f. 5-30-96, cert. ef. 6-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 6-2003(Temp), f. 2-26-03, cert. ef. 3-1-03 thru 6-30-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 5-2004(Temp), f. & cert. ef. 3-1-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 2-2005, f. & cert. ef. 2-18-05; SSP 1-2006, f. & cert. ef. 1-24-06; SSP 8-2006, f. & cert. ef. 6-1-06; SSP 1-2007, f. & cert. ef. 1-24-07; SSP 1-2008(Temp), f. & cert. ef. 1-24-08 thru 6-30-08

Rule Caption: Changing OARs affecting public assistance, medical assistance or food stamp clients.
Adm. Order No.: SSP 2-2008(Temp)
Filed with Sec. of State: 1-28-2008
Certified to be Effective: 1-28-08 thru 6-30-08
Notice Publication Date:
Rules Adopted: 461-135-1125
Rules Amended: 461-115-0050, 461-135-1102
Subject: OAR 461-115-0050 about when individuals must file an application for public assistance, medical and food stamp programs is being amended to support the OHP Reservation List process by specifying that in order to be eligible for OPU category of Oregon Health Plan (OHP-OPU or OHP Standard) benefits, certain individuals are required to use the OHP Standard Reservation List Application - OHP Application (OHP 7210R). The OHP Standard Reservation List process is being implemented to track requesters for the program. Currently OHP Standard program applicants whose children or spouse are already receiving medical benefits from the Department of Human Services are not required to complete a new application when requesting OHP Standard benefits for themselves. The rule is being amended to require completion of the OHP 7210R in order to be considered for OHP Standard. The OHP 7210R will be mailed to individuals on the OHP Standard Reservation List. Placement on the list is based on a first come, first served basis. Depending upon their placement on the list and the funds available for new enrollees, persons with a reservation may be mailed a DHS 7210R. Requesters who are mailed the DHS 7210R may be considered for the OHP Standard program.

OAR 461-135-1102 about the effective dates for the OPU category of Oregon Health Plan (OHP-OPU or OHP Standard) is being amended to support the OHP Reservation List process. The OHP-OPU program is currently closed to new applicants unless they meet the provisions of OAR 461-135-1102. The OHP Standard Reservation List process is being implemented to track requesters for the program so that the Department may consider individuals for the OHP-OPU program as a new applicant at such times as the Department determines that new applicants may be added to the program. The reservation list is used to manage enrollment of new applicants into the OHP-OPU program within the limits of program authority and funding.

OAR 461-135-1125 about the reservation list and eligibility for the OPU category of the Oregon Health plan (OHP-OPU or OHP Standard) is being adopted in order to reopen OHP-OPU to a limited number of new applicants, by specifying the Department's procedures for placing individuals on and selecting individuals from a reservation list. A reservation is a list of individuals who may be considered for the OHP-OPU program as a new applicant at such times as the Department determines that new applicants may be added to the program. The list would be used to manage enrollment of new applicants into the program within the limits of program authority and funding.
Rules Coordinator: Annette Tesch—(503) 945-6067

461-115-0050
When an Application Must Be Filed

A client must file an application, or may amend an application already complete, as a prerequisite to receiving benefits as follows:

(1) A client may apply for the TA-DVS program as provided in OAR 461-135-1220.

(2) In all programs other than the TA-DVS program:

(a) Except as provided in sections (3), (4), (5), and (6) of this rule, a client wishing to apply for program benefits must submit a complete application on a form approved by the Department.

(b) An application is complete if all of the following requirements are met:

(A) All information necessary to determine the individual's eligibility and benefit amount is provided on the application for all individuals in the filing group.

(B) The applicant, even if homeless, provides a mailing address.

(C) The application is signed. An individual required but unable to sign the application may sign with a mark, witnessed by another individual.

(D) The application is received by the Department.

(3) A new application is not required in the following situations:

(a) In the Food Stamp program, when a single application can be used both to determine a client is ineligible in the month of application and to determine the client is eligible the next month. This can be done when—

(A) Anticipated changes make the filing group eligible the second month; or

(B) The filing group provides verification between 30 and 60 days following the filing date (see OAR 461-115-0040), in accordance with OAR 461-180-0080.

(b) In all programs except the Food Stamp program, when a single application can be used both to determine a client is ineligible on the *date of request* (see OAR 461-115-0030) and to determine the client is eligible when anticipated changes make the filing group eligible within 45 days from the date of request.

(c) When the case is closed and reopened during the same calendar month.

(d) When benefits were suspended for one month because of the level of income, and the case is reopened the month following the month of suspension.

(e) When reinstating medical benefits for a pregnant woman covered by OAR 461-135-0950.

(4) A new application is required to add a newborn child to a *benefit group* (see OAR 461-110-0750) according to the following requirements:

(a) For the REF and TANF programs:

(A) A new application is not required if the child is listed on the application as "unborn" and there is sufficient information about the child to establish its eligibility.

(B) A new application is required if the child is not included on the application as "unborn."

(b) In the EXT, MAA, MAF, OHP, and REFM programs, no additional application is required to add the child to the *benefit group* of the child's mother. The child may be added to a *benefit group* other than the benefit group of the child's mother if eligibility can be determined without submission of a new application.

(c) In the ERDC and FS programs, an application is not required to add the child to the *benefit group*.

(d) In all programs other than ERDC, EXT, FS, MAA, MAF, OHP, REF, REFM, and TANF, an application is required.

(5) Except for OHP-OPU applicants who must use the *OHP 7210R Application* (see OAR 461-135-1125), a new application is required to add an individual to a benefit group, other than a newborn child, according to the following requirements:

(a) In the ERDC and FS programs, a new application is not required.

(b) In the EXT, MAA, MAF, OHP, REF, REFM, SAC, and TANF programs, an individual may be added by amending a current application if the information is sufficient to determine eligibility; otherwise a new application is required.

(c) In all programs other than ERDC, EXT, FS, MAA, MAF, OHP, REF, REFM, SAC, and TANF, a new application is required.

(6) Clients whose TANF grant is closing may request ERDC orally or in writing.

(7) For all programs except the EXT, FS, MAA, MAF, and OHP programs, clients may change between programs administered by the Department using the current application if the following conditions are met:

(a) The client makes a verbal or written request for the change.

(b) The Department has sufficient evidence to determine eligibility and benefit level for the new program without a new application.

(c) The program change can be effected while the client is eligible for the first program.

(8) Except for OHP-OPU applicants who must use the *OHP 7210R Application* (see OAR 461-135-1125), a new application is not required in the EXT, MAA, MAF, and OHP programs to redetermine eligibility for the same program or to change between these programs if the following conditions are met:

(a) The client is currently receiving benefits from one of these programs; and

(b) The Department has sufficient evidence to redetermine eligibility for the same program or determine eligibility for the new program without a new application or by amending the current application.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 414.042, 418.100

Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.816, 414.042, 418.100

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 3-1991(Temp), f. & cert. ef. 1-17-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 27-1996, f. 6-27-1996, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 21-2001(Temp), f. & cert. ef. 10-1-01 thru 12-31-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert .ef. 10-1-07; SSP 2-2008(Temp), f. & cert. ef. 1-28-08 thru 6-30-08

461-135-1102

OHP-OPU; Effective Dates for the Program

(1) Effective July 1, 2004, the OHP-OPU program is closed to new applicants other than an *OHP Reservation List Applicant* permitted under OAR 461-135-1125. Except as provided in sections (2) and (3) of this rule, a new applicant is a person with a date of request (see OAR 461-115-0030) after June 30, 2004. A new applicant cannot be found eligible for the OHP-OPU program.

(2) A person is not a new applicant if the Department determines that the person is continuously eligible for medical assistance as follows:

(a) The person is eligible for and receiving benefits under the OHP-OPU program on June 30, 2004, or after that date pursuant to subsections (b) to (e) of this section, and the Department determines that the person continues after that date to meet the eligibility requirements for OHP-OPU.

(b) The person is eligible for and receiving benefits under the CAWEM program on June 30, 2004, and is eligible for CAWEM based on the OHP-OPU program, and the Department determines that the person continues to meet the eligibility requirements for OHP-OPU except for citizenship or alien status requirements.

(c) The person's eligibility ends under the BCCM, EXT, GAM, MAA, MAF, OHP-CHP, OHP-OPC, OHP-OPP, OSIPM, REFM, or SAC program, or under CAWEM based on such program, and at that time the Department determines that the person meets the eligibility requirements for OHP-OPU.

(d) The person is a child in the custody of the Department whose eligibility for Medicaid ends because of the child's age and at that time the Department determines that the person meets the eligibility requirements for OHP-OPU.

(e) The Department determines that the person was continuously eligible for OHP-OPU on or after June 30, 2004 under subsections (a) to (d) of this section.

(3) A person who is not continuously eligible under section (2) of this rule is not a new applicant if:

(a) The person's eligibility ends under the BCCM, EXT, GAM, MAA, MAF, OHP-CHP, OHP-OPP, OHP-OPU, OSIPM, REFM, or SAC program, or the related CAWEM program; and

(b) The person meets the eligibility requirements for OHP-OPU or the related CAWEM program:

(A) Within 45 days of a date of request established during the last month of eligibility for a program listed in subsection (a) of this section; or

(B) Within 45 days of the date the Department initiates a redetermination or recertification of eligibility for a program listed in subsection (a) of this section.

(4) Except as provided in section (2) of this rule, a person who loses eligibility for a medical assistance program and applies or reapplies for medical assistance is treated as a new applicant for purposes of the OHP-OPU program.

(5) The Department intends that effective July 1, 2004, all other rules related to application, certification, recertification, or eligibility for the OHP-OPU program be applied and construed to achieve the purpose of this rule and that in the event of any ambiguity this rule controls.

Stat. Auth.: ORS 409.050, 411.060, 411.070 & 414.042

Stats. Implemented: ORS 411.060, 411.070, 414.042 & 2003 OL Ch. 710, 735

Hist.: SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 2-2008(Temp), f. & cert. ef. 1-28-08 thru 6-30-08

461-135-1125

Reservation Lists and Eligibility; OHP-OPU

(1) The "OHP 7210R Application" is an application mailed as a result of the individual's selection from the *OHP Reservation List* and is subject to the conditions of this rule.

(2) The "OHP Reservation List" means a list of individuals who may be considered for the OHP-OPU program as a new applicant at such times as the Department determines that new applicants (see OAR 461-135-1102)

may be added into the program within the limits of program authority and funding.

(3) An "OHP Reservation List Applicant" means an individual who is eligible to apply for OHP-OPU under this rule and submits an *OHP 7210R Application* in accordance with this rule.

(4) When the Department specifies that the *OHP Reservation List* is open, an individual is placed on the *OHP Reservation List* if all of the following requirements are met:

(a) The individual, or someone acting on behalf of the individual, may request placement on the *OHP Reservation List* by calling the designated telephone number for the *OHP Reservation List* or in writing. A written request must arrive through one of the following methods:

(A) By mail to the designated mailing address for the *OHP Reservation List*.

(B) By fax or hand delivery to a local Department office that receives client applications for the Oregon Health Plan.

(C) By electronic submission from the OHP website or by e-mail to the OHP Reservation List e-mail address.

(b) The full name, date of birth, and mailing address of each individual requesting placement on the *OHP Reservation List* must be provided to the Department and received by the Department as described in subsection (a) of this section before the request is considered complete.

(c) If the address of an individual changes after the individual makes a request, the individual must provide an updated address to the Department using a method described in subsection (a) of this section. If the individual reports an address change to the Department in a way other than that outlined in subsection (a) of this section, the Department cannot guarantee the address change will be reflected in the reservation list, but will make reasonable efforts to incorporate that address change.

(5) The following procedures apply to the *OHP Reservation List*:

(a) Individuals completing a request for placement on the *OHP Reservation List* are assigned a reservation number. All members of an OHP filing group (see OAR 461-110-0400 for filing group composition) requesting placement on the *OHP Reservation List* are assigned the same reservation number.

(b) The Department may request that individuals voluntarily provide their social security number (prior to the *OHP 7210R Application*). The Department may use the social security number to help prevent duplicate reservations. The Department may not deny placement on the *OHP Reservation List* because an individual does not provide a social security number.

(c) The Department sends confirmation to individuals who are placed on the *OHP Reservation List*. If there is already a reservation established, individuals who have received confirmation from the Department need not make an additional request unless the reservation was removed (see section (8) of this rule), already used, or withdrawn.

(6) Requesting placement on the *OHP Reservation List*, receiving a reservation number, or being placed on the *OHP Reservation List* does not constitute an application for OHP-OPU or any other medical program administered by the Department. Individuals placed or refused placement on the *OHP Reservation List* are not evaluated for DHS medical program eligibility.

(7) At such times that the Department determines that it has the requisite authority and funding and that new applicants can be added to the OHP-OPU program, and after the Department determines the number of new applicants that can be added, a designated number of individuals on the *OHP Reservation List* will be randomly selected to be mailed an *OHP 7210R Application* according to the following conditions:

(a) The Department will determine and designate the number of individuals on the *OHP Reservation List* to receive the *OHP 7210R Application*. The Department will send an individual an *OHP 7210R Application* only if the reservation number is randomly selected to receive the application.

(b) The *OHP 7210R Application* must be received by the Department within 30 days from the date it is mailed for the individual to be considered an *OHP Reservation List* Applicant.

(c) An *OHP Reservation List* Applicant is considered to be a new applicant for OHP subject to OAR 461-115-0030(2)(d).

(d) When an individual is mailed an *OHP 7210R Application* based on random selection from the *OHP Reservation List*, the reservation number and its position on the list has been used and is no longer available.

(8) When the Department determines that the *OHP Reservation List* should be discontinued, all individuals currently on the list are removed. If the Department reinstates the *OHP Reservation List*, individuals may again request placement on the list according to sections (4) and (5) of this rule.

(9) Nothing in this rule prevents any individual from applying for medical assistance at any time. However, new applicants (see OAR 461-135-1102) for OHP-OPU are managed by this *OHP Reservation List*. Because the OHP-OPU program has insufficient capacity, only new applicants on the *OHP Reservation List* are potentially eligible for OHP-OPU.

Stat. Auth.: ORS 409.050, 411.060, 414.042
Stats. Implemented: ORS 409.010, 411.060, 414.042
Hist.: SSP 2-2008(Temp), f. & cert. ef. 1-28-08 thru 6-30-08

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Rule Caption: Changing OARs affecting public assistance, medical assistance or food stamp clients.
Adm. Order No.: SSP 3-2008(Temp)
Filed with Sec. of State: 1-30-2008
Certified to be Effective: 1-30-08 thru 7-28-08
Notice Publication Date:
Rules Amended: 461-120-0120, 461-120-0125, 461-135-0082, 461-135-0900
Subject: OAR 461-120-0120 about the alien status requirements in the Refugee Assistance (REF) and Refugee Assistance Medical (REFM); 461-120-0125 about the alien status requirements in the Department's cash, medical, food stamp and public assistance programs; 461-135-0082 about eligibility for Refugee case services, and 461-135-0900 about requirements for the REF and REFM programs are being amended to add Iraqi and Afghan special immigrants as eligible for REF, REFM, ERDC, TANF, and FS benefits and services. Such individuals may be eligible for a maximum of six months, and for the Food Stamp program, such individuals may not be eligible past September 30, 2008.
Rules Coordinator: Annette Tesch—(503) 945-6067

461-120-0120
Alien Status; REF, REFM

In the REF and REFM programs, an individual meets the alien status requirements if the individual is admitted lawfully under any of the following provisions of law:

(1) An individual admitted as a refugee under section 207 of the INA (8 U.S.C. 1157).

(2) An individual granted asylum under section 208 of the INA (8 U.S.C. 1158).

(3) Cuban and Haitian entrants, in accordance with requirements in 45 CFR part 401.

(4) An individual paroled as a refugee or asylee under section 212(d)(5) of the Immigration and Nationality Act (INA) (8 U.S.C. 1182(d)(5)). For purposes of this section, "Lautenberg" parolees, humanitarian interest parolees, and other public interest parolees do not qualify.

(5) An Amerasian from Vietnam who is admitted to the U.S. as an immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Pub. L. No. 100-202 and amended by the 9th proviso under Migration and Refugee Assistance in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. No. 100-461 as amended)).

(6) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), as amended.

(7) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).

(8) Iraqi and Afghan aliens granted special immigrant status under section 101(a)(27) of the Immigration and Nationality Act.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 411.060, 411.070
Stats. Implemented: ORS 411.060, 411.070
Hist.: AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 11-2002(Temp), f. & cert. ef. 10-1-02 thru 12-31-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 10-2007, f. & cert .ef. 10-1-07; SSP 3-3008(Temp), f. & cert. ef. 1-30-08 thru 7-28-08

461-120-0125
Alien Status; Not REF or REFM

(1) For purposes of this chapter of rules, an individual is a "qualified non-citizen" if he or she is any of the following:

(a) A non-citizen who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 U.S.C. 1101 et seq).

(b) A refugee who is admitted to the United States as a refugee under section 207 of the INA (8 U.S.C. 1157).

(c) A non-citizen who is granted asylum under section 208 of the INA (8 U.S.C. 1158).

(d) A non-citizen whose deportation is being withheld under section 243(h) of the INA (8 U.S.C. 1253(h)) (as in effect immediately before April 1, 1997) or section 241(b)(3) of the INA (8 U.S.C. 251(b)(3)) (as amended by section 305(a) of division C of the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, 110 Stat. 3009-597 (1996)).

(e) A non-citizen who is paroled into the United States under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) for a period of at least one year.

(f) A non-citizen who is granted conditional entry pursuant to section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7)) as in effect prior to April 1, 1980.

(g) A non-citizen who is a "Cuban and Haitian entrant" (as defined in section 501(3) of the Refugee Education Assistance Act of 1980).

(h) In all programs except the Food Stamp programCa battered spouse or dependent child who meets the requirements of 8 U.S.C. 1641(c) and is in the United States on a conditional resident status, as determined by the United States Immigration and Naturalization Service.

(i) In the Food Stamp programCa non-citizen who has been battered or subjected to extreme cruelty in the United States by a spouse or parent or by a member of the spouse or parent=s family residing in the same household as the non-citizen at the time of the abuse; a non-citizen whose child has been battered or subjected to battery or cruelty; or a non-citizen child whose parent has been battered.

(2) A person meets the alien status requirements if he or she is one of the following:

(a) An American Indian born in Canada to whom the provisions of section 289 of the INA (8 U.S.C. 1359) apply.

(b) A member of an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Act (25 U.S.C. 450b(e)).

(3) In the ERDC and TANF programs, an individual meets the alien status requirements if he or she is one of the following:

(a) An individual who is a qualified non-citizen.

(b) A non-citizen who is currently a victim of domestic violence or who is at risk of becoming a victim of domestic violence.

(c) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), as amended.

(d) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).

(e) Iraqi and Afghan aliens granted special immigrant status (SIV) under section 101(a)(27) of the Immigration and Nationality Act. Such individuals meet the alien status requirements for a maximum of six months as follows:

(A) If the individual enters the United States with the special immigrant status, the month that the individual enters the United States counts as the first month.

(B) If the individual is granted special immigrant status after they have already entered the United States, then the month in which the special immigrant status was granted counts as the first month.

(4) In the BCCM, MAA, MAF, OHP, OSIPM, QMB, and SAC programs, a qualified non-citizen meets the alien status requirements if he or she satisfies one of the following situations:

(a) Was a qualified non-citizen before August 22, 1996.

(b) Physically entered the United States before August 22, 1996, and was continuously present in the United States between August 22, 1996, and the date qualified-noncitizen status was obtained. An individual is not continuously present in the United States if he or she is absent from the United States for more than 30 consecutive days or for a total of more than 90 days.

(c) Is an individual granted any of the following alien statuses:

(A) RefugeeCunder section 207 of the INA.

(B) AsylumCunder section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) Cubans and Haitians who are either public interest or humanitarian parolees.

(E) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(F) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), as amended.

(G) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).

(d) Meets the alien status requirements in section (2), (7), or (8) of this rule.

(e) In the OSIPM program, is receiving SSI benefits.

(f) In the QMB program, is receiving SSI and Medicare Part A benefits.

(5) In the GA and GAM programs, an individual meets the alien status requirement if he or she is one of the following:

(a) An individual who is blind or has a disability, was lawfully residing in the United States on August 22, 1996, and is now a qualified noncitizen.

(b) An individual granted one of the following statuses, but only for seven years following the date the status is granted:

(A) RefugeeCunder section 207 of the INA.

(B) AsylumCunder section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(E) Cubans and Haitians who are either public interest or humanitarian parolees.

(F) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), as amended.

(G) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).

(c) An individual who meets one of the alien status requirements in section (2) or (7) of this rule.

(6) In the OSIP program, an individual meets the alien status requirement if he or she is one of the following:

(a) An individual who is blind or has a disability, was lawfully residing in the United States on August 22, 1996, and is now a qualified noncitizen.

(b) A qualified noncitizen who physically entered the United States on or after August 22, 1996, has had the qualified noncitizen status for at least five years, and has forty qualifying quarters of coverage as defined in section (10) of this rule.

(c) An individual granted one of the following statuses, but only for seven years following the date the status is granted:

(A) RefugeeCunder section 207 of the INA.

(B) AsylumCunder section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(E) Cubans and Haitians who are either public interest or humanitarian parolees.

(F) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), as amended.

(G) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).

(d) An individual receiving SSI benefits.

(e) An individual who meets one of the alien status requirements in section (2) or (7) of this rule.

(7) In all programs except ERDC and TANF, a qualified non-citizen meets the alien status requirement if he or she is:

(a) A veteran of the United States Armed Forces who was honorably discharged for reasons other than alien status and who fulfilled the minimum active-duty service requirements described in 38 U.S.C. ' 5303A(d).

(b) A member of the United States Armed Forces on active duty (other than active duty for training).

(c) The spouse or a dependent child of an individual described in subsection (a) or (b) of this section.

(d) In the FS program, a qualified non-citizen who meets the requirement in section (10) of this rule.

(8) Except as provided in sections (2), (3)(e), (4), (5), and (7) of this rule, a non-citizen who entered the United States or was given qualified non-citizen status on or after August 22, 1996:

(a) Is ineligible for the BCCM, MAA, MAF, OHP, OSIPM, QMB, and SAC programs for five years beginning on the date the non-citizen received his or her qualified non-citizen status.

(b) Meets the alien status requirement following the five-year period.

(9) In the FS program, an individual meets the alien status requirement if he or she is one of the following:

(a) An individual granted any of the following alien statusesC

(A) RefugeeCunder section 207 of the INA.

(B) AsylumCunder section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) Cubans and Haitians who are either public interest or humanitarian parolees.

(E) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(F) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), as amended.

(G) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).

(H) Iraqi and Afghan aliens granted special immigrant status (SIV) under section 101(a)(27) of the Immigration and Nationality Act. Such individuals meet the alien status requirements for a maximum of six months as follows:

(i) If the individual enters the United States with the special immigrant status, the month that the individual enters the United States counts as the first month.

(ii) If the individual is granted special immigrant status after they have already entered the United States, then the month in which the special immigrant status was granted counts as the first month.

(iii) There is no eligibility past September 30, 2008, even if the six month limit has not been reached.

(b) A qualified non-citizen under 18 years of age.

(c) A non-citizen who has been residing in the United States for at least five years while a qualified non-citizen.

(d) A non-citizen who is lawfully residing in the United States and who was a member of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era (as defined in 38 U.S.C. 101).

(e) The spouse, the un-remarried surviving spouse, or an unmarried dependent child, of an individual described in subsection (d) of this section.

(f) A qualified non-citizen who has a disability, as defined in OAR 461-001-0015.

(10) A client who is lawfully admitted to the United States for permanent residence under the INA and has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act, or can be credited with such qualifying quarters as provided under 8 U.S.C. 1645, meets the alien status requirements for the FS program, subject to the following provisions:

(a) No quarter beginning after December 31, 1996, is a qualifying quarter if the client received any federal, means-tested benefit during the quarter. Federal means-tested benefits include FS, TANF, and Medicaid (except emergency medical).

(b) For the purpose of determining the number of qualifying quarters of coverage, a client is credited with all of the quarters of coverage worked by a parent of the client while the client was under the age of 18 and all of the qualifying quarters worked by a spouse of the client during their marriage, during the time the client remains married to such spouse or such spouse is deceased.

(c) A lawful permanent resident who would meet the alien status requirement, except for a determination by the Social Security Administration (SSA) that he or she has fewer than 40 quarters of coverage, may be provisionally certified for food stamp benefits while SSA investigates the number of quarters creditable to the client. A client provisionally certified under this section who is found by SSA, in its final administrative decision after investigation, not to have 40 qualifying quarters is not eligible for food stamp benefits received while provisionally certified. The provisional certification is effective according to the rule on effective dates for opening benefits, OAR 461-180-0080. The provisional certification cannot run more than six months from the date of original determination by SSA that the client does not have sufficient quarters.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 411.060, 411.816 & 418.100
Stats. Implemented: ORS 411.060, 411.816 & 418.100
Hist.: AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 17-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 36-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 10-2004(Temp), f. & cert. ef. 4-9-04 thru 6-30-04; SSP 14-2004(Temp), f. & cert. ef. 5-11-04 thru 6-30-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 11-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 9-30-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 3-2008(Temp), f. & cert. ef. 1-30-08 thru 7-28-08

461-135-0082
Eligibility for Refugees

(1) Clients are eligible for the Refugee Case Services Program if they:

(a) Have an alien status listed in OAR 461-120-0120;

(b) Entered the United States on or after October 1, 1997;

(c) Live in Clackamas, Multnomah or Washington county;

(d) With the exception of Iraqi and Afghan special immigrants, have resided in the United States less than eight months or have been granted asylum within the last eight months. The month in which the refugee was admitted to the United States as a refugee, or was granted asylum, counts as the first month. Iraqi and Afghan special immigrants must have resided in the United States for six months or less. The month in which the special immigrant was admitted to the United States as a special immigrant counts as the first month. If a special immigrant was granted special immigrant status after having already entered the United States, then the month that the status was granted counts as the first month;

(e) Meet the eligibility requirements contained in OAR 461-193-0000 through 461-193-1380.

(2) Clients who are eligible for the Refugee Case Services program are not eligible for TANF.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
Hist.: AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 3-2008(Temp), f. & cert. ef. 1-30-08 thru 7-28-08

461-135-0900
Specific Requirements; REF, REFM

(1) In addition to the eligibility requirements in other rules in Chapter 461 of the Oregon Administrative Rules, an individual must meet all of the requirements in this rule to be eligible for the REF and REFM programs.

(2) An individual must meet the alien status requirements of OAR 461-120-0120, except a *child* (see OAR 461-001-0000) born in the United States to an REF or REFM client meets the alien status requirements for the REF and REFM programs as long as each *parent* (see OAR 461-001-0000) in the *household group* (see OAR 461-110-0210) meets the alien status requirements of OAR 461-120-0120.

(3) An individual is not eligible to receive REF and REFM if the individual is a full-time student of *higher education*, unless such education is part of a cash assistance case plan. Any education or training allowable under an approved case plan must be less than one year in length. For the purposes of this rule, "higher education" means education that meets the requirements of one of the following subsections:

(a) Public and private universities and colleges and community colleges that offer degree programs regardless of whether a high school diploma is required for the program. However, GED, ABE, ESL and high school equivalency programs at these institutions are not considered higher education.

(b) Vocational, technical, business, and trade schools that normally require a high school diploma or equivalency certificate for enrollment in the curriculum or in a particular program at the institution. However, programs at those institutions that do not require the diploma or certificate are not considered higher education.

(4) Eligibility for REF and REFM is limited to the first eight months in the United States, with the exception of Iraqi and Afghan special immigrants limited to six months in the United States:

(a) For an individual who meets the alien status requirements of OAR 461-120-0120(1), (3), (4), or (5), the month that the individual enters the U.S. counts as the first month.

(b) For an individual who meets the alien status requirements of OAR 461-120-0120(2), (6), or (7), the month that the individual was granted the individual's status counts as the first month.

(c) For an individual who meets the alien status requirements of OAR 461-120-0120(8):

(i) If the individual enters the U.S. with the special immigrant status, the month that the individual enters the U.S. counts as the first month.

(ii) If the individual is granted special immigrant status after they have already entered the U.S., then the month in which the special immigrant status was granted counts as the first month.

(d) Months in the United States are counted as whole months. There is no prorating of months.

(5) For an individual who meets the requirements of section (4) of this rule:

(a) When the individual resides in Clackamas, Multnomah, or Washington counties:

(A) The individual is not eligible to receive REF, TANF, or TANF-related employment services through the Department. To receive benefits, the individual is required to participate in the Refugee Case Service Project (RCSP). This individual is referred to their local resettlement agency to be enrolled in RCSP and receives all other Department services through the individual's local Department office.

(B) An individual who no longer meets the requirements of section (4) of this rule is no longer eligible to receive cash or case management services through RCSP. If this individual has been in the United States for 12 months or less, with the exception of Iraqi and Afghan special immigrants, the individual is referred to the New Arrival Employment Services contractor for employment services. Iraqi and Afghan special immigrants are limited to no more than six months.

(b) When the individual resides in counties other than Clackamas, Multnomah, and Washington:

(A) RCSP is not available. The individual is served at the individual's local Department office.

(B) For an individual who meets the eligibility requirements of the MAA, MAF, or TANF programs, the MAA, MAF, and TANF benefits are prior resources.

(C) An individual is eligible for the REF and REFM programs if the individual:

(i) Does not meet the eligibility requirements of at least one of the MAA, MAF, and TANF programs; and

(ii) Meets the financial and non-financial eligibility requirements for the REF and REFM programs.

(D) An REF client may not participate in the Pre-TANF program.

Stat. Auth.: ORS 411.060, 418.100

Stats. Implemented: ORS 411.060, 418.100

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 33-1996(Temp), f. 9-26-96, cert. ef. 10-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 10-2007, f. & cert .ef. 10-1-07; SSP 3-2008(Temp), f. & cert. ef. 1-30-08 thru 7-28-08

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Department of Human Services, Children, Adults and Families Division: Vocational Rehabilitation Services Chapter 582

Rule Caption: Rule Amendment for Qualified Personnel, Use of Pell Grants, Client Travel Rates, Vehicle Insurance and Vehicle Modification.

Adm. Order No.: VRS 1-2008

Filed with Sec. of State: 2-4-2008

Certified to be Effective: 2-4-08

Notice Publication Date: 12-1-2007

Rules Amended: 582-001-0010, 582-030-0005, 582-030-0008, 582-070-0020, 582-070-0025, 582-070-0030

Subject: 1. Require that substantiation of applicant's disability be made by individuals licensed or certified by the state(s) to make the Diagnosis of the individual's impairment

2. Require that travel and lodging for required client travel be based on Federal domestic GSA domestic per diem rates

3. Require that OVRS can only use client vendors, where either there is no known competition to the business or proposed business in the region of the state where the business will or is to be located or the client is a current OVRS vendor and currently receiving OVRS services

4. Provides a waiver to the prohibition against certain vehicle modifications based on a individual case-by-case basis

5. Require Pell Grant funds to be used first for payment for educational costs before OVRS funds can be expended for this purpose

6. The proposed rule would authorize OVRS, through DHS, to establish a fee for copying public records and establish a list of the costs that are to be considered in establishing copying fees. The proposed rule also defines public records, authorizes the director or director's designee to waive fees, and provides an appeals process for those who disagree with the established fees.

Rules Coordinator: Ron Barcikowski—(503) 945-6734

582-001-0010
Definitions for Chapter 582

The following definitions apply to each division in chapter 582 of the Oregon Administrative Rules unless otherwise indicated:

(1) "Act" refers to the federal Rehabilitation Act of 1973, as amended (29 U.S.C. 701 et seq.).

(2) "Administrator" refers to the Administrator of the Office of Vocational Rehabilitation Services.

(3) "Applicant" refers to an individual who submits an application for vocational rehabilitation services in accordance with 34 CFR 361.41(b)(2).

(4) "Assessment for determining eligibility and vocational rehabilitation needs" refers to, as appropriate in each case:

(a) A review of existing data to determine if an individual is eligible for vocational rehabilitation services; and to assign priority for an order of selection if in effect; and

(b) To the extent necessary, the provision of appropriate assessment activities to obtain necessary additional data to make the eligibility determination and assignment;

(c) To the extent additional data are necessary to make a determination of the employment outcomes and the nature and scope of vocational rehabilitation services to be included in the individualized plan for employment of an eligible individual, a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of the eligible individual. This comprehensive assessment:

(A) Is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the individualized plan of employment of the eligible individual;

(B) Uses as a primary source of information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements: Existing information obtained for the purposes of determining the eligibility of the individual and assigning priority for an order of selection for the individual; and Information that can be provided by the individual and, if appropriate, by the family of the individual;

(C) May include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors that affect the employment and rehabilitation needs of the individual; and

(D) May include, to the degree needed, an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the use of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment;

(d) Referral, for the provision of rehabilitation technology services to the individual, to assess and develop the capacities of the individual to perform in a work environment; and

(e) An exploration of the individual's abilities, capabilities, and capacity to perform in work situations, which must be assessed periodically during trial work experiences, including experiences in which the individual is provided appropriate supports and training.

(5) "Assistive technology device" refers to any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of an individual with a disability.

(6) "Assistive technology service" refers to any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device, including:

(a) The evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in his or her customary environment;

(b) Purchasing, leasing, or otherwise providing for the acquisition by an individual with a disability of an assistive technology device;

(c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(e) Training or technical assistance for an individual with a disability or, if appropriate, the family members, guardians, advocates, or authorized representatives of the individual; and

(f) Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or others who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities, to the extent that training or technical assistance is necessary to the achievement of an employment outcome by an individual with a disability.

(7) "CFR" refers to the Code of Federal Regulations.

(8) "Client Assistance Program" or "CAP" refers to a federally-funded program authorized under 34 CFR 370 that is independent of OVRS and whose purpose is to provide information, advocacy, and legal representation to individuals seeking OVRS services.

(9) "Client's Representative" refers to any person identified by the client as being authorized to speak or act on behalf of the client or to assist the client in any matter pertaining to services of OVRS, unless a representative has been appointed by a court to represent the client, in which case the court-appointed representative is the client's representative.

(10) "Community Rehabilitation Program" or "CRP" refers to:

(a) A program that provides directly or facilitates the provision of one or more of the following vocational rehabilitation services to individuals with disabilities to enable those individuals to maximize their opportunities for employment, including career advancement:

(A) Medical, psychiatric, psychological, social, and vocational services that are provided under one management.

(B) Testing, fitting, or training in the use of prosthetic and orthotic devices.

(C) Recreational therapy.

(D) Physical and occupational therapy.

(E) Speech, language, and hearing therapy.

(F) Psychiatric, psychological, and social services, including positive behavior management.

(G) Assessment for determining eligibility and vocational rehabilitation needs, including technicians for assessment tests.

(H) Rehabilitation technology.

(I) Job development, placement, and retention services.

(J) Evaluation or control of specific disabilities.

(K) Orientation and mobility services for individuals who are blind.

(L) Extended employment.

(M) Psychosocial rehabilitation services.

(N) Supported employment services and extended services.

(O) Services to family members if necessary to enable the applicant or eligible individual to achieve an employment outcome.

(P) Personal assistance services.

(Q) Services similar to the services described in subsections (A) through (P) of this definition, including vendors who provide training, write resumes, consult on self-employment plans, assist with a self-employed business, or write PASS plans.

(b) For the purposes of this definition, the word program means an agency, organization, or institution, or unit of an agency, organization, or institution, that provides directly or facilitates the provision of vocational rehabilitation services as one of its major functions. It does not include the prospective employer of the client.

(11) "Comparable services and benefits" refers to:

(a) Services and benefits that are:

(A) Provided or paid for, in whole or in part, by other Federal, State, or local public agencies, by health insurance, or by employee benefits;

(B) Available to the individual at the time needed to ensure the progress of the individual toward achieving the employment outcome in the individual's individualized plan for employment in accordance with 34 CFR 361.53; and

(C) Commensurate to the services that the individual would otherwise receive from OVRS.

(b) For the purposes of this definition, comparable benefits do not include awards and scholarships based on merit.

(12) "Competitive employment" refers to work:

(a) In the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and

(b) For which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

(13) "DHS" refers to the Oregon Department of Human Services.

(14) "Eligible individual" refers to an applicant for vocational rehabilitation services who meets the eligibility requirements of 34 CFR 361.42(a).

(15) "Employment outcome" refers to, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment, as defined in OAR 582-001-0010(12), in the integrated labor market, supported employment, or any other type of employment in an integrated setting, including self-employment, telecommuting, or business ownership, that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(16) "Extended employment" refers to work in a non-integrated or sheltered setting for a public or private nonprofit agency or organization that provides compensation in accordance with the Fair Labor Standards Act.

(17) "Extended services" refers to ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability in supported employment and that are provided by a State agency, a private nonprofit organization, employer, or any other appropriate resource, from funds other than funds received under this part and 34 CFR part 363 after an individual with a most significant disability has made the transition from support provided by OVRS.

(18) "Extreme medical risk" refers to a probability of substantially increasing functional impairment or death if medical services, including mental health services, are not provided expeditiously.

(19) "Family member," for purposes of receiving vocational rehabilitation services in accordance with 34 CFR 361.48(i), refers to an individual:

(a) Who either:

(A) Is a relative or guardian of an applicant or eligible individual; or

(B) Lives in the same household as an applicant or eligible individual;

(b) Who has a substantial interest in the well-being of that individual; and

(c) Whose receipt of vocational rehabilitation services is necessary to enable the applicant or eligible individual to achieve an employment outcome.

(20) "Impartial hearing officer" refers to an individual who:

(a) Is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education) -- an individual is not considered to be an employee of a public agency for the purposes of this definition solely because the individual is paid by the agency to serve as a hearing officer;

(b) Is not a member of the State Rehabilitation Council for OVRS;

(c) Has not been involved previously in the vocational rehabilitation of the applicant or eligible individual;

(d) Has knowledge of the delivery of vocational rehabilitation services, the State plan, and the Federal and State regulations governing the provision of services;

(e) Has received training with respect to the performance of official duties; and

(f) Has no personal, professional, or financial interest that would be in conflict with the objectivity of the individual.

(21) "Individual with a disability" refers to an individual:

(a) Who has a physical or mental impairment; and

(b) Whose impairment constitutes or results in a substantial impediment to employment; and

(c) Who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

(22) "Individual with a most significant disability" refers to

(a) An individual who meets the criteria for supported employment under OAR 582-001-0010(43); or

(b) An eligible individual who:

(A) Has a severe mental or physical impairment that seriously limits two or more functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and

(B) Is expected to require two or more vocational rehabilitation services over an extended period of time to achieve or maintain a successful employment outcome.

(23) "Individual with a significant disability" refers to an eligible individual who does not qualify as an individual with a most significant disability as defined at OAR 582-001-0010(22); and

(a) The individual is currently receiving SSI or SSDI or requires or required a Trial Work Experience or Extended Evaluation to determine if the individual is capable of benefiting from vocational rehabilitation services in terms of an employment outcome; or

(b) The individual:

(A) Has a severe mental or physical impairment that seriously limits one or more functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and

(B) Is expected to require two or more vocational rehabilitation services over an extended period of time to achieve or maintain a successful employment outcome.

(24) "Integrated setting":

(a) With respect to the provision of services, refers to a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals other than non-disabled individuals who are providing services to those applicants or eligible individuals;

(b) With respect to an employment outcome, refers to a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals, other than non-disabled individuals who are providing services to those applicants or eligible individuals, to the same extent that non-disabled individuals in comparable positions interact with other persons.

(25) "Maintenance" refers to monetary support provided to an individual for expenses, such as food, shelter, and clothing, that are in excess of the normal expenses of the individual and that are necessitated by the individual's participation in an assessment for determining eligibility and vocational rehabilitation needs or the individual's receipt of vocational rehabilitation services under an individualized plan for employment. Examples: The following are some examples of expenses that would meet the definition of maintenance. The examples are illustrative only, do not address all possible circumstances, and are not intended to substitute for individual counselor judgment:

(a) The cost of a uniform or other suitable clothing that is required for an individual's job placement or job-seeking activities.

(b) The cost of short-term shelter that is required in order for an individual to participate in assessment activities or vocational training at a site that is not within commuting distance of an individual's home.

(c) The initial one-time costs, such as a security deposit or charges for the initiation of utilities, that are required in order for an individual to relocate for a job placement.

(d) The costs of an individual's participation in enrichment activities related to that individual's training program.

(26) "Mediation" refers to the act or process of using an independent third party to act as a mediator, intermediary, or conciliator to assist persons or parties in settling differences or disputes prior to pursuing formal administrative or other legal remedies. Mediation under the program must be conducted in accordance with the requirements in 34 CFR 361.57(d) by a qualified and impartial mediator as defined in 34 CFR 361.5(b)(43).

(27) "OAR" refers to the Oregon Administrative Rules.

(28) "Ongoing support services," as used in the definition of ''Supported employment''

(a) Refers to services that are:

(A) Needed to support and maintain an individual with a most significant disability in supported employment;

(B) Identified based on a determination by OVRS of the individual's need as specified in an individualized plan for employment; and

(C) Furnished by OVRS from the time of job placement until transition to extended services, unless post-employment services are provided following transition, and thereafter by one or more extended services providers throughout the individual's term of employment in a particular job placement or multiple placements if those placements are being provided under a program of transitional employment;

(b) Must include an assessment of employment stability and provision of specific services or the coordination of services at or away from the worksite that are needed to maintain stability based on:

(A) At a minimum, twice-monthly monitoring at the worksite of each individual in supported employment; or

(B) If under specific circumstances, especially at the request of the individual, the individualized plan for employment provides for off-site monitoring, twice monthly meetings with the individual;

(c) Consist of:

(A) Any particularized assessment supplementary to the comprehensive assessment of rehabilitation needs;

(B) The provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

(C) Job development and training;

(D) Social skills training;

(E) Regular observation or supervision of the individual;

(F) Follow-up services including regular contact with the employers, the individuals, the parents, family members, guardians, advocates or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement;

(G) Facilitation of natural supports at the worksite;

(H) Any other service identified in the scope of vocational rehabilitation services for individuals, described in 34 CFR 361.48; or

(I) Any service similar to the foregoing services.

(29) "ORS" refers to the Oregon Revised Statutes.

(30) "OVRS" refers to the Office of Vocational Rehabilitation Services.

(31) "Parent or Guardian" refers to a person or persons having legal responsibility for the overall welfare and well-being of a client under age 18 or a client who, if over age 18, is considered legally incompetent.

(32) "Personal assistance services" refers to a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability. The services must be designed to increase the individual's control in life and ability to perform everyday activities on or off the job. The services must be necessary to the achievement of an employment outcome and may be provided only while the individual is receiving other vocational rehabilitation services. The services may include training in managing, supervising, and directing personal assistance services.

(33) "Physical and mental restoration services" refers to --

(a) Corrective surgery or therapeutic treatment that is likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment;

(b) Diagnosis of and treatment for mental or emotional disorders by qualified personnel in accordance with State licensure laws;

(c) Dentistry;

(d) Nursing services;

(e) Necessary hospitalization (either inpatient or outpatient care) in connection with surgery or treatment and clinic services;

(f) Drugs and supplies;

(g) Prosthetic and orthotic devices;

(h) Eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids prescribed by personnel that are qualified in accordance with State licensure laws;

(i) Podiatry;

(j) Physical therapy;

(k) Occupational therapy;

(l) Speech or hearing therapy;

(m) Mental health services;

(n) Treatment of either acute or chronic medical complications and emergencies that are associated with or arise out of the provision of physi-

cal and mental restoration services, or that are inherent in the condition under treatment;

(o) Special services for the treatment of individuals with end-stage renal disease, including transplantation, dialysis, artificial kidneys, and supplies; and

(p) Other medical or medically related rehabilitation services.

(34) Qualified Personnel means an individual licensed or certified by the state or an individual who maintains an equivalent licensure or certification from another state to make the diagnosis of the applicant's impairment

(35) "Physical or mental impairment" refers to:

(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculo-skeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or

(b) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(36) "Post-employment services" refers to one or more of the services identified in 34 CFR 361.48 that are provided subsequent to the achievement of an employment outcome and that are necessary for an individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. Post-employment services are intended to ensure that the employment outcome remains consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. These services are available to meet rehabilitation needs that do not require a complex and comprehensive provision of services and, thus, should be limited in scope and duration. If more comprehensive services are required, then a new rehabilitation effort should be considered. Post-employment services are to be provided under an amended individualized plan for employment; thus, a re-determination of eligibility is not required. The provision of post-employment services is subject to the same requirements as the provision of any other vocational rehabilitation service. Post-employment services are available to assist an individual to maintain employment, e.g., the individual's employment is jeopardized because of conflicts with supervisors or co-workers, and the individual needs mental health services and counseling to maintain the employment; to regain employment, e.g., the individual's job is eliminated through reorganization and new placement services are needed; and to advance in employment, e.g., the employment is no longer consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(37) "Provider of community rehabilitation services" refers to any CRP, business, or independent contractor that is paid by OVRS to provide any service listed in OAR 582-001-0010(10).

(38) "Qualified and impartial mediator" refers to an individual who:

(a) Is not an employee of a public agency (other than an administrative law judge, hearing examiner, employee of a State office of mediators, or employee of an institution of higher education) -- an individual serving as a mediator is not considered to be an employee of a public agency for the purposes of this definition solely because the individual is paid by a public agency to serve as a mediator;

(b) Is not a member of the State Rehabilitation Council for OVRS;

(c) Has not been involved previously in the vocational rehabilitation of the applicant or eligible individual;

(d) Is knowledgeable of the vocational rehabilitation program and the applicable Federal and State laws, regulations, and policies governing the provision of vocational rehabilitation services;

(e) Has been trained in effective mediation techniques consistent with any State-approved or -recognized certification, licensing, registration, or other requirements; and

(f) Has no personal, professional, or financial interest that would be in conflict with the objectivity of the individual during the mediation proceedings.

(39) "Rehabilitation engineering" refers to the systematic application of engineering sciences to design, develop, adapt, test, evaluate, apply, and distribute technological solutions to problems confronted by individuals with disabilities in functional areas, such as mobility, communications, hearing, vision, and cognition, and in activities associated with employment, independent living, education, and integration into the community.

(40) "Rehabilitation technology" refers to the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

(41) "Severe mental or physical impairment" refers to the use of this term in the federal Rehabilitation Act of 1973, as amended.

(42) "State plan" refers to the State plan for vocational rehabilitation services submitted by OVRS under 34 CFR 361.10.

(43) "Substantial impediment to employment" refers to a physical or mental impairment that (in light of attendant medical, psychological, vocational, educational, communication, and other related factors) hinders an individual from preparing for, entering into, engaging in, or retaining employment consistent with the individual's abilities and capabilities.

(44) "Supported employment" refers to:

(a) Competitive employment in an integrated setting, or employment in integrated work settings in which individuals are working toward competitive employment, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals with ongoing support services for individuals with the most significant disabilities:

(A) For whom competitive employment has not traditionally occurred or for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and

(B) Who, because of the nature and severity of their disabilities, need intensive supported employment services from OVRS and extended services after transition as described in OAR 582-001-0010(17) to perform this work; or

(b) Transitional employment, as defined OAR 582-001-0010(46), for individuals with the most significant disabilities due to mental illness.

(45) "Supported employment services" refers to ongoing support services and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment that are provided by OVRS:

(a) For a period of time not to exceed 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time to achieve the employment outcome identified in the individualized plan for employment; and

(b) Following transition, as post-employment services that are unavailable from an extended services provider and that are necessary to maintain or regain the job placement or advance in employment.

(46) "Transition services" refers to a coordinated set of activities for a student designed within an outcome-oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities must be based upon the individual student's needs, taking into account the student's preferences and interests, and must include instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation. Transition services must promote or facilitate the achievement of the employment outcome identified in the student's individualized plan for employment.

(47) "Transitional employment," as used in the definition of ''Supported employment,'' refers to a series of temporary job placements in competitive work in integrated settings with ongoing support services for individuals with the most significant disabilities due to mental illness. In transitional employment, the provision of ongoing support services must include continuing sequential job placements until job permanency is achieved.

(48) "Transportation" refers to travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a vocational rehabilitation service, including expenses for training in the use of public transportation vehicles and systems. Examples: The following are examples of expenses that would meet the definition of transportation. The examples are purely illustrative, do not address all possible circumstances, and are not intended to substitute for individual counselor judgment.

(a) Example 1: Travel and related expenses for a personal care attendant or aide if the services of that person are necessary to enable the applicant or eligible individual to travel to participate in any vocational rehabilitation service.

(b) Example 2: The purchase and repair of vehicles, including vans, but not the modification of these vehicles, as modification would be considered a rehabilitation technology service.

(c) Example 3: Relocation expenses incurred by an eligible individual in connection with a job placement that is a significant distance from the eligible individual's current residence.

(49) "Vocational rehabilitation services":

(a) If provided to an individual, refers to those services listed in 34 CFR 361.48; and

(b) If provided for the benefit of groups of individuals, also refers to those services listed in **34 CFR 361.49**.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 344.530
Stats. Implemented: ORS 344.530 & 344.550
Hist.: VRS 5-2004, f. & cert. ef. 8-5-04; VRS 2-2005, f. 4-20-05, cert. ef. 7-1-05; VRS 1-2008, f. & cert. ef. 2-4-08

582-030-0005
Definitions

The following definitions apply to each Rule in Division 30 unless otherwise indicated.

(1) "Administrator" means the Administrator of the Office of Vocational Rehabilitation Services.

(2) "Client" means any person who has provided information to OVRS as part of his or her application process for OVRS services or subsequent to an application. "Client" includes former clients.

(3) "Client Information" means any personally identifiable information acquired or developed by OVRS, its staff or its representatives or that identifies an individual as a client of OVRS.

(4) "Client's Representative" means any person identified by the client as being authorized to speak or act on behalf of the client or to assist the client in any matter pertaining to services of OVRS, unless a representative has been appointed by a court to represent the client, in which case the court-appointed representative is the client's representative.

(5) "Cooperative Agreement" means a written agreement between OVRS and another agency or organization which includes terms protecting confidentiality of OVRS client information in keeping with the statutory and regulatory requirements of all parties to the agreement.

(6) "Designee" means any officer or employee appointed by the Director of the Department of Human Services to respond to requests for reduction or waiver of fees for public records of the Department

(7) "Director" means the Director of the Department of Human Services.

(8) "HIPAA" refers to Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d et seq, and the federal regulations adopted to implement this Act.

(9) "HIV/AIDS Information" is any information covered by ORS 433.045(3) or that is likely to identify, directly or indirectly, that a client has been tested for the HIV virus or has HIV infection, antibodies to HIV, AIDS (Acquired Immunodeficiency Syndrome) or related infections or illnesses.

(10) "Informed Written Consent" means, after receiving a thorough explanation and understanding of the purposes, limitations, recipients, and specific information to be released, a client or, if appropriate, client's representative completes and signs a Department of Human Services Form 2098 (Authorization for Use and Disclosure of Non-Health Information) or DHS Form 2099 (Authorization for Use and Disclosure of Health Information), or the successors to these forms or other sufficient written authorization, releasing personal information from or to OVRS.

(11) "Parent or Guardian" means a person or persons having legal responsibility for the overall welfare and well-being of a client under age 18 or a client who, if over age 18, is adjudicated legally incompetent.

(12) "Parent Locator Service" means a service authorized by 42 USC 653 seeking information for the purpose of establishing parentage or establishing, setting, modifying or enforcing child support.

(13) "Person" includes any natural person, corporation, partnership, firm or association.

(14) "Photocopy(ing)" includes a photograph, microphotograph and any other reproduction on paper or film in any scale, or the process of reproducing, in the form of a photocopy, a public record.

(15) "Public Officer Privilege" means, as provided in ORS 40.270, a public officer shall not be examined as to public records determined to be exempt from disclosure under ORS 192.502(8) and (9).

(16) "Public Record" includes any writing that contains information relating to the conduct of the public's business that is prepared, owned, used or retained by the Department regardless of physical form or characteristics.

(17) "Requestor" means a person requesting inspection, copies, or other reproduction of a public record of the Department.

(18) "Subpoena" means a written order for a witness to appear and give testimony and/or deliver named material issued.

(19) "Substance Abuse Information" means any information regulated under 42 CFR 2.1 – 2.67.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 344
Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730
Hist.: VRD 4-1991, f. & cert. ef. 12-13-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 3-2004, f.& cert. ef. 3-12-04; VRS 1-2008, f. & cert. ef. 2-4-08

582-030-0008
Billing Policy and Procedures

(1) A client or client's representative and the Oregon Advocacy Center staff person representing that client may request a copy of information from their files at no cost once every 12 months. If the client requests another copy of the same information, written summary, or explanation more frequently than once every 12 months, then OVRS may impose a reasonable, cost-based fee.

(2) OVRS shall charge for the cost of making the record available to the extent permitted by OAR 407-003-0010.

(3) All moneys received shall be handled and recorded under approved state accounting procedures.

(4) If OVRS denies an initial verbal request for waiver or reduction of fees, the requestor will submit a written request. If OVRS subsequently denies the written request for a waiver or reduction of fees, the requestor may petition the Attorney General for a review of the denial pursuant to the provisions of ORS 192.440(5) and 192.450.

(5) At the option of the Branch office that processes the requested material, the Branch manager as the Director designee may waive assessment of a fee.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 344
Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730
Hist.: VRD 4-1991, f. & cert. ef. 12-13-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 3-2004, f.& cert. ef. 3-12-04; VRS 1-2008, f. & cert. ef. 2-4-08

582-070-0020
Specific Policies

Specific rules pertain to the provision of the following services:

(1) On-the-Job Training:

(a) Payment to on-the-job trainers/employers for training services will be negotiated at the lowest reasonable level and will always be considered as reimbursement for actual expenses and/or trainer time; the trainer/employer cannot expect to make a profit from such payments;

(b) Offset against client wages will be negotiated with the trainer/employer on a mutual sharing basis at the lowest reasonable level to adequately pay the client for his/her productive work efforts with the trainer/employer ultimately paying the entire wage. Total length of the training program and length of OVRS involvement in payments will be negotiated on the basis of the complexity of the training and the amount of relevant skill and knowledge the client possesses prior to entering training.

(2) Training: Educational and training services, except on-the-job training, must be purchased from public educational organizations in Oregon. Exceptions are authorized only when:

(a) No publicly-supported school provides the courses necessary for the client's needs in order to reach the vocational objective; or

(b) A client cannot utilize publicly-supported schools because of his or her disability; or

(c) OVRS's financial participation in the plan is no greater than if the client had enrolled at the nearest appropriate publicly-supported school; or

(d) The net cost to Oregon governmental agencies is significantly less; or

(e) The training services for the client will be significantly delayed.

(3) Client Maintenance: OVRS will only pay or provide for maintenance expenses consistent with the definition of this term at OAR 582-001-0010(25) and 34 CFR 361.5(b)(35).

(4) Clothing Purchases: Clothing purchases may be authorized if the need is a result of participation by the client in a rehabilitation program and the client does not possess sufficient financial resources to provide for these expenses. These must be appropriate in type and in a price range, comparable to clothing items normally used by persons engaged in similar rehabilitation, training or employment settings.

(5) Client and Applicant Transportation: travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a required vocational rehabilitation service. Assistance by the Office of Vocational Rehabilitation Services (OVRS) with transportation services will be subject to the following:

(a) Where local public transportation is available and can be used by the client, any reimbursement will not exceed the public transportation rate. Use of transportation costing in excess of the least expensive mode avail-

able to the client requires written justification, by the counselor, prior to authorization (e.g., disability prevents using the least costly mode);

(b) Where public transportation is not available or cannot be used by the client due to his/her disability, reimbursement may be authorized by the counselor for use of private vehicle or other appropriate forms of transportation;

(c) Only when determined by OVRS to be the most feasible means of providing for necessary client transportation for rehabilitation services may vehicle modification be authorized. Any vehicle modification must be prior approved by the local OVRS Field Services Manager, Field Operations Manager, or Administrator (or designee), depending on the expenditure level. Administrative level approval is obtained prior to authorizing any such costs in excess of $5,000.00 per service; vehicle modifications are subject to OVRS established policies for purchasing authorization;

(d) The field counselor will inform the client that costs associated with insurance, repair and replacement are to be managed by the client after a modification is complete;

(e) It is the policy of OVRS to not purchase vehicles; however, the Administrator of the Office of Vocational Rehabilitation Services, or the Administrator's designee, may grant an exception and furnish payment of all or part of the purchase of a motor vehicle where the conditions in OAR 582-070-0025(2) are applicable.

(f) Whenever an exception is made by OVRS allowing payment toward the cost of a motor vehicle, OVRS will require that OVRS be shown as the primary lien holder until successful case closure has been achieved. Ownership is transferred to the client only if the vehicle is needed to participate in employment, and there is a successful case closure. When client ownership is not justified based on these two criteria, the vehicle shall be repossessed and reassigned or otherwise disposed of by OVRS.

(g) When an applicant's or client's travel requires lodging and meals, payment for lodging and meals will be based on the definition of maintenance under 582-001-0010(25) and will not exceed the current federal GSA domestic per diem rates for the state in which the lodging occurred.

(A) The per diem rate used will be based on the rate for the city in which the client or applicant lodges, or the rate for the city closest to where the client or applicant lodges.

(B) Unless the client or applicant uses a personal vehicle for the needed transportation, reservations will be made through the state travel agency.

(C) If the applicant or client utilizes a service animal, OVRS may provide payment for the lodging of the service animal.

(D) In those instances in which the federal per diem rate is insufficient to cover the cost of lodging, or the applicant or client has a legitimate need for more costly lodging, payment may exceed the federal per diem rate.

(6) Community Rehabilitation Programs' Services.

NOTE: Refer also to OAR 582-010.

(a) State-wide rates are intended to pay only the anticipated cost of standard rehabilitation services. This fee schedule may be adjusted for a specific CRP to reflect non-standard types or levels of service, or statewide for standard service, if a significant increase or decrease in the actual cost of serving clients occurs;

(b) For Community Rehabilitation Programs operated under private auspices, fees may be negotiated taking into consideration costs such as buildings, staffing and equipment. For publicly owned and operated Community Rehabilitation Programs (e.g., state or county owned or operated) fees, if any, must be based upon and not exceed actual costs.

(7) Extended Evaluation: OVRS will provide only those services authorized under OAR 582-050-0005.

(8) Personal Care Assistance (PCA): Is provided only when necessary to allow client to benefit from other rehabilitation services, including evaluation, and when the client is not entitled to PCA services from another source:

(a) Client as Employer: The client, in most cases, as the employer of the PCA may be reimbursed for necessary PCA services required to participate in rehabilitation services;

(b) Third Party Vendor: Direct payment to the PCA vendor by OVRS requires prior approval by the Field Services Manager in addition to the requirements of Oregon Administrative Rules Chapter 582, Division 10;

(c) Written Contract: In most instances the client is to be the employer of his/her own personal care assistant. OVRS may assist the client to establish an appropriate written contract with the provider.

(9) Interpreter Service: Is provided only when necessary to assist the client to derive full benefit from other rehabilitation services:

(a) Limitation: To be provided by OVRS only when "comparable benefits" are not available;

(b) For the Deaf and Hearing Impaired: OVRS gives preference to using interpreters certified by the National Registry of Interpreters for the Deaf and/or one who is on the approved vendor list of the State Association of the Deaf. When deemed mutually acceptable by the client and the counselor, another interpreter may be utilized;

(c) Regional Resources: The Deaf and Hearing Impaired Access Program may be used as a resource to both clients and staff for securing interpreters.

(10) Other Support Services Providers: May be selected for specific skills needed. Where provider licenses, insurance, certificates and state or local codes are indicated OVRS reasonably attempts to assure that appropriate levels are met before authorizing services from the provider. (See OAR 582-080 for additional rules on vendor selection.)

(11) Insurance: Providers shall obtain and maintain insurance as required by law for that provider; additionally, where OVRS is providing for services, appropriate levels of personal, automobile, professional and general liability insurance may be required, depending on the type of service.

(12) Occupational Licenses, Tools and Equipment for Training and/or Employment:

(a) May be provided when required for either extended evaluation or in other plan statuses, including post employment. OVRS accepts no responsibility for client lease/rental agreements or the leased/rented items other than to reimburse the client for such prior authorized expenditures;

(b) Repossessed items will be used whenever appropriate and available;

(c) Except for personally prescribed items, title/ownership of an OVRS purchased (or jointly purchased) item is held by OVRS (or jointly with OVRS) until case closure when ownership may be transferred to the client for non-expendable items deemed by OVRS to be needed for continued success in the client's program.

(13) Land and/or Stationary Buildings: Are never purchased by OVRS as a service to an individual client. Existing buildings may be modified when necessary to enable an eligible client to attain a vocational plan goal. No permanent additions or weight bearing partitions are to be erected as services to individuals.

(14) Moving Expenses: May be provided for training or employment only when it has been determined by OVRS that it is less costly and/or more beneficial than having the client commute. OVRS retains the right to deny reimbursement for client opted commuting/moving costs in excess of the least costly alternative.

(15) Rehabilitation Technology Services (RTS): May be applied at any time during rehabilitation services to address barriers to the client's participation in evaluation, training, and employment:

(a) Approved Vendors: OVRS ensures that providers used by OVRS are qualified in the areas of engineering skills and/or technology required for a given service. Selected Community Rehabilitation Programs' Approvals may include RTS, when State Standards for Approvals are met for RTS;

(b) Authorization of: RTS is not conditioned upon unavailability of Comparable Benefits or Services, but all reasonably available comparable services shall be used before authorizing expenditure by OVRS. Personal services contracts for RTS require Field Services Manager approval prior to implementation.

Stat. Auth.: ORS 344

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 1-1978, f. 3-14-78, ef. 3-15-78; VRD 2-1992, f. & cert. ef. 4-20-92; VRD 4-1993, f. & cert. ef. 11-1-93; VRD 1-1996(Temp), f. 2-26-96, cert. ef. 3-1-96; VRS 1-2003, f. & cert. ef. 9-23-03; VRS 2-2003, f. & cert. ef. 12-31-03; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 1-2008, f. & cert. ef. 2-4-08

582-070-0025

Vehicle Purchase/Vehicle Modification

(1) The following definitions apply to this rule:

(a) "Approved Vendor" means a dealer who is recognized by OVRS as an approved installer/retailer of specified devices;

(b) "Qualified Mechanic" means American Standard Automotive/American Standard Engineering certified;

(c) "Qualified Vehicle Modification Evaluation" means an evaluation performed by a licensed occupational therapist;

(d) "Reasonable transportation alternatives" include, but are not limited to, car repairs to an already owned vehicle; use of mass transit or other community transportation options; a move to another area which allows access to employment, mass transit and community transportation options; family members, volunteers, paid driver/attendants, car pool or other public transportation options; or reasonable accommodations by the client's employer;

(e) "Vehicle Modification" means services involving the purchase and installation of adaptations or devices in a vehicle.

(2) It is not the policy of the Office of Vocational Rehabilitation Services (OVRS) to provide funds for individuals to lease or purchase motor vehicles that require a license to operate; however, the Administrator of the Office of Vocational Rehabilitation Services, or the Administrator's designee, may grant an exception and furnish payment of all or part of the purchase of a motor vehicle when no other options are available to support the employment goal if:

(a) The exception is not prohibited by state or federal statute, rule or regulation; and

(b) The exception is granted only after OVRS and the client have explored all reasonable transportation alternatives; and

(c) OVRS has also made the following determinations:

(A) Purchase of a motor vehicle eliminates a barrier to the employment plan goal and OVRS has determined that no other reasonable alternative is available because any available alternatives would delay the employment plan or place the client at extreme medical risk.

(B) Available financial resources, which include, but are not limited to comparable services and benefits, Plans for Achieving Self-Support, grants, or other resources, do not meet the minimum cost of the motor vehicle sufficient to eliminate a barrier to the employment plan;

(C) The client will have sufficient income and resources after successful client file closure in order to meet his/her daily living expenses and the cost of motor vehicle operation and replacement.

(3) Scope of Vehicle Modifications:

(a) As Rehabilitation Technology, defined as necessary to address vocational barriers confronted by individuals with disabilities in the area of transportation, OVRS may not purchase the following:

(A) Modifications to a van if it would be possible to modify a sedan style automobile to meet the individual's need for transportation;

(B) Modifications to a vehicle if the individual owns or has use of another vehicle that would meet the individual's transportation needs; or

(C) Modifications to a vehicle for an individual to drive if the result of a qualified vehicle modification evaluation indicates that the individual is not capable of driving due to the individual's disability.

(b) However, the Administrator of the Office of Vocational Rehabilitation Services, or the Administrator's designee, may grant an exception and furnish payment of all or part of the modification of a motor vehicle when no other options are available to support the employment goal if:

(A) The exception is not prohibited by state or federal statute, rule or regulation;

(B) Modification of a motor vehicle eliminates a barrier to the employment plan goal and OVRS has determined that no other reasonable transportation alternative is available because any other reasonable alternative would delay the employment plan or place the client at extreme medical risk;

(C) Available financial resources, which include, but are not limited to comparable services and benefits, plans for Achieving Self-Support, grants, or other resources, do not meet the cost of the modification of the motor vehicle sufficient to eliminate a barrier to the employment plan;

(D) The client will have sufficient income and resources after successful client file closure in order to meet his/her daily living expenses and the cost of motor vehicle operation and replacement.

(c) Conditions for OVRS participation in costs associated with vehicle modification include the following:

(A) The client does not own another vehicle, which would meet their transportation needs;

(B) The client has or is able to obtain a valid driver's license, if modifications for driving are made;

(C) It is planned that the client will be the primary driver of the modified vehicle, if modifications for driving are made;

(D) The vehicle must be registered in the name of the client and/or the client's parents or guardian;

(E) The proposed modification has been determined to be needed as the result of a qualified vehicle modification evaluation;

(F) Individuals who are provided motor vehicle modification/adaptation services by OVRS shall obtain, at their own cost, insurance on such modifications, since OVRS will not correct or replace motor vehicle modifications damaged in an accident.

(d) Vehicle requirements for OVRS participation in the cost of modifications are as follows:

(A) It has been determined that other alternatives for meeting transportation needs are not available, and transportation as afforded by the affected vehicle is essential to the achievement of the Individualized Plan for Employment goal;

(B) The vehicle to be modified has been judged safe and is in reasonably good condition, as determined by a qualified mechanic;

(C) All proposed modifications are consistent with applicable vehicle safety laws;

(D) OVRS will not provide modifications for a vehicle that OVRS has previously modified except as provided in OAR 582-070-0025(5);

(E) OVRS will not provide such optional equipment as may generally be purchased through an automobile dealer at the time the vehicle is purchased - including radio, air conditioning, automatic transmission, power brakes, and power windows unless such equipment is required as a result of the client's disability and is categorized in the Occupational Therapists driver's evaluation as necessary to the modification of the vehicle;

(F) OVRS assumes no responsibility for general maintenance or repair of modified vehicles;

(G) OVRS assumes no warranty responsibility for modifications, equipment, or parts. The installer or supplier may warrant them.

(e) OVRS conditions for vendor selection are as follows:

(A) Vehicle modifications shall be purchased from vendors or dealers who are listed and on file with OVRS as an approved vendor of the devices;

(B) Such purchases will be made in accordance with State procurement regulations and OVRS purchase policy and procedures.

(4) If the client will be the motor vehicle driver, OVRS will require a qualified professional Occupational Therapist evaluation, and the Occupational Therapist evaluation must conclude that the client can get or maintain a Driver License through the State Department of Motor Vehicles.

(5) Second or subsequent modifications are limited to those needed to accommodate changes in the individual's medical condition, except that a second or subsequent motor vehicle modification or purchase may be authorized after a determination by the vocational rehabilitation counselor that confirms the client's failure to comply with the prior agreement to maintain, repair and replace the previous modifications or motor vehicle was for good cause based on:

(a) Disability-related expenses exceeding the individual's financial ability to provide for the necessary maintenance, repair or replacement of the previous modification or motor vehicle; or

(b) Employment status changed which resulted in the individual's inability to maintain, repair or replace the previous modification or vehicle; or

(c) Other unavoidable financial obligations, as documented by the OVRS field counselor, that impaired the individual's ability to maintain, repair or replace the previous modification or vehicle.

Stat. Auth.: ORS 344
Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730
Hist.: VRD 2-1996, f. & cert. ef. 8-28-96; VRS 1-2003, f. & cert. ef. 9-23-03; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 1-2008, f. & cert. ef. 2-4-08

582-070-0030
Limitations of Payments

NOTE: For medical and related services refer also to OAR 582-075 and 582-080; and, for providers of community rehabilitation services refer also to OAR 582-010.

(1) Payment in Full: Vendors providing any services authorized by OVRS shall not make any charge to or accept any payment from the client/applicant or his/her family for such services unless the amount of the service charge or payment to be borne by the client is previously agreed to by the individual or his/her family, known to and, where applicable, approved by OVRS.

(2) Client Financial Participation and the Financial Needs Test: Except as expressly exempted, services funded by OVRS are subject to Client Financial Participation. Clients will be allowed or required to contribute financially as set forth in OAR 582-070-0030. The contribution requirements apply starting July 1, 2004 for clients submitting applications for services, requests for post-employment services, and for annual IPE reviews.

(a) The purpose of client participation in service costs is to encourage the commitment of the client to their vocational rehabilitation goal, create a cooperative relationship with the client, and conserve limited OVRS resources.

(b) Except as provided in OAR 582-070-0030(2)(j) and (k), the following individuals are exempted from the Financial Needs Test and Client Financial Participation:

(A) Any individual who has been determined eligible for and is currently the recipient/beneficiary of Social Security Benefits under Title II (Social Security Disability Insurance, SSDI) or Title XVI (Supplemental Security Income, SSI) of the Social Security Act;

(B) Recipients of qualifying needs-based public assistance programs, including Self Sufficiency Cash Benefits, Oregon Health Plan, Temporary

Assistance for Needy Families, and Food Stamps, and excluding financial aid for post-secondary education;

(C) Homeless or transient individuals.

(c) Except as provided in OAR 582-070-0030(2)(j) and (k), the following services are exempt from Client Financial Participation:

(A) Assessment for determining eligibility, vocational rehabilitation needs, or priority for services, including assessment by personnel skilled in rehabilitation technology;

(B) Vocational rehabilitation counseling and guidance, including information and support services to assist an individual in exercising informed choice;

(C) Referral and other services necessary to assist applicants and eligible individuals to secure needed services from other agencies, including other components of the statewide workforce investment system and to advise those individuals about client assistance programs;

(D) Job related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

(E) Personal assistance services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability;

(F) Auxiliary aids or services required to participate in the vocational rehabilitation program, such as interpreter services including sign language and oral interpreter services for individuals who are deaf or hard of hearing; or tactile interpreting services for individuals who are deaf-blind.

(d) Under the Financial Needs Test, clients with annual family income of less than either 250 percent of the federal poverty guidelines or $60,000 are not subject to Client Financial Participation and are exempt from the guidelines set out in OAR 582-070-0030(2)(e).

(e) Client Financial Participation will be determined on an annual basis, not to exceed the annual cost of non-exempt services to OVRS, applying the following contribution schedule:

(A) Clients with family income between $60,000 and $69,999 are subject to a mandatory financial contribution of $700.

(B) Clients with family income between $70,000 and $79,999 are subject to a mandatory financial contribution of $900.

(C) Clients with family income between $80,000 and $89,999 are subject to a mandatory financial contribution of $1300.

(D) Clients with family income between $90,000 and $99,999 are subject to a mandatory financial contribution of $1700.

(E) Clients with family income between $100,000 and $109,999 are subject to a mandatory financial contribution of $2100.

(F) Clients with family income between $110,000 and $119,999 are subject to a mandatory financial contribution of $2900.

(G) Clients with family income between $120,000 and $129,999 are subject to a mandatory financial contribution of $3700.

(H) Clients with family income at $130,000 or higher are subject to a mandatory financial contribution of $3700 plus ten percent of their family income in excess of $130,000.

(f) OVRS will use the following definitions to calculate Client Financial Participation:

(A) "Income" is determined by the adjusted gross income from the most recent federal tax return, unless unusual circumstances merit other documentation.

(B) "Family income" consists of income from the client, the spouse of the client if residing with the client, and includes parents if the client is under 18 and living with parents, or the parents claim the client as a dependent on federal taxes, or the client maintains dependent status for financial aid reasons.

(C) "Federal poverty guidelines" are the current poverty guidelines of the United States Department of Health and Human Services.

(D) "Size of the family unit" for purposes of selecting the appropriate federal poverty guideline includes those family members residing with the client or claimed on federal taxes as dependents; but if the client is under 18 and living with parents, or the parents claim the client as a dependent on federal taxes, or the client maintains dependent status for financial aid reasons, the family unit may include those family members residing with the parents or claimed on the federal taxes of the parents as dependents

(g) If the client or their family choose not to share information about their income as part of the calculation of the financial needs test, an annual, mandatory client contribution of $3700 shall be established, not to exceed the annual cost of non-exempt services to OVRS, unless OVRS concludes that the annual family income of a client may exceed $130,000 in which case the client contribution shall be established at 100 percent for items and services subject to Client Financial Participation.

(h) Subsequent Financial Needs Tests will be conducted with the annual review of the Individualized Plan for Employment, and may also be conducted if there is a change in the financial situation of either the client or the family unit.

(i) "Extenuating Circumstances" will be considered when the counselor identifies other information related to the individual's financial situation that negatively affects the individual's ability to participate in the cost of the rehabilitation program or if requiring the expected financial contribution will result in undue delay in the rehabilitation program. In determining whether to make an adjustment for extenuating circumstances, OVRS may consider the client's current income and the reasons for the request. If there are extenuating circumstances that justify an exception, OVRS may delay or waive all or part of the client's financial contribution. In such cases the counselor will:

(A) Obtain written approval of their supervisor;

(B) Provide documentation of the reasons for the exception;

(C) Maintain both the signed exception and the documentation of circumstances in the client file record.

(j) If a client prefers an upgrade, enhancement, optional feature, or more expensive vendor of essentially the same equipment or item available from a less expensive vendor, and this preference is not required to satisfy the vocational rehabilitation goals that justify the expenditure, OVRS and the client may agree that the client will pay the difference in cost between the service or item purchased and the service or item available that would have satisfied the vocational rehabilitation goals that justify the expenditure. In this situation, client payment is required regardless of whether the financial needs test authorizes client payments; and any client payments in this situation do not count toward the client's mandated financial contribution.

(k) An Individualized Plan for Employment (IPE) may include voluntary client contributions. A client agreement in an IPE to make a voluntary contribution is not enforceable.

(3) Student Financial Aid: OVRS assures that "maximum" effort is made by Rehabilitation Services clients to secure student financial aid for any approved training in institutions of higher education. "Maximum" effort includes making timely application for such grant assistance on a consistent basis and utilizing such benefits as are available in lieu of Vocational Rehabilitation funding:

(a) Coverage: All clients, including graduate students, must apply for all financial aid benefits each academic year. All need based grants, including Pell Grants and Student Employment Opportunity Grants, must be used to pay for educational costs, including tuition and books, before a client may utilize VR funds for this purpose. This requirement does not apply to merit based grants, including scholarships or loans. However, a client may voluntarily elect to use these funds, as well as work study and loans for this purpose.

(b) Other Comparable Benefits or Services: If a third party (e.g., employer, insurance company, WCD) is required to or agrees to pay or reimburse to OVRS all of the case service rehabilitation costs of the client, the financial aid grant offer need not be applied against the plan costs nor treated as a "comparable benefit;"

(c) Late Applications: Pending determination of student aid by the financial aid officer, Division funds can be expended for education-related expenses between the date of application and determination of the client's eligibility for assistance provided that such expenditures are reduced by any amounts of comparable benefits subsequently received, excepting student loans;

(d) Duplicate Payments: When student financial aid is approved arrangements must be made promptly to reduce projected OVRS payments and/or recover duplicate payments;

(e) Parent Non-Participation: With the Field Services Manager's approval, the counselor may fund the parental contribution portion of the student's budget (as prepared by the college or university FAO) if the parents refuse or are unable to contribute.

(4) For Industrially-Injured Workers: OVRS will provide only for the cost of those rehabilitation services which are not the responsibility of the employer, insurer or the Oregon Worker's Compensation Division.

(5) Increased Cost Maintenance: OVRS will not provide client maintenance except for additional costs incurred while participating in authorized services, such as when the client must maintain a second residence away from the regular household in order to achieve a rehabilitation goal. Such maintenance will be provided according to the provisions under OAR 582-070-0020(3), 582-001-0010(25), and 34 CFR 361.5(b)(35).

(6) Physical and Mental Restoration Services: Are provided only to ameliorate a diagnosed physical or mental condition that presents a sub-

stantial impediment to employment for the eligible individual. The services must be essential for the individual's achievement of a vocational goal:

(a) Drugs:

(A) When a physician (MD or OD) or dentist recommends prescription medication, if practical, the lowest price (e.g., generic) will be obtained prior to issuing an authorization;

(B) Controlled substances require a prescription; an attending physician's statement under ORS 475.309(2)(a) does not qualify as a prescription.

(b) Dental Services: Dental care may be provided by OVRS when the condition of teeth or gums imposes a major impediment to employment (e.g., endangers health, emergency needs, or serious cosmetic needs). Dentures may be purchased from licensed dentists or certified denturists;

(c) Eye Glasses: Eye glasses may be purchased when determined essential for evaluation of eligibility or the achievement of the vocational goal, limited to basic frames and lenses unless other features are medically required (e.g., sun glasses, tints, contact lenses);

(d) Wheelchairs: A wheelchair may be purchased when it is essential to a vocational living plan. Wheelchairs must be prescribed by a physiatrist or, if one is not available, physical therapist or other qualified medical specialist;

(e) Hearing Aids: Hearing aids may be provided only when essential to evaluation, vocational services or the individual's ability to obtain or retain employment. In order to purchase hearing aids for a client, the following are required:

(A) An evaluation by a physician skilled in diseases of the ear or an otologist; and

(B) An evaluation by a speech and hearing center or by a private audiologist.

(f) Other Prosthetic Devices: Prosthetic devices may be purchased only upon the authorization of the counselor and with a written prescription by a specialist;

(g) Psychotherapy: Group or individual psychotherapy may be provided in those instances when required for a person to reach a vocational goal and when an immediate and positive goal related impact is anticipated. A specific number of sessions or a specified time limit is required. OVRS may limit these services to those recommended by an OVRS psychological or psychiatric consultant;

(h) Physical or mental restoration services will not be provided by OVRS for the treatment of an acute or chronic medical complication or emergency unless these are associated with or arise out of the provision of physical or mental restoration services in the IPE, or are inherent in the condition under treatment as described in the IPE.

(i) Corrective surgery or therapeutic treatment will not be provided or funded by OVRS if it is not likely within a reasonable period of time to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment.

(j) OVRS will not provide or fund transsexual surgery;

(7) Services not Provided: The following services cannot be provided or authorized at any time by OVRS:

(a) Any client-incurred debt;

(b) Any services obtained by the client prior to the date of application;

(c) Purchase of land or stationary buildings;

(d) Fines or penalties, such as traffic violations, parking tickets, library fines, etc.;

(e) Breakage fees and other refundable deposits;

(f) Contributions and donations;

(g) Entertainment costs;

(h) Payments to credit card companies;

(i) Authorization to supermarkets or grocery stores for food items;

(j) Basic Client Maintenance;

(k) Except for eye glasses or hearing aids essential to completing diagnostic/evaluation services (to determine Rehabilitation Services eligibility) in applicant status, or occupational tools or licenses essential to Extended Evaluation Services, the following may never be authorized for an individual who has applied but has not yet been found eligible for rehabilitation services:

(A) Prosthetic devices;

(B) Occupational tools and licenses;

(C) Placement services.

(8) OVRS will not contract with OVRS' clients, except in the following circumstances:

(a) The client is a current OVRS vendor and is receiving services from or through OVRS; or,

(b) The client's Individualized Plan for Employment provides for the development of a business where there is no known competition in the region of the state in which the business will be or is located; and the client's case has been reviewed by a branch manager concurs there is no known competition to the business or proposed business.

Stat. Auth.: ORS 344

Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730

Hist.: VRD 1-1978, f. 3-14-78, ef. 3-15-78; VRD 2-1981, f. & ef. 12-1-81; VRD 2-1992, f. & cert. ef. 4-20-92; VRD 4-1993, f. & cert. ef. 11-1-93; VRS 2-2004, f. & cert. ef. 3-9-04; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 1-2008, f. & cert. ef. 2-4-08

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Department of Human Services, Division of Medical Assistance Programs
Chapter 410

Rule Caption: Amend Medicaid managed care provider tax rules to clarify tax rate, penalties, and sunset.
Adm. Order No.: DMAP 1-2008
Filed with Sec. of State: 1-25-2008
Certified to be Effective: 1-25-08
Notice Publication Date: 11-1-2007
Rules Amended: 410-050-0100, 410-050-0110, 410-050-0120, 410-050-0130, 410-050-0140, 410-050-0150, 410-050-0160, 410-050-0170, 410-050-0180, 410-050-0190, 410-050-0200, 410-050-0210, 410-050-0220, 410-050-0230, 410-050-0240, 410-050-0250
Subject: The Medicaid managed care provider tax rule modifications provide greater clarification of the assessment of penalties for late reporting and payment. The rules reduce the tax rate to 5.5% to comply with federal law and extend the sunset date of the provider tax program to October 1, 2009.
Rules Coordinator: Jennifer Bittel—(503) 947-5250

410-050-0100
Definitions

The following definitions apply to OAR 410-050-0100 through 410-050-0250:

(1) "Deficiency" means the amount by which the tax as correctly computed exceeds the tax, if any, reported by the Prepaid Health Plans (PHP's). If, after the original deficiency has been assessed, subsequent information shows the correct amount of tax to be greater than previously determined, an additional deficiency arises.

(2) "Delinquency" means the PHP failed to file a report when due as required under these rules or to pay the tax as correctly computed when the tax was due.

(3) "Department" means the Department of Human Services.

(4) "Director" means the Director of the Department of Human Services.

(5) "Premium Payments" means all capitation payments received by the PHP's on a per enrollee per month basis for the provision of health services specified by contract. Premiums do not include any form of payment by Oregon Health Plan (OHP) enrollees to the Department.

(6) "Managed Care Premiums" means all premium payments paid to a PHP including the capitation payments as defined in OAR 410-141-0000. Managed care premiums do not include Medicare premiums.

(7) "Medicaid Managed Care Organization" (MMCO) means a managed health, dental, mental health, or chemical dependency organization that contracts with the Department on a prepaid capitated basis under ORS 414.725. A MMCO is also referred to as a PHP as defined in OAR 410-141-0000. A PHP may be a dental care organization, fully capitated health plan, physician care organization, mental health organization, or chemical dependency organization.

Stat. Auth.: ORS 409.050, 410.070, 411.060

Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 37

Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04; OMAP 80-2004, f. & cert. ef. 10-28-04; DMAP 1-2008, f. & cert. ef. 1-25-08

410-050-0110
General Administration

(1) The purpose of these rules is to implement the Medicaid managed care tax on the prepaid health plans in Oregon.

(2) The Department will administer, enforce, and collect the Medicaid managed care tax. The Department may assign employees, auditors, and other agents as the Director may designate to assist in the administration, enforcement, and collection of the taxes.

(3) The Department may make such rules and regulations, not inconsistent with legislative enactments, that it considers necessary to administer, enforce, and collect the taxes.

(4) The Department may adopt such forms and reporting requirements and change the forms and reporting requirements, as necessary to administer, enforce, and collect the taxes.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 38
Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04; OMAP 80-2004, f. & cert. ef. 10-28-04; DMAP 1-2008, f. & cert. ef. 1-25-08

410-050-0120
Disclosure of Information

(1) Except as otherwise required by law, the Department must not publicly divulge or disclose the amount of income, expense, or other particulars set forth or disclosed in any report or return required in the administration of the taxes. Particulars include but are not limited to social security numbers, employer numbers, or other organization identification numbers, and any business records required to be submitted to or inspected by the Department or its designee to allow it to determine the amount of any assessments, delinquencies, or deficiencies payable or paid, or otherwise administer, enforce, or collect a health care assessment to the extent that such information would be exempt from disclosure under ORS 192.501(5).

(2) The Department may:

(a) Upon request, furnish any PHP or its authorized representative with a copy of the PHP's report filed with the Department for any quarter, or with a copy of any other information filed by the PHP in connection with the report, or as the Department considers necessary;

(b) Publish information or statistics so classified as to prevent the identification of income or any particulars contained in any report or return; and

(c) Disclose and give access to an officer or employee of the Department or its designee, or to the authorized representatives of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, the Controller General of the United States, the Oregon Secretary of State, the Oregon Department of Justice, the Oregon Department of Justice Medicaid Fraud Control Unit, and other employees of the state or federal government to the extent the Department deems disclosure or access necessary or appropriate for the performance of official duties in the Department's administration, enforcement, or collection of these taxes.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 37-51
Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04; OMAP 80-2004, f. & cert. ef. 10-28-04; DMAP 1-2008, f. & cert. ef. 1-25-08

410-050-0130
The Medicaid Managed Care Tax: Calculation; Report; Due Date; Verification of Report

(1) The tax is assessed on the managed care premiums paid to a PHP on or after January 1, 2004, based on calendar quarters. The first calendar quarter begins on January 1, the second calendar quarter begins on April 1, the third calendar quarter begins on July 1, and the fourth quarter begins on October 1. For purposes of this rule, managed care premiums will be taxed as of the calendar quarter in which the managed care premium payment is received by the PHP.

(2) Adjustments to the managed care premium subject to tax shall be determined as follows:

(a) Managed care premiums attributable to periods prior to January 1, 2004 are not subject to the tax and shall be deducted from the taxable managed care premiums when calculating the tax due. Managed care premiums attributable to the period between January 1, 2004 and April 31, 2004 are taxed at the rate of 0%. This deduction includes maternity payments, adjustments due to changes in client status, and other managed care premium adjustments resulting in additional payments received by the PHP on or after May 1, 2004;

(b) If managed care premiums received after May 1, 2004 are reduced by a recoupment by the Department for an overpayment paid prior to May 1, 2004, then the taxable managed care premiums will be deemed to include the recouped amount;

(c) If both the overpayment and recoupment occur after May 1, 2004, the PHP will be subject to the tax on the managed care premiums received in the calendar quarter in which the managed care premium payment is received by the PHP; and

(d) Sub-capitation payments made to a PHP by another PHP are not included in the total managed care premiums subject to tax if the payor PHP certifies to the payee PHP in writing that the payor PHP is already responsible for the managed care tax on the originating managed care premiums.

(3) The rate of the assessment on and after May 1, 2004 will be determined in accordance with OAR 410-050-0140.

(4) The tax becomes operative on May 1, 2004. The first calendar quarter for which a tax is due is a partial quarter. First quarter taxes will be due on managed care premiums received between May 1, 2004 and June 30, 2004.

(5) The PHP must pay the tax and file the report on a form approved by the Department on or before the 75th day following the end of the calendar quarter for which a tax is due unless the Department permits a later payment date. If a PHP requests an extension, the Department, in its sole discretion, will determine whether to grant an extension. The PHP must provide all information required on the report.

(6) Any report, statement, or other document required to be filed under any provision of these rules shall be certified by the chief financial officer of the PHP or an individual with delegated authority to sign for the PHP's chief financial officer. The certification must attest, based on best knowledge, information, and belief, to the accuracy, completeness, and truthfulness of the document.

(7) Payments may be made electronically or by paper check. If the PHP pays electronically, the accompanying report may either be faxed to the Department at the fax number provided on the report form or mailed to the Department at the address provided on the report form. If the PHP pays by paper check, the accompanying report must be mailed with the check to the address provided on the report form.

(8) The Department may charge the PHP a fee of $100 if for any reason the check, draft, order, or electronic funds transfer request is dishonored. This charge is in addition to any penalty for nonpayment of the taxes that may also be due.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 38, 39 & 45
Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04; OMAP 80-2004, f. & cert. ef. 10-28-04; DMAP 1-2008, f. & cert. ef. 1-25-08

410-050-0140
Filing an Amended Report

(1) The claims for refunds or payments of additional tax must be submitted by the PHP on a form approved by the Department. The PHP must provide all information required on the report. The Department may audit the PHP, request additional information, or request an informal conference prior to granting a refund or as part of its review of a payment of a deficiency.

(2) Claim for refund.

(a) If the amount of the tax imposed by these rules is less than the amount paid by the PHP and the PHP does not then owe a tax for any other calendar period, the overpayment may be refunded by the Department to the PHP. In no event will a refund applicable to a particular calendar quarter exceed the tax amount actually paid by the PHP.

(b) The PHP may file a claim for refund on a form approved by the Department within 180 days after the end of the calendar quarter to which the claim for refund applies.

(c) If there is an amount due from the PHP to the Department for any past due taxes or penalties, any refund otherwise allowable will first be applied to the unpaid taxes and penalties and the PHP so notified.

(3) Payment of deficiency.

(a) If the amount of the tax imposed by these rules is more than the amount paid by the PHP, the PHP may file a corrected report on a form approved by the Department and pay the deficiency at any time. The penalty under OAR 410-050-0180 will stop accruing after the Department receives full payment of the total deficiency for the calendar quarter.

(b) If there is an error in the determination of the tax due, the PHP may describe the circumstances of the late additional payment with the late filing of the amended report. The Department, in its sole discretion, may determine that such a late additional payment does not constitute a failure to file a report or pay an assessment giving rise to the imposition of a penalty. In making this determination, the Department will consider the circumstances, including but not limited to: nature and extent of the error, PHP explanation of the circumstances related to the error, evidence of prior errors, and evidence of prior penalties (including evidence of informal dispositions or settlement agreements). This provision only applies if the PHP has filed a timely original return and paid the assessment identified in the return.

(4) If the Department discovers or identifies information in the administration of these managed care tax rules that it determines could give rise to the issuance of a notice of proposed action, or the issuance of a

refund, the Department will issue notification pursuant to OAR 410-050-0190.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 38, 40, 41& 48
Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04; OMAP 80-2004, f. & cert. ef. 10-28-04

410-050-0150
Determining the Date Filed

For the purposes of OAR 410-050-0100 through 410-050-0250, any reports, requests, appeals, payments, or other response by the PHP must be received by the Department either:

(1) Before the close of business on the date due; or

(2) If mailed, postmarked before midnight of the due date. When the due date falls on a Saturday, Sunday, or legal holiday, the response is due on the next business day following such Saturday, Sunday, or legal holiday.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 38
Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04; OMAP 80-2004, f. & cert. ef. 10-28-04; DMAP 1-2008, f. & cert. ef. 1-25-08

410-050-0160
Departmental Authority to Audit Records

(1) The PHP must maintain financial records necessary and adequate to determine the amount of managed care premiums for any calendar period for which a tax may be due.

(2) The Department or its designee may audit the PHP's records at any time for a period of five years following the date the tax is due to verify or determine the managed care premiums for the PHP.

(3) Any audit, finding, or position may be reopened if there is evidence of fraud, malfeasance, concealment, misrepresentation of material fact, omission of income, or collusion either by the PHP or by the PHP and a representative of the Department.

(4) The Department may notify the PHP of a potential deficiency or issue a refund based upon its findings during the audit.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 42
Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04; OMAP 80-2004, f. & cert. ef. 10-28-04; DMAP 1-2008, f. & cert. ef. 1-25-08

410-050-0170
Assessing Tax on Failure to File

(1) The law places an affirmative duty on the PHP to file a timely and correct report.

(2) In the case of a failure by the PHP to file a report or to maintain necessary and adequate records, the Department will determine the tax liability of the PHP according to the best of its information and belief. Best of its information and belief means the Department will use evidence available to the Department at the time of the determination on which a reasonable person would rely in determining the tax. The Department's determination of tax liability will be the basis for the assessment due in any notice of proposed action.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 38
Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04; OMAP 80-2004, f. & cert. ef. 10-28-04; DMAP 1-2008, f. & cert. ef. 1-25-08

410-050-0180
Financial Penalty for Failure to File a Report or Failure to Pay Tax When Due

(1) A PHP that fails to file a report or pay a tax when due under OAR 410-050-0130 is subject to a penalty of $500 per day of delinquency. The penalty accrues from the date of delinquency, notwithstanding the date of any notice under these rules.

(2) The total amount of penalty imposed under this section for each reporting period may not exceed five percent of the assessment for the reporting period for which the penalty is being imposed.

(3) Penalties imposed under this section will be collected by the Department and deposited in the Department account established under ORS 409.060.

(4) Penalties paid under this section are in addition to the Medicaid managed care tax.

(5) If the Department determines that a PHP is subject to a penalty under this section, it will issue a notice of proposed action as described in OAR 410-050-0190.

(6) If a PHP requests a contested case hearing pursuant to OAR 410-050-0210, the Director, at the Director's sole discretion, may waive or reduce the amount of penalty assessed.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 40
Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04; OMAP 80-2004, f. & cert. ef. 10-28-04; DMAP 1-2008, f. & cert. ef. 1-25-08

410-050-0190
Notice of Proposed Action

(1) Prior to issuing a notice of proposed action, the Department will notify the PHP of a potential deficiency or failure to report that could give rise to the imposition of a penalty. The Department shall issue a 30 day notification letter within 30 calendar days of the report or payment due date. The PHP shall have 30 calendar days from the date of the notice to respond to the notice. The Department may consider the response, if any, and any amended report under OAR 410-050-0150 in its notice of proposed action. In all cases the Department shall issue a notice of proposed action.

(2) The Department shall issue a notice of proposed action within 60 calendar days from the date of mailing the 30 day notification letter.

(3) Contents of the notice of proposed action must include:

(a) The applicable calendar quarter;

(b) The basis for determining the corrected amount of tax for the quarter;

(c) The corrected tax due for the quarter as determined by the Department;

(d) The amount of tax paid for the quarter by the PHP;

(e) The resulting deficiency, which is the difference between the amount received by the Department for the calendar quarter and the corrected amount due as determined by the Department;

(f) Statutory basis for the penalty;

(g) Amount of penalty per day of delinquency;

(h) Date upon which the penalty began to accrue;

(i) Date the penalty stopped accruing or circumstances under which the penalty will stop accruing;

(j) The total penalty accrued up to the date of the notice;

(k) Instructions for responding to the notice; and

(l) A statement of the PHP's right to a hearing.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 50
Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04; OMAP 80-2004, f. & cert. ef. 10-28-04; DMAP 1-2008, f. & cert. ef. 1-25-08

410-050-0200
Required Notice

(1) Any notice required to be sent under these rules to the PHP will be sent to the person and address identified as the point of contact for the PHP in its contract with the Department under ORS 414.725.

(2) Any notice required to be sent to the Department under these rules shall be sent to the contact point identified on the communication from the Department to the PHP.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 50
Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04; OMAP 80-2004, f. & cert. ef. 10-28-04; DMAP 1-2008, f. & cert. ef. 1-25-08

410-050-0210
Hearing Process

(1) Any PHP that receives a notice of proposed action may request a contested case hearing under ORS 183.310 through 183.550.

(2) The PHP may request a hearing by submitting a written request within 20 days of the date of the notice of proposed action.

(3) Prior to the hearing, the PHP shall meet with the Department for an informal conference.

(a) The informal conference may be used to negotiate a written settlement agreement.

(b) If the settlement agreement includes a reduction or waiver of penalties, the agreement must be approved and signed by the Director.

(4) Except as provided in section (5) of this rule, if the case proceeds to a hearing, the administrative law judge will issue a proposed order with respect to the notice of proposed action. The Department will issue a final order.

(5) Nothing in this section will preclude the Department and the PHP from agreeing to informal disposition of the contested case at any time, consistent with ORS 183.415(5).

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 50
Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04; OMAP 80-2004, f. & cert. ef. 10-28-04; DMAP 1-2008, f. & cert. ef. 1-25-08

410-050-0220
Final Order of Payment

The Department will issue a final order of payment for deficiencies or penalties when:

(1) Any part of the deficiency or penalty was upheld after a hearing;
(2) The PHP did not make a timely request for a hearing; or
(3) Upon agreement of the PHP and the Department.
Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 37-51
Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04; OMAP 80-2004, f. & cert. ef. 10-28-04; DMAP 1-2008, f. & cert. ef. 1-25-08

410-050-0230
Remedies Available after Final Order of Payment

Any amounts due and owing under the final order of payment and any interest thereon may be recovered by Oregon as a debt to the state, using any available legal and equitable remedies. These remedies include but are not limited to:

(1) Collection activities including but not limited to deducting the amount of the final deficiency or penalty from any sum then or later owed to the PHP by the Department.

(2) Every payment obligation shall bear interest at the statutory rate of interest in ORS 82.010 accruing from the date of the final order of payment and continuing until the payment obligation, including interest, has been discharged.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 37-51
Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04; OMAP 80-2004, f. & cert. ef. 10-28-04; DMAP 1-2008, f. & cert. ef. 1-25-08

410-050-0240
Director Determines the Tax Rate

(1) The tax rate is determined by the Director.

(2) The tax rate for the period beginning January 1, 2004 through April 30, 2004 is 0 percent. The tax rate for the period beginning May 1, 2004 and ending December 31, 2007 is 5.8 percent. The tax rate beginning January 1, 2008 is 5.5 percent.

(3) The rate may not exceed 5.5 percent of managed care premiums paid to a PHP.

(4) The Director may reduce the rate of assessment to the maximum rate allowed under federal law if the reduction is required to comply with federal law. If the rate is reduced pursuant to this section, the Director will notify the PHP's as to the effective date of the rate reduction.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 38 & 39
Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04; OMAP 80-2004, f. & cert. ef. 10-28-04; DMAP 1-2008, f. & cert. ef. 1-25-08

410-050-0250
Sunset Provisions

The Medicaid managed care tax applies to managed care premiums received by PHP's on or after May 1, 2004 and before October 1, 2009.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 50
Hist.: OMAP 30-2004(Temp), f. 4-28-04 cert. ef. 5-1-04 thru 10-27-04; OMAP 80-2004, f. & cert. ef. 10-28-04; DMAP 1-2008, f. & cert. ef. 1-25-08

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Rule Caption: Amend long term care provider tax rules to update penalties, reports, and sunset.
Adm. Order No.: DMAP 2-2008
Filed with Sec. of State: 1-25-2008
Certified to be Effective: 1-25-08
Notice Publication Date: 11-1-2007
Rules Adopted: 410-050-0601
Rules Amended: 410-050-0401, 410-050-0411, 410-050-0421, 410-050-0431, 410-050-0451, 410-050-0461, 410-050-0471, 410-050-0481, 410-050-0491, 410-050-0501, 410-050-0511, 410-050-0521, 410-050-0531, 410-050-0541, 410-050-0551, 410-050-0561, 410-050-0591
Rules Repealed: 410-050-0441, 410-050-0571, 410-050-0581
Subject: The long term care provider tax rule modifications are pursuant to passage of HB 3057. The rules clarify the assessment or reduction of penalties for late reporting and late payment of provider tax. The rules modify required annual revenue reports from all long term care facilities and specify penalties for non reporting or late reporting. The rules clarify the Department director's annual determination of waivered long term care facilities from provider taxation. The rules extend the sunset date of the provider tax program to July 1, 2014.
Rules Coordinator: Jennifer Bittel—(503) 947-5250

410-050-0401
Definitions

The following definitions apply to OAR 410-050-0401 through 410-050-0601:

(1) "Assessment Rate" means the rate established by the Director of the Department of Human Services.

(2) "Assessment Year" means a 12-month period, beginning July 1 and ending the following June 30, for which the assessment rate being determined is to apply.

(3) "Deficiency" means the amount by which the tax as correctly computed exceeds the tax, if any, reported by the facility. If, after the original deficiency has been assessed, subsequent information shows the correct amount of tax to be greater than previously determined, an additional deficiency arises.

(4) "Delinquency" means the facility failed to pay the tax as correctly computed when the tax was due.

(5) "Department" means the Department of Human Services.

(6) "Director" means the Director of the Department of Human Services.

(7) "Gross Revenue" means the revenue paid to a long term care facility for patient care, room, board, and services, less contractual adjustments. It does not include:

(a) Revenue derived from sources other than long term care facility operations, including but not limited to donations, interest, guest meals, or any other revenue not attributable to patient care; and

(b) Hospital revenue derived from hospital operations.

(8) "Long Term Care Facility" means a facility with permanent facilities that includes inpatient beds and provides medical services, including nursing services but excluding surgical procedures except as may be permitted by the rules of the Director. A long term care facility provides treatment for two or more unrelated patients and includes licensed skilled nursing facilities and licensed intermediate care facilities, but does not include facilities licensed and operated pursuant to ORS 443.400 to 443.455. A long term care facility does not include any intermediate care facility for the mentally retarded.

(9) "Medicaid Patient Days" means patient days attributable to patients who receive medical assistance under a plan described in 42 U.S.C. 1396a et seq.

(10) "Patient Days" means the total number of patients occupying beds in a long term care facility for all days in the calendar period for which an assessment is being reported and paid. For purposes of this subsection, if a long term care facility patient is admitted and discharged on the same day, the patient shall be deemed to occupy a bed for one day.

(11) "Waivered Long Term Care Facility" means:

(a) A long term care facility operated by a Continuing Care Retirement Community (CCRC) that is registered under ORS 101.030 and that admits:

(A) Residents of the CCRC; or

(B) Residents of the CCRC and nonresidents; or

(b) A long term care facility that is annually identified by the Department as having a Medicaid recipient census that exceeds the census level established by the Department for the year for which the facility is identified.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003 736 §15
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08

410-050-0411
General Administration

(1) The purpose of these rules is to implement the long term care facility tax imposed on long term care facilities in Oregon.

(2) The Department will administer, enforce, and collect the long term care facility tax.

(3) The Department may assign employees, auditors, and other agents as designated by the Director to assist in the administration, enforcement, and collection of the taxes.

(4) The Department may establish rules and regulations, not inconsistent with legislative enactments, that it considers necessary to administer, enforce, and collect the taxes.

(5) The Department may prescribe forms and reporting requirements and change the forms and reporting requirements, as necessary, to administer, enforce, and collect the taxes.

Stat. Auth.: ORS 409.050, 410.070, 411.0601
Stats. Implemented: ORS 409.750, OL 2003 & ORS 736 §§15-31
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08

410-050-0421
Disclosure of Information

(1) Except as otherwise provided by law, the Department must not publicly divulge or disclose the amount of income, expense, or other particulars set forth or disclosed in any report or return required in the administration of the taxes. Particulars include but are not limited to social security numbers, employer numbers, or other facility identification numbers, and any business records required to be submitted to or inspected by the Department or its designee to allow it to determine the amounts of any assessments, delinquencies, deficiencies, penalties, or interest payable or paid, or otherwise administer, enforce, or collect a health care assessment to the extent that such information would be exempt from disclosure under ORS 192.501(5).

(2) The Department may:

(a) Furnish any facility, or its authorized representative, upon request of the facility or representative, with a copy of the facility's report filed with the Department for any quarter, or with a copy of any report filed by the facility in connection with the report, or with a copy with any other information the Department considers necessary;

(b) Publish information or statistics so classified as to prevent the identification of income or any particulars contained in any report or return; and

(c) Disclose and give access to an officer or employee of the Department or its designee, or to the authorized representatives of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), the Controller General of the United States, the Oregon Secretary of State, the Oregon Department of Justice, the Oregon Department of Justice Medicaid Fraud Control Unit, and other employees of the state or federal government to the extent the Department deems disclosure or access necessary or appropriate for the performance of official duties in the Department's administration, enforcement, or collection of these taxes.

Stat. Auth.: ORS 409.050, 410.070, 411.0601
Stats. Implemented: ORS 409.225, 409.230, 410.140, 410.150, 411.300, 411.320
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08

410-050-0431
Entities Subject to the Long Term Care Facility Tax

(1) Each long term care facility in Oregon is subject to the long term care facility tax except the Oregon Veterans' Home and long term care facilities that have received written notice from the Department that they are exempt under the terms of a waiver. For these facilities, the exemption from the long term care facility tax only applies for the specific period of time described in the notice from the Department.

(2) The Director will determine on or before April 1 of each year those long term care facilities that meet the criteria of a waivered long term care facility as defined by OAR 410-050-0401 that are exempt from the long term care facility tax for the assessment year commencing July 1 of that year.

(3) A long term care facility that believes it meets the criteria of a waivered long term care facility that has not received notice of exempt status or disagrees with the Department's decision, may request an administrative review from the Department.

(a) A request for an administrative review must be sent to: Administrator DHS Finance and Policy Analysis 500 Summer Street NE Salem, OR 97301

(b) A request for administrative review must be received by the Department by April 15 prior to the assessment year.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003 & ORS 736 sec.18, sec.33
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; OMAP 31-2006(Temp), f.& cert. ef. 8-7-06 thru 2-2-07; Administrative correction, 2-16-07; DMAP 2-2008, f. & cert. ef. 1-25-08

410-050-0451
Long Term Care Facility Tax: Calculation, Report, Due Date

(1) The tax is assessed upon each patient day, including Medicaid patient day, at a long term care facility. The amount of the tax equals the assessment rate times the number of patient days, including Medicaid patient days, at the long term care facility for the calendar quarter. The current rate of the assessment will be determined in accordance with these rules.

(2) The facility must pay the tax and file the report on a form approved by the Department on or before the last day of the month following the end of the calendar quarter for which the tax is being reported, unless the Department permits a later payment date. If a facility requests an extension, the Department, in its sole discretion, will determine whether to grant an extension.

(3) Each long term care facility must submit a revenue report on a form prescribed by the Department by September 30 of each year and pay any tax amount due. Long term care facilities with a Medicaid contract with the Department that provide more than 1,000 Medicaid patient days must submit the nursing facility financial statement (cost report) annually as required by OAR 411-070-0300 which contains the revenue report. Long term care facilities that are not required to submit the annual cost report must submit the revenue report. Either a revenue report or a nursing facility financial statement, where applicable, must be filed by September 30 of each year regardless of whether any additional tax is owed as a result of that filing.

(4) A one-month extension may be obtained for the nursing facility financial statement as set forth in OAR 411-070-0300. A one-month extension may be obtained for the revenue report if a written request to the Department for an extension is postmarked prior to September 30. The Department will respond in writing to these requests.

(5) Revenue reports submitted late are subject to penalty as set forth in OAR 410-050-0491. Nursing facility financial statements submitted late are subject to a penalty as set forth in OAR 411-070-0300(2)(c), where applicable.

(6) Any tax amount due based on the cost report or revenue report as a reconciliation of the previously filed quarterly reports must be paid by the due date specified. Payments submitted late are subject to penalty as set forth in OAR 410-050-0491.

(7) Any refund due to the provider based on the cost report or revenue report can be requested in writing with the submission of the report.

(8) Any report, statement, or other document required to be filed under any provision of these rules shall be certified by the chief financial officer of the facility or an individual with delegated authority to sign for the facility's chief financial officer. The certification must attest, based on best knowledge, information, and belief, to the accuracy, completeness, and truthfulness of the document.

(9) Payments may be made electronically and the accompanying report may either be faxed to the Department at the fax number provided on the report form or mailed to the Department at the address provided on the report form.

(10) The Department may charge the facility a fee of $100 if, for any reason, the check, draft, order, or electronic funds transfer request is dishonored. This charge is in addition to any penalty for nonpayment of the taxes that may also be due.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003 & ORS 736 §16
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08

410-050-0461
Filing an Amended Report

(1) Claims for refunds or payments for additional tax must be submitted by the facility on a form approved by the Department. The facility must provide all information required on the report. The Department may audit the facility, request additional information, or request an informal conference prior to granting a refund or as part of its review of a payment of a deficiency.

(2) Claim for refund.

(a) If the amount of the tax due is less than the amount paid by the facility and the facility does not then owe a tax for any other calendar period, the overpayment may be refunded by the Department to the facility. The facility can request a refund by amending their quarterly report and submitting a written request for refund to the Department, or the facility can request a refund when filing their nursing facility financial report or revenue report.

(b) If there is an amount due from the facility for any past due taxes or penalties, the refund otherwise allowable will be applied to the unpaid taxes and penalties and the facility so notified.

(3) Payment of deficiency.

(a) If the amount of the tax is more than the amount paid by the facility, the facility may file a corrected report on a form approved by the Department and pay the deficiency at any time. The penalty under OAR 410-050-0491 will stop accruing after the Department receives payment of the total deficiency for the calendar quarter; and

(b) If there is an error in the determination of the tax due, the facility may describe the circumstances of the late additional payment with the late filing of the amended report. The Department, at its sole discretion, may determine that a late additional payment does not constitute a failure to file a report or pay an assessment giving rise to the imposition of a penalty. In making this determination, the Department will consider the circumstances, including but not limited to: nature and extent of error, facility explanation

of the error, evidence of prior errors, and evidence of prior penalties (including evidence of informal dispositions or settlement agreements). This provision only applies if the facility has filed a timely original return and paid the assessment identified in the return.

(4) If the Department discovers or identifies information in the administration of these tax rules that it determines could give rise to the issuance of a notice of proposed action or the issuance of a refund, the Department will issue notification pursuant to OAR 410-050-0511.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003 736 §16
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08

410-050-0471
Determining Date Filed

For the purpose of these rules, any reports, requests, appeals, payments, or other response by the facility must be either received by the Department before the close of business on the date due, or if mailed, postmarked before midnight of the due date. When the due date falls on a Saturday, Sunday, or legal holiday, the return is due on the next business day following the Saturday, Sunday, or legal holiday.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003 736 §§16
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08

410-050-0481
Assessing Tax on Failure to File

In the case of a failure by the facility to file a report or to maintain necessary and adequate records, the Department will determine the tax liability of the facility according to the best of its information and belief. Best of its information and belief means the Department will use evidence on which a reasonable person would rely in determining the tax, including but not limited to estimating the days of patient days based upon the number of licensed beds in the facility. The Department's determination of tax liability will be the basis for the assessment due in a notice of proposed action.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003 736 §§16
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08

410-050-0491
Consequence of Failure to File a Report or Failure to Pay Tax When Due

(1) A long term care facility that fails to file a quarterly report or pay a quarterly tax when due under OAR 410-050-0451 is subject to a penalty of $500 per day of delinquency. The penalty accrues from the date of deficiency, notwithstanding the date of any notice under these rules.

(2) A long term care facility that fails to file an annual cost report or revenue report when due under OAR 410-050-0451 is subject to a penalty of up to $500 per day of delinquency. The penalty accrues from the date of delinquency, notwithstanding the date of any notice under these rules.

(3) A long term care facility that files a cost report or annual revenue report, but fails to pay a fiscal year reconciliation tax payment when due under OAR 410-050-0451 is subject to a penalty of up to $500 per day of delinquency up to a maximum of five percent of the amount due. The penalty accrues from the date of delinquency, notwithstanding the date of any notice under these rules.

(4) The total amount of penalty imposed under this section for each reporting period may not exceed five percent of the assessment for the reporting period for which the penalty is being imposed.

(5) Penalties imposed under this section will be collected by the Department and deposited in the Department's account established under ORS 409.060.

(6) Penalties paid under this section are in addition to the long term care facility tax.

(7) If the Department determines that a facility is subject to a penalty under this section, it will issue a notice of proposed action as described in OAR 410-050-0511.

(8) If a facility requests a contested case hearing pursuant to OAR 410-050-0531, the Director, at the Director's sole discretion, may waive or reduce the amount of penalty assessed.

(9) If a facility fails to report or pay the provider tax after the Department issues a final order described in OAR 410-050-0541, then the Department will pursue remedies described in OAR 410-050-0551 that may include a final order leading to collection activities; nursing facility license denial, suspension, or revocation; admission restrictions; and terminating provider contracts.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003 736 §§19
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08

410-050-0501
Departmental Authority to Audit Records

(1) The facility must maintain clinical and financial records sufficient to determine the actual number of patient days for any calendar period for which a tax may be due.

(2) The Department or its designee may audit the facility's records at any time for a period of three years following the date the tax is due to verify or determine the number of patient days at the facility.

(3) The Department may issue a notice of proposed action or issue a refund based upon its findings during the audit.

(4) Any audit, finding, or position may be reopened if there is evidence of fraud, malfeasance, concealment, misrepresentation of material fact, omission of income, or collusion either by the facility or by the facility and a representative of the Department.

(5) The Department may issue a refund and otherwise take such actions as it deems appropriate based upon the audit findings.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, 736 §21
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08

410-050-0511
Notice of Proposed Action

(1) Prior to issuing a notice of proposed action, the Department will notify the facility of a potential deficiency or failure to report that could give rise to the imposition of a penalty. The Department shall issue a 30 day notification letter within 30 calendar days of the report or payment due date. The facility shall have 30 calendar days from the date of the notice to respond to the notification. The Department may consider the response, if any, and any amended report under OAR 410-050-0461 in its notice of proposed action. In all cases the Department shall issue a notice of proposed action.

(2) The Department shall issue a notice of proposed action within 60 calendar days from the date of mailing the 30 day notification letter.

(3) Contents of the notice of proposed action must include:

(a) The applicable calendar quarter;

(b) The basis for determining the corrected amount of tax for the quarter;

(c) The corrected tax due for the quarter as determined by the Department;

(d) The amount of tax paid for the quarter by the facility;

(e) The resulting deficiency, which is the difference between the amount received by the Department for the calendar quarter and the corrected amount due as determined by the Department;

(f) Statutory basis for the penalty;

(g) Amount of penalty per day of delinquency;

(h) Date upon which the penalty began to accrue;

(i) Date the penalty stopped accruing or circumstances under which the penalty will stop accruing;

(j) The total penalty accrued up to the date of the notice;

(k) Instructions for responding to the notice; and

(l) A statement of the facility's right to a hearing.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003 736 §20
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08

410-050-0521
Required Notice

(1) Any notice required to be sent to the facility will be sent to the current licensee and any former licensee who was occupying the property during the time period to which the notice relates.

(2) Any notice required to be sent from the facility to the Department under these rules will be sent to the point of contact identified on the communication from the Department to the facility.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003 736 §20
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08

410-050-0531
Hearing Process

(1) Any facility that receives a notice of proposed action may request a contested case hearing as provided under ORS chapter 183.

(2) The written request must be received by the Department within 20 days of the date of the notice.

(3) Prior to the hearing, the facility shall meet with the Department for an informal conference.

(a) The informal conference may be used to negotiate a written settlement agreement.

(b) If the settlement agreement includes a reduction or waiver of penalties, the agreement must be approved and signed by the Director.

(4) Nothing in this section will preclude the Department and the facility from agreeing to an informal disposition of the contested case at any time, consistent with ORS 183.415(5).

(5) If the case proceeds to a hearing, the administrative law judge will issue a proposed order with respect to the notice of proposed action.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003 736 §20
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08

410-050-0541
Final Order of Payment

The Department will issue a Final Order of Payment for deficiencies and/or penalties when:

(1) Any part of the deficiency or penalty is upheld after a hearing;

(2) The facility did not make a timely request for a hearing; or

(3) Upon the stipulation of the facility and the Department.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003 736 §20
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08

410-050-0551
Remedies Available after Final Order of Payment

(1) Any amounts due and owing under the final order of payment and any interest thereon may be recovered by Oregon as a debt to the state, using any available legal and equitable remedies. These remedies include, but are not limited to:

(a) Collection activities including but not limited to deducting the amount of the final deficiency and penalty from any sum then or later owed to the facility or its owners or operators by the Department, CMS, or their designees to the extent allowed by law;

(b) Nursing facility license denial, suspension, or revocation under OAR 411-089-0040;

(c) Restrictions of admissions to the facility under OAR 411-089-0050; and

(d) Terminating the provider contract with the owners or operators of the facility under OAR 411-070-0015.

(2) Every payment obligation shall bear interest at the statutory rate of interest in ORS 82.010 accruing from the date of the final order of payment and continuing until the payment obligation, including interest, has been discharged.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003 736 §20
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08

410-050-0561
Calculation of Long Term Care Facility Tax

(1) The amount of the tax is based on the assessment rate determined by the Director multiplied by the number of patient days at the long term care facility for a calendar quarter.

(2) The Director must establish an annual assessment rate for long term care facilities that applies for each 12-month period beginning July 1. The Director must establish the assessment rate on or before June 15 preceding the 12-month period for which the rate applies.

(3) On or before October 31, the Department will refund any overages from the prior fiscal year. For example, by October 31, 2007, the Department will refund any overages from fiscal year 2006. Overages are defined as any amount of provider tax that exceeds the federal maximum provider tax limit in effect for the fiscal year.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003 736 §§17
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08

410-050-0591
Limitations on Imposition of Long Term Care Facility Tax

The long term care facility tax may be imposed only in a calendar quarter for which the long term care facility reimbursement rate that is part of the Oregon Medicaid reimbursement system was calculated according to the methodology described in Oregon Laws 2003, chapter 736, section 24.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, 736 §29
Hist.: OMAP 3-2005, f. & cert. ef. 2-1-05; DMAP 2-2008, f. & cert. ef. 1-25-08

410-050-0601
Sunset Provision

The long term care tax applies to long term care facility gross revenue received on or after June 2003 and before July 1, 2014.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, 736 §15-31
Hist.: DMAP 2-2008, f. & cert. ef. 1-25-08

Rule Caption: Amend hospital provider tax rules to explain use of funds, penalties, and sunset.
Adm. Order No.: DMAP 3-2008
Filed with Sec. of State: 1-25-2008
Certified to be Effective: 1-25-08
Notice Publication Date: 11-1-2007
Rules Amended: 410-050-0700, 410-050-0710, 410-050-0720, 410-050-0730, 410-050-0740, 410-050-0750, 410-050-0760, 410-050-0770, 410-050-0780, 410-050-0790, 410-050-0800, 410-050-0810, 410-050-0820, 410-050-0830, 410-050-0840, 410-050-0850, 410-050-0860, 410-050-0861, 410-050-0870
Subject: The hospital provider tax rules provide greater clarification of the assessment of penalties for late reporting and payment. The rules restrict the use of hospital provider tax revenues for hospital services and extend the sunset date of the provider tax program to October 1, 2009.
Rules Coordinator: Jennifer Bittel—(503) 947-5250

410-050-0700
Definitions

The following definitions apply to OAR 410-050-0700 through 410-050-0870:

(1) "Bad Debt" means the current period charge for actual or expected uncollectible accounts resulting from the extension of credit on inpatient and outpatient hospital services. Bad debt charges would be offset by any recoveries received on accounts receivable during that current period, subject to final tax reporting and reconciliation processes required in these rules.

(2) "Charges for Inpatient Care" means gross inpatient charges generated from room, board, general nursing, and ancillary services provided to patients, who are expected to remain in the hospital at least overnight, and occupy a bed (as distinguished from categories of health care items or services identified in 42 CFR 433.56(a)(2)-(19) that are not charges for inpatient hospital services). Charges for inpatient care include all payors, and are not limited to Medicaid patients.

(3) "Charges for Outpatient Care" means gross outpatient charges, generated from services provided by the hospital to a patient who is not confined overnight. These services include all ancillary and clinic facility charges (as distinguished from categories of health care items or services identified in 42 CFR 433.56(a)(1) and (3)-(19) that are not charges for outpatient hospital services). Charges of outpatient care include all payors and are not limited to Medicaid charges.

(4) "Charity Care" means costs for providing inpatient or outpatient care services free of charge or at a reduced charge because of the indigence or lack of health insurance of the patient receiving the care services. Charity care results from a hospital's policy as reflected in its official financial statements to provide inpatient or outpatient hospital care services free of charge or at a reduced charge to individuals who meet financial criteria. Charity care does not include any amounts above the payments by the Department that constitute payment in full under ORS 414.065(3), or above the payment rate established by contract with a prepaid managed care health services organization or health insurance entity for inpatient or outpatient care provided pursuant to such contract, or above the payment rate established under ORS 414.743 for inpatient or outpatient care reimbursed under that statute.

(5) "Contractual Adjustments" means the difference between the amounts charged based on the hospital's full, established charges and the amount received or due from the payor.

(6) "Declared Fiscal Year" means the fiscal year declared to the Internal Revenue Service (IRS).

(7) "Deficiency" means the amount by which the tax, as correctly computed, exceeds the tax, if any, reported and paid by the hospital. If, after the original deficiency has been assessed, subsequent information shows the correct amount of tax to be greater than previously determined, an additional deficiency arises.

(8) "Delinquency" means the hospital failed to file a report when due as required under these rules or failed to pay the tax as correctly computed when the tax was due.

(9) "Department" means the Department of Human Services.

(10) "Director" means the Director of the Department of Human Services.

(11) "Hospital" means a hospital with an organized medical staff, with permanent facilities that include inpatient beds, and with medical services, including physician services and continuous nursing services under

the supervision of registered nurses, to provide diagnosis and medical or surgical treatment primarily for, but not limited to, acutely ill patients and accident victims, or to provide treatment for the mentally ill. Hospital, as used in this section, does not include special inpatient care facilities as that term is defined in ORS 442.015(33). For purposes of these rules, the hospital will be identified by using the federal taxpayer identification number for the hospital.

(12) "Net Revenue" means the total amount of charges for inpatient or outpatient care provided by the hospital to patients, less charity care, bad debts, and contractual adjustments. Net revenue does not include revenue derived from sources other than inpatient or outpatient operations, including but not limited to, interest and guest meals and any revenue that is taken into account in computing a long term care assessment under the long term facility tax.

(13) "Waivered Hospital" means a Type A or Type B hospital as described in ORS 442.470, or a hospital that provides only psychiatric care.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 §1
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08

410-050-0710
General Administration

(1) The purpose of these rules is to implement the tax imposed on hospitals in Oregon.

(2) The Department will administer, enforce, and collect the hospital tax. The Department may assign employees, auditors, and other agents as designated by the Director to assist in the administration, enforcement, and collection of the taxes.

(3) The Department may adopt forms and reporting requirements, and change the forms and reporting requirements, as necessary, to administer, enforce, and collect the taxes.

(4) The Department may not use moneys from the Hospital Quality Assurance Fund to supplant, directly or indirectly, other moneys made available to fund services described in Section 9, Chapter 736, Oregon Laws 2003 as amended by Section 2, Chapter 757, Oregon Laws 2005.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 §9
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08

410-050-0720
Disclosure of Information

(1) Except as otherwise provided by law, the Department must not publicly divulge or disclose the amount of income, expense, or other particulars set forth or disclosed in any report or return required in the administration of the taxes. Particulars include but are not limited to social security numbers, employer numbers, or other hospital identification numbers, and any business records required to be submitted to or inspected by the Department or its designee to allow it to determine the amounts of any assessments, delinquencies, deficiencies, penalties, or interest payable or paid, or otherwise administer, enforce, or collect a health care assessment to the extent that such information would be exempt from disclosure under ORS 192.501(5) or other basis for exemption under Oregon's public records law.

(2) The Department may:

(a) Furnish any hospital, or its authorized representative, upon request of the hospital or representative, with a copy of the hospital's report filed with the Department for any quarter, or with a copy of any report filed by the hospital in connection with the report, or with a copy of any other information the Department considers necessary.

(b) Publish information or statistics so classified as to prevent the identification of income or any particulars contained in any report or return.

(c) Disclose and give access to an officer or employee of the Department or its designee, or to the authorized representatives of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, the Controller General of the United States, the Oregon Secretary of State, the Oregon Department of Justice, the Oregon Department of Justice Medicaid Fraud Control Unit, and other employees of the state or federal government to the extent the Department deems disclosure or access necessary or appropriate for the performance of official duties in the Department's administration, enforcement, or collection of the taxes.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 §1
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08

410-050-0730
Entities Subject to the Hospital Tax

Each hospital in Oregon is subject to the hospital tax except:

(1) Hospitals operated by the United States Department of Veterans Affairs;

(2) Pediatric specialty hospitals providing care to children at no charge; and

(3) Waivered hospitals, as that term is defined in OAR 410-050-0700.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 §1 & 2
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08

410-050-0740
Hospital Tax: Calculation, Report, Due Date

(1) The amount the tax equals the tax rate multiplied by the net revenue of the hospital, consistent with OAR 410-050-0750, 410-050-0860, and 410-050-0861. The tax will be imposed on net revenues earned by the hospital on or after January 1, 2004, based on calendar quarters. The first calendar quarter begins on January 1; the second calendar quarter begins on April 1; the third calendar quarter begins on July 1; and the fourth calendar quarter begins on October 1.

(2) The rate of the assessment will be determined in accordance with OAR 410-050-0860 and 410-050-0861.

(3) The hospital must file the quarterly report on a form approved by the Department on or before the 75th day following the end of the calendar quarter for which a tax is due. The quarterly payment is due and must be paid at the same time required for filing the quarterly report. The hospital must provide all information required on the quarterly report when due. Failure to file or pay when due will be a delinquency.

(4) The tax becomes operative on July 1, 2004. The first due date for a quarterly tax and report will be 75 days from September 30, which is December 13, 2004.

(5) The fiscal year reconciliation report, including the financial statement and reconciliation statement, is due and must be submitted to the Department no later than the final day of the sixth calendar month after the hospital's declared fiscal year end. The fiscal year reconciliation tax payment is due and must be paid at the same time required for filing the fiscal year reconciliation report. The hospital must provide all information required on the fiscal year reconciliation report when due. Failure to file or pay when due will be a delinquency.

(6) Any report, statement, or other document required to be filed under any provision of these rules must be certified by the chief financial officer of the hospital or an individual with delegated authority to sign for the hospital's chief financial officer. The certification must attest, based on best knowledge, information, and belief, to the accuracy, completeness, and truthfulness of the document.

(7) Payments may be made electronically or by paper check. If the hospital pays electronically, the accompanying report may either be faxed to the Department at the fax number provided on the report form or mailed to the Department at the address provided on the report form. If the hospital pays by paper check, the accompanying report must be mailed with the check to the address provided on the report form.

(8) The Department may charge the hospital a fee of $100 if, for any reason, the check, draft, order, or electronic funds transfer request is dishonored. This charge is in addition to any penalty for nonpayment of the taxes that may also be due.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 2
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08

410-050-0750
Reporting Total Net Revenue, Use of Estimated Revenue for Quarterly Reports

(1) A hospital must submit quarterly reports and quarterly payments for the calendar quarters for which a tax is due consistent with sections (2) and (5) of this rule, and must submit a fiscal year reconciliation report that includes a reconciliation statement, audited financial statement, and any fiscal year reconciliation tax payment based on the hospital's declared fiscal year end consistent with sections (3) and (5) of this rule.

(2) The quarterly reports and quarterly tax payments must be based on estimated net revenue, which will be referred to as estimated tax. Estimated tax is the amount of tax the hospital expects to owe for the current taxable calendar quarter. The hospital must calculate the estimated tax based on net revenues using the hospital's interim financial results for the quarter for which the tax is due. An estimated quarterly report is due for each calendar

quarter for which a tax is due, based on the rate of tax applicable to that quarter. The quarterly payment is due and must be paid at the same time required for filing the quarterly report.

(3) The fiscal year reconciliation report and fiscal year reconciliation tax payment must be based on the amount of tax the hospital actually owes based on annual net revenue for all calendar quarters for which an estimated tax payment is due during the hospital's declared fiscal year. The hospital must calculate the annual net revenue for the hospital's declared fiscal year. The fiscal year reconciliation tax payment due to the Department will be the calculated tax (using the tax rate applicable to the appropriate quarter, described in subsection (c) below for fiscal year reconciliation tax calculation purposes) on the annual net revenue reduced by the estimated tax payments made for each taxable quarter of the hospital's declared fiscal year. The hospital must provide all information required in the fiscal year reconciliation report when due, even if no fiscal year reconciliation tax payment is owed.

(a) When the fiscal year reconciliation report is submitted, it must be accompanied by the hospital's declared fiscal year end audited financial statement for the declared fiscal year on which the fiscal year reconciliation report and fiscal year reconciliation tax payments are based.

(b) The fiscal year reconciliation report must include a reconciliation statement describing the relationship between the audited financial statement and annual net revenues subject to the tax. The reconciliation statement may be descriptive in form and should be consistent with the accounting principles used in the audited financial statement.

(c) The tax rate applicable to the final tax shall be calculated as follows:

(A) If all taxable quarters were subject to the same tax rate established in OAR 410-050-0160 and 410-050-0861, then the tax rate applicable to the final reconciliation is the tax rate applicable to all such quarters. For example, if the hospital's declared fiscal year is July 1, 2004 to June 30, 2005, then the tax rate is .93 percent of annual net revenue.

(B) If different tax rates apply to calendar quarters in the hospital's declared fiscal year, the hospital shall apply a blended rate to the total annual net revenue to determine the fiscal year reconciliation tax due. A blended rate is the average of the rates applicable to all taxable quarters. The Department will notify the hospital of the amount of the applicable blended rate. For example, if the hospital's declared fiscal year overlaps two quarters taxed at a rate of .93 percent and two quarters taxed at .50 percent, then the blended rate for purposes of the annual reconciliation is .715 percent. For purposes of calculating the fiscal year reconciliation tax due, the hospital will multiply the annual net revenue by the blended rate.

(d) If the total estimated tax payments already paid by the hospital for the declared fiscal year exceed the amount of the fiscal year reconciliation tax actually due, the fiscal year reconciliation report should identify such difference and the hospital should adjust the fiscal year reconciliation tax due amount accordingly in the fiscal year reconciliation report for that tax year.

(e) The fiscal year reconciliation report, audited financial statement, and reconciliation statement will be due and will be submitted to the Department no later than the final day of the sixth calendar month after the hospital's declared fiscal year end. The fiscal year reconciliation tax payment (if owed) is due and must be paid at the same time required for filing the fiscal year reconciliation report. Failure to file and pay when due will be a delinquency.

(f) If the declared fiscal year end audited financial statement for the hospital is not available within the time required in section (e), a fiscal year reconciliation tax payment (if owed) and fiscal year reconciliation report are still required to be submitted within the time period specified under section (e). The hospital may use interim financial statements to determine the amount of the fiscal year reconciliation tax due and may submit a justification statement with the fiscal year reconciliation report due no later than the date specified in section (e) signed by the chief financial officer of the hospital informing the Department when the audited financial statement is due and certifying that an amended fiscal year reconciliation report, including the reconciliation statement, must be provided to the Department within 30 days of the hospital's receipt of the audited financial statement. Reports and payments made after the time period required in section (e) must be submitted in compliance with OAR 401-050-0760.

(g) In the event the hospital does not receive audited financial statements, internal financial statements signed by the hospital's chief financial officer must be submitted where these rules otherwise require audited financial statements.

(h) If the effective date of the tax is not at the start of the hospital's declared fiscal year, then the annual net revenue for the first fiscal year reconciliation report will be calculated based on the number of quarters subject to the tax versus the total number of quarters in the hospital's declared fiscal year. For example, if the tax is effective on July 1, 2004 for a hospital with a declared fiscal year ending December 31, 2004, the annual net revenues would be calculated as follows: total net revenues for the declared fiscal year divided by two (two of four quarters subject to the tax).

(4) The Department will not find a payment deficiency for estimated quarterly taxes as long as the hospital paid the estimated taxes and submitted the quarterly report no later than the quarterly due date and such estimated tax amount was not less than the equivalent of the tax payment that would have been determined based on the hospital's annual net revenue for its most recent prior declared fiscal year divided by four and multiplied times the tax rate for the quarter in which the actual estimated tax is due. Annual net revenue for purposes of section (4) of this rule means the twelve month period in which the hospital's most recent prior declared fiscal year occurred, regardless of whether the prior quarters were subject to a tax. For example, if the annual net revenue for the most recent prior declared fiscal year was $4 million; divide that total by 4 ($1 million) and multiply the product times the current tax rate for the taxable quarter (.93 percent). In this example, the estimated quarterly tax payment may not be less than $9,300 in order to receive the benefit of section (4) of this rule.

(a) If the hospital seeks to use the process in section (4) of this rule, no later than the date on which the first quarterly estimated tax and report is due (for example, December 13, 2004, for the first taxable quarter), the hospital must provide the Department with a copy of the hospital's audited financial statement for the hospital's most recent prior declared fiscal year and identify the hospital's annual net revenue amount for that declared fiscal year, regardless of whether any taxes were due for that year.

(b) In the event the hospital does not receive audited financial statements, internal financial statements from the hospital's most recent prior declared fiscal year signed by the chief financial officer may be used for this purpose.

(5) All of the due dates for filing reports or paying taxes are established in OAR 410-050-0740, unless the Department permits a later payment date. If a hospital requests an extension, the Department, in its sole discretion, will determine whether to grant an extension. There will be a delinquency for each quarter the hospital fails to pay the estimated tax or file the quarterly report when due. There will be a delinquency if the hospital fails to pay the fiscal year reconciliation tax or file the fiscal year reconciliation report, including financial statements and reconciliation statement, when due.

(6) A hospital must declare the date of the hospital's declared fiscal year end for purposes of establishing final tax reporting requirements under this rule. The declaration must be filed with the Department no later than December 13, 2004, or the first date that an estimated quarterly report and tax is due. The hospital must notify the Department within 30 days of a change to the hospital's declared fiscal year end. Such a change in declared fiscal year end will be applied to the hospital's next future declared fiscal year for purposes of calculating the final tax and filing the final report.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 2
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08

410-050-0760
Filing an Amended Report

(1) A hospital that submits a fiscal year reconciliation report without an audited financial statement in accordance with OAR 410-050-0750(3)(f) must submit, within 180 days after the due date of the fiscal year reconciliation report in accordance with OAR 410-050-0750(e), an amended fiscal year reconciliation report, an audited financial statement, and such additional fiscal year reconciliation payment (if owed) for taxes and deficiencies.

(2) Claim for Refund.

(a) If the amount of the tax imposed by these rules in the amended fiscal year reconciliation report is less than the amount paid by the hospital, such overpayment may be refunded by the Department to the hospital. In no event will a refund exceed the tax amount actually paid by the hospital.

(b) The hospital must provide all information required on the report. No refunds will be made prior to the Department receiving the hospital's audited financial statement for the declared fiscal year. The Department may audit the hospital, request additional information, or request an informal conference prior to granting a refund or as part of its review.

(c) If there is an amount due from the hospital to the Department for any past due taxes or penalties, any refund otherwise allowable will first be applied to the unpaid taxes and penalties, and the hospital so notified.

(d) A hospital may not deduct from current, prospective, or future tax payments an amount to which it claims to be entitled as a refund for a prior period. The claim for refund must be made to the Department consistent with this rule.

(3) Payment of Delinquency.

(a) If the amount of the annual tax imposed by these rules is more than the amount paid by the hospital, the hospital must file an amended fiscal year reconciliation report and pay the additional fiscal year reconciliation tax and deficiency. The penalty under OAR 410-050-0800 will stop accruing after the Department receives the amended fiscal year reconciliation report, the annual audited financial statement, and payment of the total fiscal year reconciliation tax and deficiency for year; except to the extent provided in OAR 410-050-0750(4)(a).

(b) No refunds will be made prior to the Department receiving the hospital audited financial statement for the declared fiscal year. The Department may audit the hospital, request additional information, or request an informal conference prior to granting a refund or as part of its review.

(c) If there is an error in the determination of the tax due, the hospital may describe the circumstances of the late additional payment with the filing of the amended report. The Department, in its sole discretion, may determine that such a late additional payment does not constitute a failure to file a report or pay an assessment giving rise to the imposition of a penalty. In making this determination, the Department will consider the circumstances, including but not limited to: nature and extent of the error; hospital explanation of the circumstances related to the error; evidence of prior errors; and evidence of prior penalties (including evidence of informal dispositions or settlement agreements). This provision only applies if the hospital has filed a timely original report and paid the assessment identified in the report.

(4) If the Department discovers or identifies information in the administration of these tax rules that it determines could give rise to the issuance of a notice of proposed action, the Department will issue notification pursuant to OAR 410-050-0810.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 2
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08

410-050-0770
Determining the Date Filed

(1) For the purposes of these rules, any reports, requests, appeals, payments, or other response by the hospital must be received by the Department either:

(a) Before the close of business on the date due; or

(b) If mailed, postmarked before midnight of the due date.

(2) When the due date falls on a Saturday, Sunday, or a legal holiday, the return is due on the next business day following the Saturday, Sunday, or legal holiday.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 2
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08

410-050-0780
Departmental Authority to Audit Records

(1) The hospital must maintain financial records necessary and adequate to determine the net revenue for any calendar period for which a tax may be due.

(2) The Department or its designee may audit the hospital's records at any time for a period of five years following the date the tax is due to verify or determine the hospital's net revenue.

(3) The Department may issue a notice of deficiency or issue a refund based upon its findings during the audit.

(4) Any audit, finding, or position may be reopened if there is evidence of fraud, malfeasance, concealment, misrepresentation of material fact, omission of income, or collusion either by the hospital or by the hospital and a representative of the Department.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 2
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08

410-050-0790
Assessing Tax on Failure to File

(1) The law places an affirmative duty on the hospital to file a timely and correct report.

(2) In the case of a failure by the hospital to file a report or to maintain necessary and adequate records, the Department will determine the tax liability of the hospital according to the best of its information and belief. Best of its information and belief means the Department will use evidence available to the Department at the time of the determination on which a reasonable person would rely in determining the tax. The Department's determination of tax liability will be the basis for the assessment due in any notice of proposed action.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 2
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08

410-050-0800
Financial Penalty for Failure to File a Report or Failure to Pay Tax When Due

(1) A hospital that fails to file a quarterly report or pay a quarterly tax when due will be subject to a penalty of $500 per day of delinquency. The penalty accrues from the date of delinquency, notwithstanding the date of any notice under these rules.

(2) A hospital that fails to file a fiscal year reconciliation report when due under OAR 410-050-0740 or 410-050-0750 is subject to a penalty of up to $500 per day of delinquency. The penalty accrues from the date of delinquency, notwithstanding the date of any notice under these rules.

(3) A hospital that files a fiscal year reconciliation report, but fails to pay a fiscal year reconciliation tax payment when due under OAR 410-050-0740 is subject to a penalty of up to $500 per day of delinquency up to a maximum of five percent of the amount due. The penalty accrues from the date of delinquency, notwithstanding the date of any notice under these rules.

(4) The total amount of penalty imposed under this section for each reporting period may not exceed five percent of the assessment for the reporting period for which penalty is being imposed.

(5) Penalties imposed under this section will be collected by the Department and deposited in the Department's account established under ORS 409.060.

(6) Penalties paid under this section are in addition to the hospital's tax liability.

(7) If the Department determines that a hospital is subject to a penalty under this section, it will issue a notice of proposed action as described in OAR 410-050-0810.

(8) If a hospital requests a contested case hearing pursuant to OAR 410-050-0830, the Director, at the Director's sole discretion, may waive or reduce the amount of penalty assessed.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 5
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08

410-050-0810
Notice of Proposed Action

(1) Prior to issuing a notice of proposed action, the Department will notify the hospital of the potential deficiency or failure to report that could give rise to the imposition of a penalty. The Department shall issue a 30 day notification letter within 30 calendar days of the report or payment due date. The hospital shall have 30 calendar days from the date of the notice to respond to the notification. The Department may consider the response, if any, and any amended final report under OAR 410-050-0760 in its notice of proposed action. In all cases the Department shall issue a notice of proposed action.

(2) The Department shall issue a notice of proposed action within 60 calendar days from the date of mailing the 30 day notification letter.

(3) Contents of the notice of proposed action must include:

(a) The applicable reporting period;

(b) The basis for determining the corrected amount of tax;

(c) The corrected tax due as determined by the Department;

(d) The amount of tax paid by the hospital;

(e) The resulting deficiency, which is the difference between the amount received by the Department and the corrected amount due as determined by the Department;

(f) Statutory basis for the penalty;

(g) Amount of penalty per day of delinquency;

(h) Date upon which the penalty began to accrue;

(i) Date the penalty stopped accruing or circumstances under which the penalty will stop accruing;

(j) The total penalty accrued up to the date of the notice;

(k) Instructions for responding to the notice; and

(l) A statement of the hospital's right to a hearing.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 2
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08

410-050-0820
Required Notice

(1) Any notice required to be sent under these rules will be sent to the hospital's main address, to the attention of the hospital administrator, as listed by the Department's Health Care Licensure and Certification Unit's "Acute Care Provider List."

(2) Any notice required to be sent to the Department under these rules will be sent to the point of contact identified on the communication from the Department to the hospital.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 6
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08

410-050-0830
Hearing Process

(1) Any hospital that receives a notice of proposed action may request a contested case hearing under ORS 183.

(2) The hospital may request a hearing by submitting a written request within 20 days of the date of the notice of proposed action.

(3) Prior to the hearing, the hospital shall meet with the Department for an informal conference.

(a) The informal conference may be used to negotiate a written settlement agreement.

(b) If the settlement agreement includes a reduction or waiver of penalties, the agreement must be approved and signed by the Director.

(4) Except as provided in section (5) of this rule, if the case proceeds to a hearing, the administrative law judge will issue a proposed order with respect to the notice of proposed action. The Department will issue a final order.

(5) Nothing in this section will preclude the Department and the hospital from agreeing to informal disposition of the contested case at any time, consistent with ORS 183.415(5).

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 6
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08

410-050-0840
Final Order of Payment

A final order of payment is a final Department action, expressed in writing, based on a notice of proposed action where a payment amount is due to the Department. The Department will issue a final order of payment for deficiencies or penalties when:

(1) The hospital did not make a timely request for a hearing;

(2) Any part of the deficiency and penalty was upheld after a hearing; or

(3) Upon the agreement of the hospital and the Department.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 6
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08

410-050-0850
Remedies Available after Final Order of Payment

Any amounts due and owing under the final order of payment and any interest thereon may be recovered by Oregon as a debt to the state, using any available legal and equitable remedies. These remedies include, but are not limited to:

(1) Collection activities including but not limited to deducting the amount of the final deficiency or penalty from any sum then or later owed to the hospital by the Department; and

(2) Every payment obligation owed by the hospital to the Department under a final order of payment will bear interest at the statutory rate of interest in ORS 82.010 accruing from the date of the final order of payment and continuing until the payment obligation, including interest, has been discharged.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 6
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08

410-050-0860
Director Determines Rate of Tax

(1) The tax rate is determined by the Director.

(2) The tax rate for the period beginning January 1, 2004 through June 30, 2004 is 0 percent. The tax rate for the period beginning July 1, 2004 through December 31, 2004 is .95 percent.

(3) The Director may reduce the rate of assessment to the maximum rate allowed under federal law if the reduction is required to comply with federal law. If the rate is reduced pursuant to this section, the Director will notify the hospitals as to the effective date of the rate reduction.

(4) A hospital is not guaranteed that any additional moneys paid to the hospital in the form of payments for services will equal or exceed the amount of the assessment paid by the hospital.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 6
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 91-2004(Temp), f. & cert. ef. 12-3-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; OMAP 28-2005(Temp), f. & cert. ef. 5-10-05 thru 11-5-05; OMAP 34-2005, f. 7-8-05, cert. ef. 7-11-05; DMAP 3-2008, f. & cert. ef. 1-25-08

410-050-0861
Tax Rate

The tax rate for the period beginning January 1, 2005 and ending June 30, 2006 is.68 percent. The tax rate for the period beginning July 1, 2006 and ending December 31, 2007 is .82 percent. The tax rate for the period beginning January 1, 2008 is .63 percent.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 2 & 3
Hist.: OMAP 28-2005(Temp), f. & cert. ef. 5-10-05 thru 11-5-05; OMAP 34-2005, f. 7-8-05, cert. ef. 7-11-05; OMAP 14-2006, f. 6-1-06, cert. ef. 7-1-06; DMAP 29-2007, f. 12-31-07, cert. ef. 1-1-08; DMAP 3-2008, f. & cert. ef. 1-25-08

410-050-0870
Sunset Provisions

The hospital tax applies to net revenue received by hospitals on or after January 1, 2004 and before October 1, 2009.

Stat. Auth.: ORS 409.050, 410.070, 411.060
Stats. Implemented: ORS 409.750, OL 2003, Ch. 736 § 10
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08

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Rule Caption: Electronic Data Transmission Temporary Rule Repeal.
Adm. Order No.: DMAP 4-2008
Filed with Sec. of State: 2-1-2008
Certified to be Effective: 2-1-08
Notice Publication Date: 1-1-2008
Rules Repealed: 410-001-0100(T), 410-001-0110(T), 410-001-0120(T), 410-001-0130(T), 410-001-0140(T), 410-001-0150(T), 410-001-0160(T), 410-001-0170(T), 410-001-0180(T), 410-001-0190(T), 410-001-0200(T)
Subject: The Department of Human Services is repealing these temporary rules because they are being moved permanently to the Department-wide rule chapter (407), effective February 1, 2008. The electronic data transmission rules compliment the new functionality of the Oregon Replacement Medicaid Management Information System (MMIS) in conjunction with the Health Insurance Portability and Accountability Act (HIPAA) transactions and codes set standards for the exchange of electronic data.
Rules Coordinator: Jennifer Bittel—(503) 947-5250

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Department of Human Services,
Public Health Division
Chapter 333

Rule Caption: Oregon public water systems sanitary survey fees, and lead and copper revisions.
Adm. Order No.: PH 2-2008
Filed with Sec. of State: 2-15-2008
Certified to be Effective: 2-15-08
Notice Publication Date: 12-1-2007
Rules Amended: 333-061-0030, 333-061-0032, 333-061-0034, 333-061-0036, 333-061-0040, 333-061-0043, 333-061-0045, 333-061-0050, 333-061-0061, 333-061-0070, 333-061-0072, 333-061-0076, 333-061-0215, 333-061-0245, 333-061-0250, 333-061-0260, 333-061-0265

Subject: The Oregon Department of Human Services, Public Health Division is permanently amending specified rules in OAR 333-061 as required by Oregon Laws, Ch. 447 (ef. 1-1-08), to impose new fees on water suppliers to recover the costs of conducting periodic sanitary surveys. Other amendments include short-term regulatory revisions and clarifications to the lead and copper rules: Groundwater Under the Direct Influence (GWUDI) determination criteria and monitoring requirements.

Rules Coordinator: Judy Murdza—(971) 673-0561

333-061-0030

Maximum Contaminant Levels and Action Levels

(1) Maximum contaminant levels (MCLs) and Action Levels (ALs) for inorganic chemicals are applicable to all Community and Non-transient Non-community water systems and are listed in Table 1. The MCL for Fluoride is applicable only to Community Water Systems and the MCL for Nitrate is applicable to all water systems. [Table not included. See ED. NOTE.]

(a) Compliance with the maximum contaminant levels for inorganic contaminants is calculated pursuant to OAR 333-061-0036(2)(j).

(b) Violations of secondary contaminant levels for fluoride (2.0 mg/l) require a special public notice. Refer to OAR 333-061-0042(7).

(c) The lead action level is exceeded if the concentration of lead in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with OAR 333-061-0036(2)(d)(A) through (E) is greater than 0.015 mg/L (i.e., if the "90th percentile" lead level is greater than 0.015 mg/L). The copper action level is exceeded if the concentration of copper in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with OAR 333-061-0036(2)(d)(A) through (E) is greater than 1.3 mg/L (i.e., if the "90th percentile" copper level is greater than 1.3 mg/L).

(A) The 90th percentile lead and copper levels shall be computed as follows: The results of all lead or copper samples taken during a monitoring period shall be placed in ascending order from the sample with the lowest concentration to the sample with the highest concentration. Each sampling result shall be assigned a number, ascending by single integers beginning with the number 1 for the sample with the lowest contaminant level. The number assigned to the sample with the highest contaminant level shall be equal to the total number of samples taken. The number of samples taken during the monitoring period shall be multiplied by 0.9. The contaminant concentration in the numbered sample yielded by this calculation is the 90th percentile contaminant level.

(B) For water systems serving fewer than 100 people that collect five samples per monitoring period, the 90th percentile is computed by taking the average of the highest and second highest concentrations. For a water system allowed by the Department to collect fewer than five samples the sample result with the highest concentration is considered the 90th percentile value.

(2) Maximum contaminant levels for organic chemicals:

(a) The maximum contaminant levels for synthetic organic chemicals are shown in **Table 2** and apply to all Community and Non-Transient Non-Community water systems: [Table not included. See ED. NOTE.]

(A) Compliance with MCLs shall be calculated pursuant to OAR 333-061-0036(3)(a)(G).

(b) The maximum contaminant level for Total Trihalomethanes (TTHM) consists of a calculation of the running annual average of quarterly analyses of the sum of the concentrations of bromodichloromethane, dibromochloromethane, tribromomethane (bromoform) and trichloromethane0 (chloroform).

(A) Compliance with the MCL shall be calculated pursuant to OAR 333-061-0036 (3)(b)(B).

(B) The MCL for TTHM and HAA5 compounds applies to all Community and Non-transient Non-community water systems using surface water or groundwater under the influence of surface water to which a disinfectant other than UV light is added to the water supply at any point in the drinking water treatment process. The MCLs for these compounds are specified in **Table 3** as follows: [Table not included. See ED. NOTE.] Any system having either a TTHM running annual average greater than or equal to 0.064 mg/l or an HAA5 running annual average greater than or equal to 0.048 mg/l must conduct disinfection profiling as determined by the Department in accordance with the USEPA Disinfection Profiling and Benchmarking Guidance Manual for systems serving at least 10,000 people or the USEPA LT1-ESWTR Disinfection Profiling and Benchmarking Technical Guidance Manual for systems serving less than 10,000 people. For systems serving at least 10,000 people, the profile is based on daily inactivation rate calculations over a period of 12 consecutive months. If the water system uses chloramines, ozone, or chlorine dioxide as a primary disinfectant, the log inactivation for viruses must be calculated and an additional disinfection profile must be developed using a method approved by the Department. The water system must retain the disinfection profile data in graphic form, such as a spreadsheet, which must be available for review by the Department as part of a sanitary survey or other field visit contact.

(C) Water systems serving surface water or groundwater under direct influence required to conduct a disinfection profile by paragraph 2 (b)(B) of this rule serving less than 10,000 people must monitor the following parameters to determine the total log inactivation once per week on the same calendar day over twelve consecutive months:

(i) The temperature of the disinfected water at each residual disinfectant concentration sampling point during peak hourly flow;

(ii) The pH of the disinfected water at each residual disinfectant concentration sampling point during peak hourly flow for systems using chlorine;

(iii) The disinfectant contact time(s) ("T") during peak hourly flow; and;

(iv) The residual disinfectant concentration(s) ("C") of the water before or at the first customer and prior to each additional point of disinfection during peak hourly flow.

(D) Water systems with only one point of disinfection application must determine one inactivation ration (CTcalc/CT99.9) before or at the first customer during peak hourly flow or must determine successive (CTcalc/CT99.9) values, representing sequential inactivation ratios, between the point of disinfectant application and a point before or at the first customer during peak hourly flow (where the total inactivation ratio equals the sum of the (CTcalc/CT99.9) values for each sequence. Water systems using more than one point of disinfection application before the first customer must determine the (CTcalc/CT99.9) value of each disinfection segment immediately prior to the next point of disinfectant application, or for the final segment, before or at the first customer, during peak hourly flow conditions. Once the total inactivation ratio is calculated, multiply the value by 3 to determine the log inactivation of Giardia lamblia. Additional guidance is contained in the USEPA Disinfection Profiling and Benchmarking Guidance Manual for systems serving at least 10,000 people or USEPA LT1-ESWTR Disinfection Profiling and Benchmarking Technical Guidance Manual for systems serving less than 10,000 people.

(c) The maximum contaminant level for volatile organic chemicals are indicated in **Table 4** and apply to all Community and Non-Transient Non-Community water systems: [Table not included. See ED. NOTE.]

(A) Compliance with MCLs shall be calculated pursuant to OAR 333-061-0036(3)(c)(K).

(d) When the Department has reason to believe that a water supply has been contaminated by a toxic organic chemical, it will determine whether a public health hazard exists and whether control measures must be carried out;

(e) The Department may establish maximum contaminant levels for additional organic chemicals as deemed necessary when there is reason to suspect that the use of those chemicals will impair water quality to an extent that poses an unreasonable risk to the health of the water users;

(f) Persons who apply pesticides on watersheds above surface water intakes of public water systems shall comply with federal and state pesticide application requirements. (Safe Drinking Water Act (EPA), Clean Water Act (EPA), Federal Insecticide, Fungicide and Rodenticide Act (EPA), ORS 536.220 to 536.360 (Water Resources), 468B.005 (DEQ), 527.610 to 527.990 (DOF), 634.016 to 634.992 (Department of Agriculture)). Any person who has reasonable cause to believe that his or her actions have led to organic chemical contamination of a public water system shall report that fact immediately to the water supplier.

(3) Maximum contaminant levels for turbidity are applicable to all public water systems using surface water sources or groundwater sources under the direct influence of surface water in whole or in part. Compliance with MCLs shall be calculated pursuant to OAR 333-061-0036(4).

(a) Beginning January 1, 1992, the maximum contaminant levels for turbidity for systems which do not provide filtration treatment are as follows:

(A) The turbidity level cannot exceed 5 NTU in representative samples of the source water immediately prior to the first or only point of disinfectant application unless:

(i) The Department determines that any such event was caused by circumstances that were unusual and unpredictable; and

(ii) As a result of any such event, there have not been more than two events in the past 12 months the system served water to the public, or more

than five events in the past 120 months the system served water to the public, in which the turbidity level exceeded 5 NTU. An "event" is a series of consecutive days during which at least one turbidity measurement each day exceeds 5 NTU. Turbidity measurements must be collected as required by OAR 333-061-0036(4)(a)(B).

(b) Beginning June 29, 1993 or 18 months after failure to meet the requirements of OAR 333-061-0032(1) through (3) whichever is later, the maximum contaminant levels for turbidity in drinking water measured at a point representing filtered water prior to any storage are as follows:

(A) Conventional filtration treatment or direct filtration treatment.

(i) For systems using conventional filtration or direct filtration treatment the turbidity level of representative samples of a system's filtered water, measured as soon after filtration as possible and prior to any storage, must be less than or equal to 0.3 NTU in at least 95% of the measurements taken each month, measured as specified in OAR 333-061-0036(4).

(ii) For systems using conventional filtration or direct filtration treatment the turbidity level of representative samples of a system's filtered water, measured as soon after filtration as possible and prior to any storage, must at no time exceed 1 NTU measured as specified in OAR 333-061-0036(4).

(B) Slow sand filtration.

(i) For systems using slow sand filtration, the turbidity level of representative samples of filtered water, measured as soon after filtration as possible and prior to any storage, must be less than or equal to 1 NTU in at least 95 percent of the measurements taken each month, measured as specified in OAR 333-061-0036(4)(b), except that if the Department determines there is no significant interference with disinfection at a higher turbidity level, the Department may substitute this higher turbidity limit for that system.

(ii) The turbidity level of representative samples of filtered water must at no time exceed 5 NTU, measured as specified in OAR 333-061-0036(4)(b).

(C) Diatomaceous earth filtration.

(i) For systems using diatomaceous earth filtration, the turbidity level of representative samples of filtered water, measured as soon after filtration as possible and prior to any storage, must be less than or equal to 1 NTU in at least 95 percent of the measurements taken each month, measured as specified in OAR 333-061-0036(4)(b).

(ii) The turbidity level of representative samples of filtered water must at no time exceed 5 NTU, measured as specified in OAR 333-061-0036(4)(b).

(D) Other filtration technologies. Systems using filtration technologies other than those listed in paragraphs (3)(b)(A) through (C) of this rule must meet the maximum contaminant level for turbidity of 1 NTU in at least 95% of the measurements taken each month and at no time exceed 5 NTU, as specified in OAR 333-061-0036(4)(b)(A). The Department may substitute a lower turbidity value(s) if it is determined that the above limit(s) cannot achieve the required level of treatment. The water system must demonstrate to the Department that the alternative filtration technology in combination with disinfection treatment as specified in OAR 333-061-0032 and monitored as specified by OAR 333-061-0036 consistently achieves 99.9% removal and/or inactivation of Giardia lamblia cysts and 99.99% removal and/or inactivation of viruses, and for all of those systems serving at least 10,000 people and beginning January 1, 2005 for all of those systems serving less than 10,000 people, 99% removal of Cryptosporidium oocysts.

(4) Maximum microbiological contaminant levels for all public water systems are as follows:

(a) The MCL is based on the presence or absence of total coliforms in a sample, rather than coliform density.

(A) For a system which collects 40 or more samples per month, total coliform-positive samples shall not exceed 5.0 percent of the samples collected during a month.

(B) For a system which collects fewer than 40 samples per month total coliform-positive samples shall not exceed more than one sample collected during a month.

(b) Any fecal coliform-positive repeat sample or E. coli-positive repeat sample, or any total coliform-positive repeat sample following a fecal coliform-positive or E. coli-positive routine sample shall be a violation of the total coliform MCL. Public notification for this potential acute health risk is prescribed in OAR 333-061-0042(2)(a)(A).

(c) All public water systems must determine compliance with the MCL for total coliforms in subsections (4)(a) and (b) of this rule on a monthly basis.

(d) A water system may demonstrate to the Department that a violation of the total coliform MCL is due to a persistent growth of total coliforms in the distribution system rather than fecal or pathogenic contamination, a treatment lapse or deficiency, or a problem in the operation or maintenance of the distribution system. The system making the demonstration may use the health effects language of OAR 333-061-0097(4)(d) in the required public notice in addition to the mandatory language of OAR 333-061-0097(4)(a). This demonstration, made by the system in writing and submitted to the Department for review and approval, shall show to the satisfaction of the Department that the system meets the following conditions:

(A) No occurrence of E. coli in distribution system samples;

(B) No occurrence of coliforms at the entry point to the distribution system;

(C) The system meets treatment requirements prescribed in OAR 333-061-0032 as applicable;

(D) The system meets the turbidity MCL, if surface water sources are used;

(E) The system maintains a detectable disinfectant residual in the distribution system;

(F) The system has no history of waterborne disease outbreaks;

(G) The system has addressed requirements and recommendations of the previous sanitary survey conducted by the Department; and

(H) The system fully complies with cross connection control program requirements.

(5) Maximum contaminant levels for radionuclides are applicable only to Community water systems and are indicated in Table 5: [Table not included. See ED. NOTE.]

(a) The average annual concentration of beta particle and photon radioactivity from man-made sources shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem per year according to the criteria listed in the National Bureau of Standards Handbook 69 as amended August, 1963. If two or more radionuclides are present, the sum total of their annual dose equivalent to the total body or to any organ shall not exceed 4 millirem/year.

(A) The average annual concentration of tritium assumed to produce a total body dose of 4 mrem/year is 20,000 pCi/L;

(B) The average annual concentration of strontium-90 assumed to produce a bone marrow dose of 4 mrem/year is 8 pCi/L.

(b) Compliance with the MCLs shall be calculated pursuant to OAR 333-061-0036(6)(c).

(6) Contaminant levels for secondary contaminants are applicable to all public water systems. These are indicated in Table 6. (Also note OAR 333-061-0036(7)). [Table not included. See ED. NOTE.]

(a) Violations of secondary contaminant levels for fluoride require a special public notice. Refer to OAR 333-061-0042(7).

(b) Violations of maximum contaminant levels for fluoride (4.0 mg/l) require public notification as specified in OAR 333-061-0042(2)(b)(A).

(7) Acrylamide and Epichlorohydrin.

(a) Each public water system must certify annually to the state in writing, using third party certification approved by the state or manufacturer's certification, that when acrylamide and epichlorohydrin are used in drinking water systems, the combination, or product, of dose and monomer level does not exceed the levels specified as follows:

(A) Acrylamide: 0.05% dosed at 1 ppm or equivalent.

(B) Epichlorohydrin: 0.01% dosed at 20 ppm or equivalent.

[Publications: Publications referenced are available from the agency.]

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150 & 448.273

Hist.: HD 106, f. & ef. 2-6-76; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0210, HD 2-1983, f. & ef. 2-23-83; HD 21-1983, f. 10-20-83, ef. 11-1-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef 12-4-85; HD 9-1989, f. & cert, ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 9-1991(Temp), f. & cert. ef. 6-24-91; HD 1-1992, f. & cert. ef. 3-5-92; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08

333-061-0032

Treatment Requirements and Performance Standards for Surface Water, Groundwater Under Direct Influence of Surface Water, and Groundwater

(1) General requirements:

(a) The requirements of this rule apply to all public water systems supplied by a surface water source or a groundwater source under the direct influence of surface water beginning January 1, 1992 or 18 months follow-

ing determination by the Department of the source to be under the direct influence of surface water, whichever is later, for systems which do not provide filtration treatment, and June 29, 1993 or when filtration is installed, whichever is later, for systems which do provide filtration treatment. Systems which do not provide filtration treatment and fail to meet the requirements of sections (2) and (3) of this rule must install filtration and meet the requirements of sections (4) and (5) of this rule within 18 months of the failure. However, any water system serving at least 10,000 people using surface water without filtration treatment or groundwater source under the direct influence of surface water without filtration treatment and cannot meet the requirements of this rule to remain unfiltered must install filtration treatment as specified by these rules and meet the disinfection requirements in Section (5) of this rule by December 31, 2001. These regulations establish criteria under which filtration is required and treatment technique requirements in lieu of maximum contaminant levels for the following contaminants: Giardia lamblia, viruses, heterotrophic plate count bacteria, Legionella, Cryptosporidium, and turbidity. Each public water system with a surface water source or a groundwater source under the direct influence of surface water must provide treatment of that source water that complies with these treatment technique requirements. The treatment technique requirements consist of installing and properly operating water treatment processes which reliably achieve:

(A) At least 99.9 percent (3-log) removal and/or inactivation of Giardia lamblia cysts between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer, and

(B) At least 99.99 percent (4-log) removal and/or inactivation of viruses between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer.

(C) For any public water system serving at least 10,000 people using surface water or ground water under the direct influence of surface water and beginning January 1, 2005 for any public water system serving less than 10,000 people using surface water or ground water under the direct influence of surface water:

(i) At least 99 percent (2-log) removal of Cryptosporidium between a point where the raw water is not subject to recontamination by surface water runoff and a point downstream before or at the first customer for filtered systems, or Cryptosporidium control under the watershed control plan for unfiltered systems; and

(ii) Compliance with any applicable disinfection profiling and benchmark requirements as specified in OAR 333-061-0030(3)(b)(C) and (D) and 333-061-0060(1)(e).

(b) A public water system using a surface water source or a ground water source under the direct influence of surface water is considered to be in compliance with the requirements of this rule if:

(A) The system meets the requirements for avoiding filtration in section (2) of this rule and the disinfection requirements in section (3) of this rule, and the disinfection benchmarking requirements of OAR 333-061-0060(1)(e); or

(B) The system meets the filtration requirements in section (4) of this rule and the disinfection requirements in section (5) of this rule and the disinfection benchmarking requirements of OAR 333-061-0060(1)(e).

(c) Water system sources that have been determined to be under the direct influence of surface water according to section (7) of this rule, have 18 months to meet the requirements of this rule. During that time, the system must meet the following Interim Standards:

(A) The turbidity of water entering the distribution system must never exceed 5 NTU. Turbidity measurements must be taken a minimum of once per day. If continuous turbidimeters are in place, measurements should be taken every four hours.

(B) Disinfection must be sufficient to reliably achieve at least 1.0 log inactivation of Giardia lamblia cysts prior to the first user. Daily disinfection "CT" values must be calculated and recorded daily, including pH and temperature measurements, and disinfection residuals at the first customer.

(C) Reports must be submitted to the Department monthly as prescribed in 333-061-0040.

(D) If these interim standards are not met, the owner or operator of the water system must notify customers of the failure as required in OAR 333-061-0042(2)(b)(A).

(2) Requirements for systems without filtration:

(a) A public water system that uses a surface water source or a groundwater source under the direct influence of surface water must meet all of the conditions of this section.

(b) Source water quality conditions.

(A) The fecal coliform concentration must be equal to or less than 20/100 ml, or the total coliform concentration must be equal to or less than 100/100 ml in representative samples of the source water immediately prior to the first or only point of disinfectant application in at least 90 percent of the measurements made for the 6 previous months that the system served water to the public on an ongoing basis. If a system measures both fecal and total coliform, the fecal coliform criterion, but not the total coliform criterion, in this paragraph must be met. All samples must be collected as prescribed in OAR 333-061-0036(4)(a)(A).

(B) The turbidity level cannot exceed the maximum contaminant level prescribed in OAR 333-061-0030(3)(a)(A).

(c) Site-specific conditions. The public water supply must:

(A) Meet the disinfection requirements as prescribed in section (3) of this rule at least 11 of the 12 previous months that the system served water to the public, on an ongoing basis, unless the system fails to meet the requirements during 2 of the 12 previous months that the system served water to the public, and the Department determines that at least one of these failures was caused by circumstances that were unusual and unpredictable.

(B) Maintain a comprehensive watershed control program which minimizes the potential for contamination by Giardia lamblia cysts, Cryptosporidium oocysts, and viruses in the source water. For groundwater systems under the direct influence of surface water, and at the discretion of the Department, a certified drinking water protection plan (OAR 340-040-0160 to 340-040-00180) that addresses both the groundwater- and surface water components of the drinking water supply may be substituted for a watershed control program. Groundwater systems relying on a drinking water protection plan would still be subject to the requirements of subsection (c) of this rule. The watershed control program shall be developed according to guidelines in OAR 333-061-0075. The public water system must demonstrate through ownership and/or written agreements with landowners within the watershed that it can control all human activities which may have an adverse impact on the microbiological quality of the source water. The system must submit an annual report to the Department identifying any special concerns about the watershed, the procedures used to resolve the concern, current activities affecting water quality, and projections of future adverse impacts or activities and the means to address them. At a minimum, the watershed control program must:

(i) Characterize the watershed hydrology and land ownership;

(ii) Identify watershed characteristics and activities which have or may have an adverse effect on source water quality; and

(iii) Monitor the occurrence of activities which may have an adverse effect on source water quality.

(C) Be subject to an annual on-site inspection of the watershed control program and the disinfection treatment process by the Department. The on-site inspection must indicate to the Department's satisfaction that the watershed control program and disinfection treatment process are adequately designed and maintained including the adequacy limiting the potential contamination by Cryptosporidium oocysts. The inspection must include:

(i) A review of the effectiveness of the watershed control program;

(ii) A review of the physical condition of the source intake and how well it is protected;

(iii) A review of the system's equipment maintenance program to ensure there is low probability for failure of the disinfection process;

(iv) An inspection of the disinfection equipment for physical deterioration;

(v) A review of operating procedures;

(vi) A review of data records to ensure that all required tests are being conducted and recorded and disinfection is effectively practiced; and

(vii) Identification of any improvements which are needed in the equipment, system maintenance and operation, or data collection.

(D) Shall not have been identified by the Department as a source of waterborne disease outbreak under the system's current configuration. If such an outbreak occurs, the system must sufficiently modify the treatment process, as determined by the Department, to prevent any future such occurrence.

(E) Comply with the maximum contaminant level (MCL) for total coliform bacteria in OAR 333-061-0030(4) at least 11 months of the 12 previous months that the system served water to the public on an ongoing basis, unless the Department determines that failure to meet this requirement was not caused by a deficiency in treatment of the source water.

(F) Comply with the requirements for trihalomethanes as prescribed in OAR 333-061-0030(2)(b) and 333-061-0036(3)(b) until December 31, 2001. After December 31, 2001, the system must comply with the requirements for total trihalomethanes, haloacetic acids (five), bromate, chlorite,

chlorine, chloramines, and chlorine dioxide as specified in OAR 333-061-0036 (3)(b).

(d) A public water system which fails to meet any of the criteria in section (2) of this rule is in violation of a treatment technique requirement. The Department can require filtration to be installed where it determines necessary.

(3) Disinfection requirements for systems without filtration. Each public water system that does not provide filtration treatment must provide disinfection treatment as follows:

(a) The disinfection treatment must be sufficient to ensure at least 99.9 percent (3-log) inactivation of Giardia lamblia cysts and 99.99 percent (4-log) inactivation of viruses, every day the system serves water to the public, except any one day each month. Each day a system serves water to the public, the public water system must calculate the CT value(s) from the system's treatment parameters, using the procedure specified in OAR 333-061-0036(4)(a)(C) and determine whether this value(s) is sufficient to achieve the specified inactivation rates for Giardia lamblia cysts and viruses. If a system uses a disinfectant other the chlorine, the system must demonstrate to the Department through the use of an approved protocol for on-site disinfection demonstration studies or other information satisfactory to the Department that the system is achieving the required inactivation rates on a daily basis instead of meeting the "CT" values in this rule.

(b) The disinfection system must have either:

(A) Redundant components, including an auxiliary power supply with automatic start-up and alarm to ensure that disinfectant application is maintained continuously while water is being delivered to the distribution system; or

(B) Automatic shut-off of delivery of water to the distribution system whenever there is less than 0.2 mg/l of residual disinfectant concentration in the water. If the Department determines than automatic shut-off would cause unreasonable risk to health or interfere with fire protection, the system must comply with paragraph (3)(b)(A) of this rule.

(c) The residual disinfectant concentration in the water entering the distribution system, measured as specified in OAR 333-061-0036(4)(a)(E), cannot be less than 0.2 mg/l for more than 4 hours.

(d) Disinfectant residuals in the distribution system. The residual disinfectant concentration in the distribution system, measured as total chlorine, combined chlorine, or chlorine dioxide, as specified in OAR 333-061-0036(4)(a)(F), cannot be undetectable in more than 5 percent of the samples each month, for any two consecutive months that the system serves water to the public.

(4) Requirements for systems that provide filtration:

(a) A public water system that uses a surface water source or a groundwater source under the direct influence of surface water, and does not meet all of the criteria in sections (1), (2), and (3) of this rule for avoiding filtration, violates a treatment technique and must provide treatment consisting of both disinfection, as specified in section (5) of this rule, and filtration treatment which complies with the requirements of either subsection (4)(b), (c), (d), or (e) of this rule by June 29, 1993 or within 18 months of the failure to meet the criteria in section (2) of this rule for avoiding filtration, whichever is later. Failure to install a required treatment by the prescribed dates is a violation of the treatment technique requirements.

(b) Conventional filtration treatment or direct filtration. Systems using conventional filtration treatment or direct filtration treatment shall meet the turbidity requirements as specified in OAR 333-0061-0030 (3)(b)(A)(i) and (ii).

(c) Slow sand filtration. Systems using slow sand filtration treatment shall meet the turbidity requirements prescribed in OAR 333-061-0030(3)(b)(B).

(d) Diatomaceous earth filtration. Systems using diatomaceous earth filtration treatment shall meet the turbidity requirements prescribed in OAR 333-061-0030(3)(b)(C).

(e) Other filtration technologies. Systems using other filtration technologies shall meet the turbidity requirements prescribed in OAR 333-061-0030(3)(b)(D).

(5) Disinfection requirements for systems with filtration:

(a) The disinfection treatment must be sufficient to ensure that the total treatment processes of that system achieve at least 99.9 percent (3-log) inactivation and/or removal of Giardia lamblia cysts and at least 99.99 percent (4-log) inactivation and/or removal of viruses as determined by the Department.

(b) The residual disinfectant concentration in the water entering the distribution system, measured as specified in OAR 333-061-0036(4)(b)(B), cannot be less than 0.2 mg/l for more than 4 hours.

(c) The residual disinfectant concentration in the distribution system, measured as total chlorine, combined chlorine, or chlorine dioxide, as specified is OAR 333-061-0036(4)(b)(C) cannot be undetectable in more than 5 percent of the samples each month, for any two consecutive months that the system serves water to the public.

(6) Disinfection requirements for systems using ground water:

(a)Systems using ground water sources shall provide continuous disinfection as prescribed in OAR 333-061-0050(5) under the following conditions:

(A) When there are consistent violations of the total coliform rule attributed to source water quality;

(B) When a potential health hazard exists as determined by the Department.

(b) When continuous disinfection is required, in addition to the requirements prescribed in OAR 333-061-0050(5)(c)(A) through (C), the facilities shall be designed so that:

(A) The disinfection treatment must be sufficient to ensure that the system achieve at least 99.99 percent (4-log) inactivation and/or removal of viruses as determined by the Department; or

(B) There is sufficient contact time provided to achieve disinfection under all flow conditions between the point of disinfectant application and the point of first water use:

(i) When chlorine is used as the primary disinfectant, the system shall be constructed to achieve a free chlorine residual of 0.2 mg/l after 30 minutes contact time under all flow conditions before first water use; or

(ii) When ammonia is added to the water with chlorine to form a chloramine as the disinfectant, the system shall be constructed to achieve a combined chlorine residual of at least 2.0 mg/l after 3 hours contact time under all flow conditions before first water use.

(7) Determination of groundwater under the direct influence of surface water (GWUDI).

(a) Except as listed in (7)(b) of this rule, all Public Water Systems using groundwater as a source of drinking water must evaluate their source(s) for the potential of direct influence of surface water if the source(s) is:

(A) In proximity to perennial or intermittent surface water, the source meets one of the distance-hydrogeologic setting criteria outlined below as specified by the Source Water Assessment or other Department-approved hydrogeologic study:

(i) 500 feet within a fractured bedrock or layered volcanic aquifer;

(ii) 200 feet within a coarse sand, gravel and boulder aquifer;

(iii) 100 feet within a sand and gravel aquifer;

(iv) 75 feet within a sand aquifer;

(v) Greater distances if geologic conditions or historical monitoring data indicate additional risk and the source.

(B) Has a confirmed or suspected history of coliform bacteria in the source; or

(C) Through the Source Water Assessment the source has been determined by the Department to be highly sensitive as a result of aquifer characteristics, vadose zone characteristics, monitoring history or well construction.

(b) Notwithstanding the requirement given in (7)(a) of this rule, systems that derive their water from wells using a hand pump only are not subject to this rule.

(c) Groundwater sources that meet one of the criteria in (A) above and meet either the criteria in (B) or (C) above, must begin raw water (before treatment) coliform sampling of their drinking water source.

(d) Raw water samples must be collected monthly for a period not to exceed 12 months.

(e) Samples shall be marked as "special" and cannot be used in lieu of sampling required for routine coliform monitoring within the distribution system (after treatment). Nor can samples collected to satisfy routine coliform monitoring requirements be used to satisfy the requirements of this rule.

(f) If a raw water sample is reported as fecal or E.coli positive, then the system must collect five (5) additional raw water special samples within 24 hours of receiving notification from the laboratory.

(g) If any of the five (5) additional special samples are fecal or E. coli positive then the original fecal or E. coli positive is considered confirmed and the system must have the raw water analyzed for surface water indicators using the microscopic particulate analysis (MPA) method described in subsection (7)(o) of this rule. Systems whose raw water samples are consistently total coliform positive may be required to conduct microscopic particulate analyses at the discretion of the Department.

(h) A confirmed fecal or E. coli positive sample from the raw water in an otherwise treated water system is not considered a violation of the coliform MCL and is not subject to the public notice or direct laboratory reporting requirements.

(i) If a water system experiences a confirmed fecal or E. coli positive test result of their raw water, no further monthly raw water testing is required.

(j) Sources may be re-evaluated if geologic conditions or water quality trends change over time, as determined by the Department.

(k) Sources that have been determined by the Source Water Assessment as not susceptible to being under the direct surface water influence are considered groundwater and do not need further evaluation.

(l) Public water systems that are required to evaluate their source(s) for direct influence of surface water may submit results of a hydrogeological assessment to demonstrate that the source is not potentially under the direct influence of surface water. The assessment must be consistent with the Oregon State Board of Geologist Examiners "Hydrology Report Guidelines," shall be completed within a time frame specified by the Department and shall include the following:

(A) Well characteristics: well depth, screened or perforated interval, casing seal placement;

(B) Aquifer characteristics: thickness of the vadose zone, hydraulic conductivity of the vadose zone and the aquifer, presence of low permeability zones in the vadose zone, degree of connection between the aquifer and surface water;

(C) Hydraulic gradient: gradient between the aquifer and surface water source during pumping conditions, variation of static water level and surface water level with time;

(D) Groundwater flow: flow of water from the surface water source to the groundwater source during pumping conditions, estimated time-of-travel for groundwater from the surface water source to the well(s), spring(s), etc.; and

(E) The hydrogeologic assessment must be completed by an Oregon registered geologist or other licensed professional with demonstrated experience and competence in hydrogeology in accordance with ORS 672.505 through 672.705.

(m) Emergency groundwater sources that meet the criteria of subsection (a) of this section can either be evaluated as prescribed in subsection (7)(c) of this rule, or the evaluation can be waived if a Tier 2 public notice prescribed in 333-061-0042 is issued each time the source is used. The notice must explain that the source has been identified as potentially under the direct influence of surface water, but has not been fully evaluated, and therefore may not be treated sufficiently to inactivate pathogens such as Giardia lamblia or Cryptosporidium.

(n) Water systems that derive their water from a confined aquifer and have been determined to be potentially under the direct influence of surface water solely as a result of inadequate well construction under paragraph (7)(a)(B) of this rule may choose to reconstruct their source according to construction standards as prescribed in OAR 333-061-0050.

(o) Water system sources that have been determined to be potentially under the direct influence of surface water must conduct a minimum of two Microscopic Particulate Analyses (MPAs) according to the "Consensus Method for Determining Groundwaters under the Direct Influence of Surface Water Using Microscopic Particulate Analysis (MPA)". Both Samples are to be taken during a period of high runoff or streamflow, separated by a period of at least four weeks, or at other times as determined by the Department.

(p) Scoring of MPAs shall be partially modified from the "Consensus Method" according to Table 8. Scoring for giardia, coccidia, rotifers, and plant debris remains unchanged.

(q) Determinations of water system source classification based on MPAs are made as follows:

(A) If all MPAs have a risk score of less than 10, the water system source is classified as groundwater;

(B) If any MPA risk score is greater than 19, or two or more are greater than 14, the water system source is classified as under the direct influence of surface water;

(C) If at least one MPA risk score is between 10 and 19 or both are between 10 and 15, an additional set of two MPAs must be taken. Determinations are made as follows:

(i) If four or all MPA risk scores are less than 15, the water system source is classified as groundwater; and

(ii) If two or more MPA risk scores are greater than 14, or one or more is greater than 19, the water system source is classified as under the direct influence of surface water;

(iii) Two additional MPAs must be taken if only one of four MPA risk scores is greater than 14. Scores will be evaluated according to paragraph (7)(o) and (p) of this rule, or by further evaluation by the Department.

(r) If an infiltration gallery, Ranney well, or dug well has been determined to be classified as groundwater under this rule, the turbidity of the source must be monitored and recorded daily and kept by the water system operator. If the turbidity exceeds 5 NTU or if the surface water body changes course such that risk to the groundwater source is increased, an MPA must be taken at that time. Re-evaluation may be required by the Department.

(s) The Department can determine a groundwater source to be under the direct influence of surface water if the criteria in subsection (7)(a) of this rule are true and there are significant or relatively rapid shifts in groundwater characteristics, such as turbidity, which closely correlate to changes in weather or surface water conditions.

(t) If geologic conditions, water quality trends, or other indicators change, the Department can require re-evaluation, as detailed in this section, of a source despite any data previously collected or any determination previously made.

(u) The Department may determine that a source is not under direct influence of surface water based on criteria other than MPAs including the Source Water Assessment, source water protection, and other water quality parameters. The determinations shall be based on the criteria indicating that the water source has a very low susceptibility to contamination by parasites, including Giardia and Cryptosporidium. The Department may impose additional monitoring or disinfection treatment requirements to ensure that the risk remains low. [Table not included. See ED. NOTE.]

(8) Requirements for groundwater sources under the direct influence of surface water with a natural filtration credit:

(a) Groundwater sources under the direct influence of surface water are granted the option to evaluate the natural filtration credit only if all MPA risk scores are less than 20. Credit shall be established by a site-specific study that would include an assessment of the ability of the local hydrogeologic setting to provide adequate log reduction in the number of particles in the Giardia and Cryptosporidium size range between the surface water and the groundwater source, using protocol established or approved by the Department;

(b) In order to be used to meet treatment requirements, natural filtration must be proven to achieve at least 2.0-log removal for Giardia and Cryptosporidium. 2.0 log removal credit is the maximum given for natural filtration; and

(c) Disinfection requirements must be met according to section (5) of this rule. Monitoring must be completed according to OAR 333-061-0036(4)(b).

(9) Disinfection Byproduct Control Requirements:

(a) This rule establishes criteria under which community water systems and Non-transient, Non-community water systems which add a chemical disinfectant to the water in any part of the drinking water treatment process must modify their practices to meet MCLs and MRDLs in OAR 333-061-0030 and 0031, respectively. This rule also establishes the treatment technique requirements for disinfection byproduct precursors. This rule establishes criteria under which transient non-community water systems that use chlorine dioxide as a disinfectant or oxidant must modify their practices to meet the MRDL for chlorine dioxide as specified in OAR 333-061-0031.

(b) Compliance dates.

(A) Community and Non-transient Non-community water systems serving at least 10,000 people using surface water or groundwater under the direct influence of surface water must comply with the treatment technique requirements of this rule as well as monitoring and maximum contaminants requirements for disinfection byproduct control as specified in OAR 333-061-0030 and 0036, respectively beginning January 1, 2002. Those systems serving fewer than 10,000 people using surface water or groundwater under the direct influence of surface water and those systems using only groundwater not under the direct influence of surface water must comply with the rules identified in this paragraph beginning January 1, 2004.

(B) Transient Noncommunity water systems serving at least 10,000 people using surface water or groundwater under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant must comply with the requirements for chlorine dioxide in this rule and OAR 333-061-0030 and 0036 beginning January 1, 2002. Those systems serving fewer than 10,000 persons using surface water or groundwater under the direct influence of surface water and using chlorine dioxide as a disinfectant or oxidant and systems using only ground water not under the direct influence of surface water and using chlorine dioxide as a disinfectant or

oxidant must comply with the requirements for chlorine dioxide in this rule and OAR 333-061-0030 and 0036 beginning January 1, 2004.

(c) Water systems may increase residual disinfectant levels in the distribution system of chlorine or chloramines (but not chlorine dioxide) to a level and for a time necessary to protect public health, to address specific microbiological contamination problems caused by circumstances such as, but not limited to, distribution line breaks, storm run-off events, source water contamination events, or cross connection events.

(d) Treatment technique for control of disinfection by-product precursors. Community and Non-transient Non-community water systems using conventional filtration treatment must operate with enhanced coagulation or enhanced softening to achieve the total organic carbon (TOC) percent removal levels specified in subsection (9)(e) of this rule unless the system meets at least one of the alternative compliance criteria listed in paragraph (9)(d)(A) or (9)(d)(B) of this rule.

(A) Alternative compliance criteria for enhanced coagulation and enhanced softening systems. Water systems may use the alternative compliance criteria in paragraphs (9)(d)(A)(i) through (vi) of this rule in lieu of complying with the performance criteria specified in subsection (e) of this section. Systems must still comply with monitoring requirements specified in OAR 333-061-0036(3)(b)(E).

(i) The system's source water TOC level is less than 2.0 mg/L, calculated quarterly as a running annual average.

(ii) The system's treated water TOC level is less than 2.0 mg/L, calculated quarterly as a running annual average.

(iii) The system's source water TOC is less than 4.0 mg/L, calculated quarterly as a running annual average; the source water alkalinity is greater than 60 mg/L (as CaCO3 calculated quarterly as a running annual average; and either the TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively; or prior to the effective date for compliance, the system has made a clear and irrevocable financial commitment not later than the effective date for compliance in this rule to use of technologies that will limit the levels of TTHMs and HAA5 to no more than 0.040 mg/L and 0.030 mg/L, respectively. Systems must submit evidence of a clear and irrevocable financial commitment, in addition to a schedule containing milestones and periodic progress reports for installation and operation of appropriate technologies, to the Department for approval not later than the effective date for compliance in this rule. These technologies must be installed and operating not later than June 30, 2005. Failure to install and operate these technologies by the date in the approved schedule will constitute a violation of National Primary Drinking Water Regulations.

(iv) The TTHM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively, and the system uses only chlorine for primary disinfection and maintenance of a residual in the distribution system.

(v) The system's source water SUVA, prior to any treatment and measured monthly is less than or equal to 2.0 L/mg-m, calculated quarterly as a running annual average.

(vi) The system's finished water SUVA, measured monthly is less than or equal to 2.0 L/mg-m, calculated quarterly as a running annual average.

(B) Additional alternative compliance criteria for softening systems. Systems practicing enhanced softening that cannot achieve the TOC removals required by paragraph (9)(e)(B) of this rule may use the alternative compliance criteria in paragraphs (9)(d)(B)(i) and (ii) of this rule in lieu of complying with subsection (9)(e) of this rule. Systems must still comply with monitoring requirements in specified in OAR 333-061-0036(3)(b)(E).

(i) Softening that results in lowering the treated water alkalinity to less than 60 mg/L (as CaCO3), measured monthly and calculated quarterly as a running annual average.

(ii) Softening that results in removing at least 10 mg/L of magnesium hardness (as CaCO3), measured monthly and calculated quarterly as an annual running average.

(e) Enhanced coagulation and enhanced softening performance requirements.

(A) Systems must achieve the percent reduction of TOC specified in paragraph (9)(e)(B) in this rule between the source water and the combined filter effluent, unless the Department approves a system's request for alternate minimum TOC removal (Step 2) requirements under paragraph (9)(e)(C) of this rule.

(B) Required Step 1 TOC reductions, specified in **Table 9**, are based upon specified source water parameters. Systems practicing softening are required to meet the Step 1 TOC reductions in the far-right column (Source water alkalinity >120 mg/L) for the specified source water TOC: [Table not included. See ED. NOTE.]

(C) Water systems that cannot achieve the Step 1 TOC removals required by paragraph (9)(e)(B) of this rule due to water quality parameters or operational constraints must apply to the Department, within three months of failure to achieve the TOC removals required by paragraph (9)(e)(B) of this rule, for approval of alternative minimum TOC (Step 2) removal requirements submitted by the water system. If the Department approves the alternative minimum TOC removal (Step 2) requirements, the Department may make those requirements retroactive for the purposes of determining compliance. Until the Department approves the alternate minimum TOC removal (Step 2) requirements, the water system must meet the Step 1 TOC removals contained in paragraph (9)(e)(B) of this rule.

(D) Alternate minimum TOC removal (Step 2) requirements. Applications made to the Department by enhanced coagulation systems for approval of alternative minimum TOC removal (Step 2) requirements under paragraph (9)(e)(C) of this rule must include, as a minimum, results of bench-scale or pilot-scale testing conducted under paragraph (9)(e)(D)(i) of this rule. The submitted bench-scale or pilot scale testing must be used to determine the alternate enhanced coagulation level.

(i) Alternate enhanced coagulation level is defined as coagulation at a coagulant dose and pH as determined by the method described in paragraphs (9)(e)(D)(i) through (v) of this rule such that an incremental addition of 10 mg/L of alum (or equivalent amount of ferric salt) results in a TOC removal of less than or equal to 0.3 mg/ L. The percent removal of TOC at this point on the "TOC removal versus coagulant dose" curve is then defined as the minimum TOC removal required for the system. Once approved by the Department, this minimum requirement supersedes the minimum TOC removal required by the **Table 9** in paragraph (9)(e)(B) of this rule. This requirement will be effective until such time as the Department approves a new value based on the results of a new bench-scale and pilot-scale test. Failure to achieve Department-set alternative minimum TOC removal levels is a violation.

(ii) Bench-scale or pilot-scale testing of enhanced coagulation must be conducted by using representative water samples and adding 10 mg/L increments of alum (or equivalent amounts of ferric salt) until the pH is reduced to a level less than or equal to the enhanced coagulation Step 2 target pH as specified in **Table 10**: [Table not included. See ED. NOTE.]

(iii) For waters with alkalinities of less than 60 mg/L for which addition of small amounts of alum or equivalent addition of iron coagulant drives the pH below 5.5 before significant TOC removal occurs, the system must add necessary chemicals to maintain the pH between 5.3 and 5.7 in samples until the TOC removal of 0.3 mg/L per 10 mg/L alum added (or equivalent addition of iron coagulant) is reached.

(iv) The system may operate at any coagulant dose or pH necessary, consistent with these rules to achieve the minimum TOC percent removal approved under paragraph (9)(e)(C) of this rule.

(v) If the TOC removal is consistently less than 0.3 mg/L of TOC per 10 mg/L of incremental alum dose at all dosages of alum (or equivalent addition of iron coagulant), the water is deemed to contain TOC not amenable to enhanced coagulation. The water system may then apply to the Department for a waiver of enhanced coagulation requirements.

(f) Compliance calculations.

(A) Water systems other than those identified in paragraphs (9)(d)(A) or (d)(B) of this rule must comply with requirements contained in paragraph (9)(e)(B) or (C) of this rule. Systems must calculate compliance quarterly, beginning after the system has collected 12 months of data, by determining an annual average using the following method:

(i) Determine actual monthly TOC percent removal, equal to: {1-(treated water TOC/source water TOC)}x100

(ii) Determine the required monthly TOC percent removal (from either Table 9 in paragraph (9)(e)(B) of this rule or from paragraph (9)(e)(C) of this rule).

(iii) Divide the value in paragraph (9)(f)(A)(i) of this rule by the value in paragraph (9)(f)(A)(ii) of this rule.

(iv) Add together the results of paragraph (9)(f)(A)(iii) of this rule for the last 12 months and divide by 12.

(v) If the value calculated in paragraph (9)(f)(A)(iv) of this rule is less than 1.00, the water system is not in compliance with the TOC percent removal requirements.

(B) Water systems may use the provisions in paragraphs (9)(f)(B)(i) through (v) of this rule in lieu of the calculations in paragraph (9)(f)(A)(i) through (v) of this rule to determine compliance with TOC percent removal requirements.

(i) In any month that the water system's treated or source water TOC level is less than 2.0 mg/L, the water system may assign a monthly value of 1.0 (in lieu of the value calculated in paragraph (9)(f)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (9)(f)(A) of this rule.

(ii) In any month that a system practicing softening removes at least 10 mg/L of magnesium hardness (as CaCO3), the water system may assign a monthly value of 1.0 (in lieu of the value calculated in paragraph (9)(f)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (9)(f)(A) of this rule.

(iii) In any month that the water system's source water SUVA, prior to any treatment is less than or equal to 2.0 L/mg-m, the water system may assign a monthly value of 1.0 (in lieu of the value calculated in paragraph (9)(f)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (9)(f)(A) of this rule.

(iv) In any month that the water system's finished water SUVA is less than or equal to 2.0 L/mg-m, the system may assign a monthly value of 1.0 (in lieu of the value calculated in paragraph (9)(f)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (9)(f)(A) of this rule.

(v) In any month that a system practicing enhanced softening lowers alkalinity below 60 mg/L (as CaCO3), the water system may assign a monthly value of 1.0 (in lieu of the value calculated in paragraph (9)(f)(A)(iii) of this rule) when calculating compliance under the provisions of paragraph (9)(f)(A) of this rule.

(C) Water systems using conventional treatment may also comply with the requirements of this section by meeting the criteria in paragraph (9)(d)(A) or (B) of this rule.

(g) Treatment technique requirements for DBP precursors. Treatment techniques to control the level of disinfection byproduct precursors in drinking water treatment and distribution systems are recognized by the Department for water systems using surface water or groundwater under the direct influence of surface water using conventional treatment as enhanced coagulation or enhanced softening.

(10) Requirements for Water Treatment Plant Recycled Water

(a) Any water system using surface water or groundwater under the direct influence of surface water that uses conventional filtration treatment or direct filtration treatment and that recycles spent filter backwash water, thickener, supernatant, or liquids from dewatering processes must meet the requirements of subsections (10)(b) and (c) of this rule and OAR 333-061-0040(2)(i).

(b) A water system must notify the Department in writing by December 8, 2003 if that water system recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes. This notification must include, at a minimum, the information specified in paragraphs (10)(b)(A) and (B) of this rule.

(A) A water treatment plant schematic showing the origin of all flows which are recycled (including, but not limited to, spent filter backwash water, thickener supernatant, and liquids from dewatering processes), the hydraulic conveyance used to transport them, and the location where they are re-introduced back into the water treatment plant.

(B) Typical recycle flow in gallons per minute (gpm), the highest observed water treatment plant flow experienced in the previous year (gpm), the design flow for the water treatment plant (gpm), and the operating capacity of the water treatment plant (gpm) that has been determined by the Department where the Department has made such determinations.

(c) Any water system that recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes must return these flows through the processes of a system's existing conventional filtration treatment plant or direct filtration treatment plant as defined by these rules or at an alternate location approved by the Department by June 8, 2004. If capital improvements are required to modify the recycle location to meet this requirement, all capital improvements must be completed no later than June 8, 2006.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 431 & 448

Stats. Implemented: ORS 431.110, 431.150, 448.175 & 448.273

Hist.: HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-1-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08

333-061-0034

Treatment Requirements and Performance Standards for Corrosion Control

(1) General requirements:

(a) All Community and Non-Transient Non-Community water systems required to provide corrosion control shall install and operate optimal corrosion control treatment.

(b) Any water system that complies with the applicable corrosion control treatment requirements specified by the Department under sections (2) and (3) of this rule shall be deemed in compliance with the treatment requirement contained in subsection (1)(a) of this rule.

(c) Any system exceeding the lead or copper action level shall implement all applicable source water treatment requirements specified by the Department under section (4) of this rule.

(d) Any system exceeding the lead action level shall implement the public education requirements contained in section (5) of this rule.

(e) Tap water monitoring for lead and copper, monitoring for water quality parameters, source water monitoring for lead and copper, and analyses of the monitoring results shall be completed in accordance with OAR 333-061-0036(1)(a) and 333-061-0036(2)(d).

(f) Systems shall report to the Department all required treatment provision information and maintain appropriate records as prescribed in OAR 333-061-0034 and 0040.

(g) Failure to comply with the applicable requirements prescribed in these rules, shall constitute a violation of the national primary drinking water regulations for lead and/or copper.

(2) Systems shall complete the corrosion control treatment requirements as prescribed in section (3) of this rule as follows:

(a) Large systems (serving >50,000 persons) shall complete the following corrosion control treatment steps, unless it is deemed to have optimized corrosion control as prescribed in paragraphs (d)(B) or (d)(C) of this section:

(A) Systems shall conduct initial tap and water quality parameter monitoring for two consecutive six-month periods as prescribed in OAR 333-061-0036(2)(d)(D)(i) and (F) beginning January 1, 1992;

(B) Systems shall complete corrosion control studies prescribed in subsection (3)(c) of this rule by July 1, 1994;

(C) The Department shall designate optimal corrosion control treatment as prescribed in subsection (3)(i) of this rule by January 1, 1995;

(D) Systems shall install optimal corrosion control treatment as prescribed in subsection (3)(k) of this rule by January 1, 1997;

(E) Systems shall complete follow-up sampling as prescribed in OAR 333-061-0036(2)(d)(D)(ii) and (F)(iv) by January 1, 1998;

(F) The Department shall review installation of treatment and designate optimal water quality control parameters as prescribed in subsection (3)(l) of this rule by July 1, 1998.

(G) Systems shall operate in compliance with the Department-specified optimal water quality control parameters as prescribed in subsection (3)(m) of this rule and continue to conduct tap sampling.

(b) Medium systems (serving 3,301 to 50,000 persons) shall complete the following corrosion control treatment steps, unless it is deemed to have optimized corrosion control under paragraph (d)(A),(d)(B), or (d)(C) of this section:

(A) Systems shall conduct initial tap sampling beginning July 1,1992 until the system either exceeds the lead or copper action level or becomes eligible for reduced monitoring under OAR 333-061-0036(e)(D)(iv). A system exceeding the lead or copper action level shall recommend optimal corrosion control treatment within six months after the end of the monitoring period during which it exceeds one of the action levels.

(B) Within 12 months after the end of the monitoring period during which a system exceeds the lead or copper action level, the Department may require the system to perform corrosion control studies. If the Department does not require the system to perform such studies, the Department shall specify optimal corrosion control treatment within the following time frames:

(i) For medium systems, within 18 months after the end of the monitoring period during which such system exceeds the lead or copper action level;

(ii) For small systems, within 24 months after the end of the monitoring period during which such system exceeds the lead or copper action level.

(C) If the Department requires a system to perform corrosion control studies under paragraph (2)(b)(B) of this rule, the system shall complete the studies within 18 months after the Department requires that such studies be conducted.

(D) If the system has performed corrosion control studies under paragraph (2)(b)(B) of this rule, the Department shall designate optimal corrosion control treatment within 6 months after completion of paragraph (2)(b)(C) of this rule.

(E) Systems shall install optimal corrosion control treatment within 24 months after the Department designates such treatment.

(F) Systems shall complete follow-up sampling within 36 months after the Department designates optimal corrosion control treatment.

(G) The Department shall review the system's installation of treatment and designate optimal water quality control parameters within 6 months after completion of follow-up sampling.

(H) Systems shall operate in compliance with the Department-designated optimal water quality control parameters and continue to conduct tap sampling.

(c) Small systems (serving 3,300 or less persons) shall complete the corrosion control treatment steps prescribed in subsection (2)(b) of this rule, unless it is deemed to have optimized corrosion control under paragraphs (d)(A),(d)(B), or (d)(C) of this section. Small systems shall conduct initial tap sampling beginning July 1, 1993.

(d) A system is deemed to have optimized corrosion control and is not required to complete the applicable corrosion control treatment steps identified in this section if the system satisfies one of the following criteria. Any system deemed to have optimized corrosion control under this rule, and which has treatment in place, shall continue to operate and maintain optimal corrosion control treatment and meet any requirements that the Department determines appropriate to ensure optimal corrosion control treatment is maintained:

(A) A small or medium-size water system meets the lead and copper action levels during each of two consecutive six-month monitoring periods conducted in accordance with OAR 333-061-0036(2)(d)(A) through (E).

(B) Any water system that demonstrates to the satisfaction of the Department that it has conducted activities equivalent to the corrosion control steps applicable to such system under this section. If the Department makes this determination, it shall provide the system with written notice explaining the basis for its decision and shall specify the water quality control parameters representing optimal corrosion control in accordance with subsection (3)(l) of this rule. Water systems deemed to have optimized corrosion control under this paragraph shall operate in compliance with the Department-designated optimal water quality control parameters in accordance with subsection (3)(m) of this rule and continue to conduct lead and copper tap and water quality parameter sampling in accordance with OAR 333-061-0036(2)(d)(D)(iii) and 333-061-0036(2)(d)(F)(v), respectively. A system shall provide the Department with the following information in order to support a determination under this paragraph:

(i) The results of all test samples collected for each of the water quality parameters in subsection (3)(d) of this rule;

(ii) A report explaining the test methods used by the water system to evaluate the corrosion control treatments listed in subsection (3)(c) of this rule, the results of all tests conducted, and the basis for the system's selection of optimal corrosion control treatment;

(iii) A report explaining how corrosion control has been installed and how it is being maintained to insure minimal lead and copper concentrations at consumers' taps; and

(iv) The results of tap water samples collected in accordance with OAR 333-061-0036(2)(d)(A) through (E) at least once every six months for one year after corrosion control has been installed.

(C) Any water system is deemed to have optimized corrosion control if it submits results of tap water monitoring and source water monitoring conducted in accordance with OAR 333-061-0036(2)(d)(A) through (E), (G) and (H) that demonstrates for two consecutive six-month monitoring periods that the difference between the 90th percentile tap water lead level computed under OAR 333-061-0030(1)(c)(A) and the highest source water lead concentration, is less than 0.005 mg/l:

(i) Those systems whose highest source water lead level is below the MDL may also be deemed to have optimized corrosion control if the 90th percentile tap water lead level is less than or equal to the PQL for lead for two consecutive 6-month monitoring periods;

(ii) Any water system deemed to have optimized corrosion control shall continue monitoring for lead and copper at the tap no less frequently than once every three years using the reduced number of sampling sites and collecting the samples at the specified times and locations. Any such system that has not conducted a round of monitoring since September 30, 1997, shall complete a round of monitoring no later than September 30, 2,000;

(iii) Any water system deemed to have optimized corrosion control shall notify the Department in writing of any upcoming long-term change in treatment (eg. changing disinfectants or corrosion control chemicals) or the addition of a new source. The Department must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system. The Department may require any such system to conduct additional monitoring or to take other action the Department deems appropriate to ensure that such systems maintain minimal levels of corrosion in the distribution system;

(iv) As of July 2001, a system is not deemed to have optimized corrosion control unless it meets the copper action level.

(v) Any system triggered into corrosion control because it is no longer deemed to have optimized corrosion control shall implement corrosion control treatment in accordance with the deadlines prescribed in subsections (b) and (c) of this rule. Any such large system shall adhere to the schedule specified for medium size systems, with the time periods for completing each step being triggered by the date the system is no longer deemed to have optimized corrosion control.

(e) Any small or medium-size water system that is required to complete the corrosion control steps due to its exceedance of the lead or copper action level may cease completing the treatment steps whenever the system meets both action levels during each of two consecutive monitoring periods conducted pursuant to OAR 333-061-0036(2)(d)(A) through (E) and submits the results to the Department. If any such water system thereafter exceeds the lead or copper action level during any monitoring period, the system (or the Department, as the case may be) shall recommence completion of the applicable treatment steps, beginning with the first treatment step which was not previously completed in its entirety. The Department may require a system to repeat treatment steps previously completed by the system where the Department determines that this is necessary to implement properly the treatment requirements of this section. The Department shall notify the system in writing of such a determination and explain the basis for its decision. The requirement for any small- or medium- size system to implement corrosion control treatment steps in accordance with subsection (2)(b) of this rule (including systems deemed to have optimized corrosion control under paragraph (2)(d)(A) of this rule) is triggered whenever any small- or medium- size system exceeds the lead or copper action level.

(3) Each system shall complete the corrosion control treatment requirements described below which are applicable to such system under section (2) of this rule:

(a) Based upon the results of lead and copper tap monitoring and water quality parameter monitoring, small and medium-size water systems exceeding the lead or copper action level shall recommend installation of one or more of the corrosion control treatments listed in subsection (3)(c) of this rule which the system believes constitutes optimal corrosion control for that system. The Department may require the system to conduct additional water quality parameter monitoring in accordance with OAR 333-061-0036(2)(d)(F)(iii) to assist the Department in reviewing the system's recommendation.

(b) The Department may require any small or medium-size system that exceeds the lead or copper action level to perform corrosion control studies under subsection (3)(c) of this rule to identify optimal corrosion control treatment for the system.

(c) Any public water system performing corrosion control studies shall evaluate the effectiveness of each of the treatments which follow, and, if appropriate, combinations of the treatments which follow to identify the optimal corrosion control treatment for that system. The water system shall evaluate each of the corrosion control treatments using either pipe rig/loop tests, metal coupon tests, partial-system tests, or analyses based on documented analogous treatments with other systems of similar size, water chemistry and distribution system configuration:

(A) Alkalinity and pH adjustment;

(B) Calcium hardness adjustment; and

(C) The addition of a phosphate or silicate based corrosion inhibitor at a concentration sufficient to maintain an effective residual concentration in all test tap samples.

(d) The water system shall measure the following water quality parameters in any tests conducted under this subsection before and after evaluating the corrosion control treatments listed in subsection (3)(c) of this rule:

(A) Lead;

(B) Copper;

(C) pH;

(D) Alkalinity;

(E) Calcium;

(F) Conductivity;

(G) Orthophosphate (when an inhibitor containing a phosphate compound is used);

(H) Silicate (when an inhibitor containing a silicate compound is used);

(I) Water temperature.

(e) Any additional chemical treatment approaches considered by the water system shall be evaluated by the water system by conducting appropriate studies and analyses approved by the Department that are equivalent in scope to the studies and analyses required in this section.

(f) The water system shall identify all chemical or physical constraints that limit or prohibit the use of a particular corrosion control treatment and document such constraints with at least one of the following:

(A) Data and documentation showing that a particular corrosion control treatment has adversely affected other water treatment processes when used by another water system with comparable water quality characteristics; and/or

(B) Data and documentation demonstrating that the water system has previously attempted to evaluate a particular corrosion control treatment and has found that the treatment is ineffective or adversely affects other water quality treatment processes.

(g) The water system shall evaluate the effect of the chemicals used for corrosion control treatment on other water quality treatment processes.

(h) On the basis of an analysis of the data generated during each evaluation, the water system shall recommend to the Department in writing the treatment option that the corrosion control studies indicate constitutes optimal corrosion control treatment for that system. The water system shall provide a rationale for its recommendation along with all supporting documentation specified in subsections (3)(c) through (g) of this rule.

(i) Based upon consideration of available information including, where applicable, studies performed under subsection (3)(c) through (g) of this rule and a system's recommended treatment alternative, the Department shall either approve the corrosion control treatment option recommended by the system, or designate alternative corrosion control treatment(s) from among those listed in subsection (3)(c) of this rule. When designating optimal treatment the Department shall consider the effects that additional corrosion control treatment will have on water quality parameters and on other water quality treatment processes.

(j) The Department shall notify the system of its decision on optimal corrosion control treatment in writing and explain the basis for this determination. If the Department requests additional information to aid its review, the water system shall provide the information.

(k) Each system shall properly install and operate throughout its distribution system the optimal corrosion control treatment designated by the Department under subsection (3)(i) of this rule.

(l) The Department shall evaluate the results of all lead and copper tap samples and water quality parameter samples submitted by the water system and determine whether the system has properly installed and operated the optimal corrosion control treatment designated by the Department in subsection (3)(i) of this rule. Upon reviewing the results of tap water and water quality parameter monitoring by the system, both before and after the system installs optimal corrosion control treatment, the Department shall designate values for the applicable water quality control parameters as listed below and shall be those that the Department determines to reflect optimal corrosion control treatment for the system. The Department may designate values for additional water quality control parameters determined by the Department to reflect optimal corrosion control for the system. The Department shall notify the system in writing of these determinations and explain the basis for its decisions.

(A) A minimum value or a range of values for pH measured at each entry point to the distribution system;

(B) A minimum pH value, measured in all tap samples. Such value shall be 7.0, unless the Department determines that meeting a pH level of 7.0 is not technologically feasible or is not necessary for the system to optimize corrosion control;

(C) If a corrosion inhibitor is used, a minimum concentration or a range of concentrations for the inhibitor, measured at each entry point to the distribution system and in all tap samples, that the Department determines is necessary to form a passivating film on the interior walls of the pipes of the distribution system;

(D) If alkalinity is adjusted as part of optimal corrosion control treatment, a minimum concentration or a range of concentrations for alkalinity, measured at each entry point to the distribution system and in all tap samples;

(E) If calcium carbonate stabilization is used as part of corrosion control, a minimum concentration or a range of concentrations for calcium, measured in all tap samples.

(m) All systems that have installed treatment optimizing corrosion control shall continue to operate and maintain optimal corrosion control treatment, including maintaining water quality parameters at or above minimum values or within ranges designated by the Department under subsection (3)(l) of this rule for all samples collected under OAR 333-061-0036(2)(d)(F)(v)-(vii). Compliance shall be determined every six months, as specified under OAR 333-061-0036(2)(d)(F)(v). A water system is out of compliance for a six-month period if it has excursions for any Department-designated water quality parameter on more than nine days during the period. An excursion occurs whenever the daily value for one or more of the water quality parameters measured at a sampling location is below the minimum value or outside the range designated by the Department. Daily values are calculated as follows:

(A) On days when more than one measurement for the water quality parameter is collected at the sampling location, the daily value shall be the average of all results collected during the day regardless of whether they are collected through continuous monitoring, grab sampling or a combination of both;

(B) On days when only one measurement for the water quality parameter is collected at the sampling location, the daily value shall be the result of that measurement.

(C) On days when no measurement is collected for the water quality parameter at the sampling location, the daily value shall be the daily value calculated on the most recent day on which the water quality parameter was measured at the sample site;

(n) Upon its own initiative or in response to a request by a water system or other interested party, the Department may modify its determination of the optimal corrosion control treatment under subsection (3)(i) of this rule or optimal water quality control parameters under subsection (3)(l) of this rule. A request for modification by a system or other interested party shall be in writing, explain why the modification is appropriate, and provide supporting documentation. The Department may modify its determination where it concludes that such change is necessary to ensure that the system continues to optimize corrosion control treatment. A revised determination shall be made in writing, set forth the new treatment requirements, explain the basis for the Department's decision, and provide an implementation schedule for completing the treatment modifications.

(4) Source water treatment requirements:

(a) Systems shall complete the applicable source water monitoring and treatment requirements prescribed in subsection (4)(b) of this rule and OAR 333-061-0036(2)(d)(A) through (E), (G) and (H) by the following deadlines:

(A) A system exceeding the lead or copper action level shall complete lead and copper source water monitoring as prescribed in OAR 333-061-0036(2)(d)(H) and make a treatment recommendation to the Department as prescribed in paragraph (4)(b)(A) of this rule no later than 180 days after the end of the monitoring period during which the lead or copper action level was exceeded.

(B) The Department shall make a determination regarding source water treatment as prescribed in paragraph (4)(b)(B) of this rule within 6 months after submission of monitoring results required under paragraph (4)(a)(A) of this rule.

(C) If the Department requires installation of source water treatment, the system shall install the treatment as prescribed in paragraph (4)(b)(C) of this rule within 24 months after completion of requirements prescribed in paragraph (4)(a)(B) of this rule.

(D) The system shall complete follow-up tap water monitoring as prescribed in OAR 333-061-0036(2)(d)(D)(ii) and source water monitoring as prescribed in OAR 333-061-0036(2)(d)(I) within 36 months after completion of requirements prescribed in paragraph (4)(a)(B) of this rule.

(E) The Department shall review the system's installation and operation of source water treatment and specify maximum permissible source water levels as prescribed in paragraph (4)(b)(D) of this rule within 6 months after completion of requirements prescribed in paragraph (4)(a)(D) of this rule.

(F) The system shall operate in compliance with the Department-specified maximum permissible lead and copper source water levels as prescribed in paragraph (4)(b)(D) of this rule and continue source water monitoring as prescribed in OAR 333-061-0036(2)(d)(J).

(b) Source water treatment description:

(A) Any system which exceeds the lead or copper action level shall recommend in writing to the Department the installation and operation of one of the source water treatments listed in paragraph (4)(b)(B) of this rule. A system may recommend that no treatment be installed based upon a

demonstration that source water treatment is not necessary to minimize lead and copper levels at users' taps.

(B) The Department shall complete an evaluation of the results of all source water samples submitted by the water system to determine whether source water treatment is necessary to minimize lead or copper levels in water delivered to users' taps. If the Department determines that treatment is needed, the Department shall either require installation and operation of the source water treatment recommended by the system (if any) or require the installation and operation of another source water treatment from among the following: ion exchange, reverse osmosis, lime softening or coagulation/filtration. If the Department requests additional information to aid in its review, the water system shall provide the information by the date specified by the Department in its request. The Department shall notify the system in writing of its determination and set forth the basis for its decision.

(C) Each system shall properly install and operate the source water treatment designated by the Department under paragraph (4)(b)(B) of this rule.

(D) The Department shall review the source water samples taken by the water system both before and after the system installs source water treatment, and determine whether the system has properly installed and operated the source water treatment designated by the Department. Based upon its review, the Department shall designate the maximum permissible lead and copper concentrations for finished water entering the distribution system. Such levels shall reflect the contaminant removal capability of the treatment properly operated and maintained. The Department shall notify the system in writing and explain the basis for its decision.

(E) Each water system shall maintain lead and copper levels below the maximum permissible concentrations designated by the Department at each sampling point monitored in accordance with OAR 333-061-0036(2)(d)(G) through (K). The system is out of compliance with this paragraph if the level of lead or copper at any sampling point is greater than the maximum permissible concentration designated by the Department.

(F) Upon its own initiative or in response to a request by a water system or other interested party, the Department may modify its determination of the source water treatment under paragraph (4)(b)(B) of this rule, or maximum permissible lead and copper concentrations for finished water entering the distribution system under paragraph (4)(b)(D) of this rule. A request for modification by a system or other interested party shall be in writing, explain why the modification is appropriate, and provide supporting documentation. The Department may modify its determination where it concludes that such change is necessary to ensure that the system continues to minimize lead and copper concentrations in source water. A revised determination shall be made in writing, set forth the new treatment requirements, explain the basis for the Department's decision, and provide an implementation schedule for completing the treatment modifications.

(5) All water systems must deliver a consumer notice of lead tap water monitoring results to persons served by the water system at sites that are tested, as specified in subsection (5)(e) of this rule. Water systems that exceed the lead action level must sample the tap water of any customer who requests it in accordance with subsection (5)(d) of this rule. A water system that exceeds the lead action level based on tap water samples collected in accordance with OAR 333-061-0036(2)(d)(A) through (E) shall deliver the public education materials contained in subsections (5)(a) and (b) of this rule in accordance with the requirements in subsection (5)(c) of this rule.

(a) Content of written materials. Community and non-transient noncommunity water system(s) shall include the following elements in all of the printed materials it distributes through its lead public education program in the same order listed below. Paragraphs (5)(a)(A), (B) and (F) of this rule must be included in the materials exactly as written except for the text in braces in these paragraphs for which the system must include system-specific information. Any additional information presented by a system shall be consistent with the information below and be in plain language that can be understood by the general public. Water systems must submit all written public education materials to the Department prior to delivery.

(A) IMPORTANT INFORMATION ABOUT LEAD IN YOUR DRINKING WATER. {INSERT NAME OF WATER SYSTEM} found elevated levels of lead in drinking water in some homes/buildings. Lead can cause serious health problems, especially for pregnant women and young children. Please read this information closely to see what you can do to reduce lead in your drinking water.

(B) HEALTH EFFECTS OF LEAD: Lead can cause serious health problems if too much enters your body from drinking water or other sources. It can cause damage to the brain and kidneys, and can interfere with the production of red blood cells that carry oxygen to all parts of the body. The greatest risk of lead exposure is to infants, young children and pregnant women. Scientists have linked the effects of lead on the brain with lowered IQ in children. Adults with kidney problems and high blood pressure can be affected by low levels of lead more than healthy adults. Lead is stored in the bones, and it can be released later in life. During pregnancy, the child receives lead from the mother's bones, which may affect brain development.

(C) SOURCES OF LEAD:

(i) Explain what lead is.

(ii) Explain the possible sources of lead in drinking water and how lead enters drinking water. Include information on home/building plumbing materials and service lines that contain lead.

(iii) Discuss other important sources of lead exposure in addition to drinking water (e.g., paint).

(D) STEPS THE CONSUMER CAN TAKE TO REDUCE THEIR EXPOSURE TO LEAD IN DRINKING WATER:

(i) Encourage running the water to flush out the lead.

(ii) Explain concerns with using hot water from the tap and specifically caution against the use of hot water for preparing baby formula.

(iii) Explain that boiling water does not reduce lead levels.

(iv) Discuss other options consumers can take to reduce exposure to lead in drinking water, such as alternative sources or treatment of water.

(v) Suggest that parents have their child's blood tested for lead.

(E) Explain why there are elevated levels of lead in the system's drinking water (if known) and what the water system is doing to reduce the lead levels in homes/buildings in this area.

(F) For more information, call us at {INSERT YOUR NUMBER}, if applicable include the following: or visit our web site at {INSERT YOUR WEB SITE HERE}. For more information on reducing lead exposure around your home/building and the health effects of lead, visit EPA's web site at http://www.epa.gov/lead or contact your health care provider.

(b) Community water systems must also:

(A) Tell consumers how to get their water tested;

(B) Discuss lead in plumbing components and the difference between low lead and lead free.

(c) Delivery of public education materials.

(A) For public water systems serving a large proportion of non-English speaking consumers, as determined by the Department, the public education materials must contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the public education materials or to request assistance in the appropriate language.

(B) A community water system that exceeds the lead action level on the basis of tap water samples collected in accordance with tap water monitoring requirements of these rules and that is not already conducting public education tasks under this rule must conduct the public education tasks under this section within 60 days after the end of the monitoring period in which the exceedance occurred.

(i) Deliver printed materials meeting the content requirements of subsection (5)(a) of this rule to all bill paying customers;

(ii) Contact customers who are most at risk by delivering education materials that meet the content requirements of this rule to local public health agencies even if they are not located within the water system's service area, along with an informational notice that encourages distribution to all the organization's potentially affected customers or community water system's users. The water system must contact the local public health agencies directly by phone or in person. The local public health agencies may provide a specific list of additional community based organizations serving target populations, which may include organizations outside the service area of the water system. If such lists are provided, systems must deliver education materials that meet the content requirements of subsection (5)(a) of this rule to all organizations on the provided lists.

(iii) Contact customers who are most at risk by delivering materials that meet the content requirements of this rule to public and private schools or school boards; Women, Infants and children (WIC), and Head Start programs; public and private hospitals and medical clinics; Pediatricians; family planning clinics; and local welfare agencies located within the water system's service area along with an informational notice that encourages distribution to all organization's potentially affected customers or community water system's users.

(iv) Make a good faith effort to locate licensed childcare centers; public and private preschools; and Obstetricians-Gynecologists and Midwives within the service area and deliver materials that meet the content requirements of this rule to them, along with an informational notice that encourages distribution to all potentially affected customers or users. The good

faith effort to contact at-risk customers may include requesting a specific contact list of these organizations from the local public health agencies, even if the agencies are not located within the water system's service area.

(v) No less often than quarterly, provide information on or in each water bill as long as the system exceeds the action level for lead. The message on the water bill must include the following statement exactly as written: {INSERT NAME OF WATER SYSTEM} found high levels of lead in drinking water in some homes. Lead can cause serious health problems. For more information please call {INSERT NAME OF WATER SYSTEM}, if applicable include the following: or visit {INSERT YOUR WEB SITE HERE}. The message or delivery mechanisms can be modified in consultation with the Department; specifically the Department may allow a separate mailing of public education materials to customers if the water system cannot place the information on water bills.

(vi) Post material meeting the content requirements of subsection (5)(a) of this rule on the water system's web site if the system serves a population greater than 100,000.

(vii) Submit a press release to newspaper, television and radio stations.

(viii) In addition to (5)(c)(B)(i) through (vii) of this rule systems must implement at least three activities from the following: public service announcements; paid advertisements; public area information displays; emails to customers; public meetings; household deliveries, targeted individual customer contact; direct material distribution to all multi-family homes and institutions or other methods approved by the Department. The educational content and selection of these activities must be determined in consultation with the Department.

(ix) For systems that are required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or, if the Department has established an alternate monitoring period, the last day of that period.

(C) As long as a community water system exceeds the action level, it must repeat the activities in subsection (5)(c) of this rule as follows:

(i) A community water system shall repeat the tasks contained in (5)(c)(B)(i),(ii),(iii),(iv) and (viii) of this rule every 12 months.

(ii) A community water system shall repeat tasks contained in (5)(c)(B)(v) of this rule with each billing cycle.

(iii) A community water system serving a population greater than 100,000 shall post and retain material on a publicly accessible web site pursuant to (5)(c)(B)(vi) of this rule.

(iv) The community water system shall repeat the task in (5)(c)(B)(vii) of this rule twice every 12 months on a schedule agreed upon with the Department. The Department can allow activities in (5)(c)(B) of this rule to extend beyond the 60-day requirement if needed for implementation purposes on a case-by-case basis; however, this extension must be approved in writing by the Department in advance of the 60-day deadline.

(D) Within 60 days after the end of the monitoring period in which the exceedance occurred (unless it already is repeating public education tasks), a non-transient noncommunity water system shall deliver the public education materials specified by (5)(a) of this rule as follows:

(i) Post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the system; and

(ii) Distribute informational pamphlets and/or brochures on lead in drinking water to each person served by the non-transient noncommunity water system. The Department may allow the sytem to utilize electronic transmission in lieu of or combined with printed materials as long as it achieves at least the same coverage.

(iii) For systems that are required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or, if the Department has established an alternate monitoring period, the last day of that period.

(E) A non-transient noncommunity water system shall repeat the tasks contained in (5)(c)(D) at least once during each calendar year in which the system exceeds the action level. The Department can allow activities to extend beyond the 60-day requirement if needed for implementation purposes on a case-by-case basis, however, this extension must be approved in writing by the Department in advance of the 60-day deadline.

(F) A water system may discontinue delivery of public education materials if the system has met the lead action level during the most recent six-month monitoring period conducted pursuant to the monitoring requirements of these rules. Such a system shall recommence public education requirements if it subsequently exceeds the lead action level during any monitoring period.

(G) A community water system may apply to the Department, in writing to use only the text specified in (5)(a) of this rule in lieu of the text in (5)(a) and (5)(b) of this rule and to perform the tasks listed in (5)(c)(D) and (E) in lieu of the tasks in (5)(c)(B) and (C) of this rule if:

(i) The system is a facility, such as a prison or a hospital, where the population served is not capable of or is prevented from making improvements to plumbing or installing point of use treatment devices: and

(ii) The system provides water as part pf the cost of services provided and does not separately charge for water consumption.

(H) A community water system serving 3,300 or fewer people may limit certain aspects of their public education programs as follows:

(i) With respect to the requirements of (5)(c)(B)(viii), a system serving 3,300 or fewer must implement at least one of the activities listed.

(ii) With respect to the requirements of (5)(c)(B)(ii), (iii) and (iv) of this rule, a system serving 3,300 or fewer people may limit the distribution of the public education materials required to facilities and organizations served by the system that are most likely to be visited regularly by pregnant women and children.

(iii) With respect to the requirements of (5)(c)(B)(vii) of this rule the Department may waive this requirement for systems serving 3,300 or fewer persons as long as the system distributes notices to every household served by the system.

(d) Supplemental monitoring and notification of results. A water system that fails to meet the lead action level on the basis of tap samples collected in accordance with OAR 333-061-0036(2)(d)(A) through (E) shall offer to sample the tap water of any customer who requests it. The system is not required to pay for collecting or analyzing the sample, nor is the system required to collect and analyze the sample itself.

(e) Notification of results.

(A) All water systems must provide a notice of the individual tap results from lead tap water monitoring carried out under the monitoring requirements of these rules to the persons served by the water system at the specific sampling site from which the sample was taken (e.g. the occupants of the residence where the tap was tested).

(B) A water system must provide the consumer notice as soon as practical, but no later than 30 days after the system learns of the tap monitoring results.

(C) The consumer notice must include the results of lead tap water monitoring for the tap that was tested, an explanation of the health effects of lead, list steps consumers can take to reduce exposure to lead in drinking water and contact information for the water utility. The notice must also provide the maximum contaminant level goal and the action level for lead and the definitions for these two terms.

(D) The Consumer notice must be provided to persons served at the tap that was tested, either by mail or by another method approved by the Department. For example, upon approval by the Department, a non-transient, noncommunity water system could post the results on a bulletin board in the facility to allow users to review the information. The system must provide the notice to customers at sample taps tested, including consumers who do not receive water bills.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 448.131
Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150 & 448.273
Hist.: HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 7-2000, f. 7-1-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2008, f. & cert. ef. 2-15-08

333-061-0036
Sampling and Analytical Requirements

(1) General:

(a) Analyses must be conducted by EPA Methods in accordance with the analytical requirements set forth in 40 CFR 141. Samples analyzed for the purposes of this rule shall be collected after the water has been allowed to flow from the sample tap for a sufficient length of time to assure that the collected sample is representative of water in the distribution system except for samples collected to determine corrosion by-products:

(b) Alternate Analytical Methods:

(A) With the written permission of the Department, an alternate analytical method may be employed; and

(B) The use of the alternate analytical method shall not decrease the frequency of sampling required by these rules.

(c) Approved laboratories:

(A) For the purpose of determining compliance with the maximum contaminant levels and the sampling requirements of these rules, sampling results may be considered only if they have been analyzed by a laboratory certified by the Department, except that measurements for turbidity, disinfectant residual, temperature, alkalinity, calcium, conductivity, chlorite,

bromide, TOC, SUVA, dissolved organic carbon (DOC), UV254, orthophosphate, silica and pH may be performed on site using approved methods by individuals trained in sampling and testing techniques. Daily chlorite samples measured at the entrance to the distribution system must be performed by a party approved by the Department.

(B) Nothing in these rules shall be construed to preclude the Department or any of its duly authorized representatives from taking samples and from using the results of such samples to determine compliance with applicable requirements of these rules.

(d) Monitoring of purchasing water systems:

(A) When a public water system obtains its water, in whole or in part, from another public water system, the monitoring requirements imposed by these rules on the purchasing water system may be modified by the Department to the extent that the system supplying the water is in compliance with its source monitoring requirements. When a public water system supplies water to one or more other public water systems, the Department may modify monitoring requirements imposed by this rule to the extent that the interconnection of the systems justifies treating them as a single system for monitoring purposes.

(B) Any modified monitoring shall be conducted pursuant to a schedule specified by the Department and concurred in by the Administrator of the US Environmental Protection Agency.

(e) Water suppliers shall monitor each water source individually for contaminants listed in OAR 333-061-0030 (Maximum Contaminant Levels), except for coliform bacteria, TTHMs and corrosion by-products, at the entry point to the distribution system except as described below. Any such modified monitoring shall be conducted pursuant to a schedule prescribed by the Department.

(A) If the system draws water from more than one source and sources are combined before distribution, the system may be allowed to sample at an entry point to the distribution system during normal operating conditions, where justified, taking into account operational considerations, geologic and hydrologic conditions, and other factors.

(B) If a system draws water from multiple ground water sources which are not combined before distribution, the system may be allowed to sample at a representative source or sources, where justified, taking into account geologic and hydrogeologic conditions, land uses, well construction, and other factors.

(f) Compliance with MCLs shall be based on each sampling point as described in this section. If any point is determined to be out of compliance, the system shall be deemed out of compliance. If an entirely separated portion of a water system is out of compliance, then only that portion of the system shall be deemed out of compliance.

(g) The Department may require additional sampling and analysis for the contaminants included in OAR 333-061-0030 (Maximum Contaminant Levels) when necessary to determine whether an unreasonable risk to health exists. The Department may also require sampling and analysis for additional contaminants not included in OAR 333-061-0030 (Maximum Contaminant Levels) when necessary for public health protection.

(h) Water suppliers and their appointed representatives shall collect water samples from representative locations in the water system as prescribed in this rule and shall employ proper sampling procedures and techniques. Samples submitted to laboratories for analysis shall be clearly identified and shall include the name of the water system, public water system identification number, sampling date, and time, sample location identifying the sample tap, the name of the person collecting the sample and be labeled as follows:

(A) Routine: These are samples collected from established sampling locations within a water system at specified frequencies to satisfy monitoring requirements as prescribed in this rule. These samples are used to calculate compliance with maximum contaminant levels prescribed in OAR 333-061-0030(4);

(B) Repeat: These are samples collected as a follow-up to a routine sample that has exceeded a maximum contaminant level as prescribed in OAR 333-061-0030. Repeat samples are also used to calculate compliance with maximum contaminant levels prescribed in OAR 333-061-0030(4);

(C) Special: These are samples collected to supplement routine monitoring samples and are not required to be reported to the Department. Samples of this type are not considered representative of the water system and are outside the scope of normal quality assurance and control procedures and/or the established compliance monitoring program. Special samples include, but are not limited to, samples taken for special studies, user complaints, post construction/repair disinfection, sources not in service and raw water prior to treatment, except as required by this rule.

(2) Inorganic chemicals:

(a) Antimony, Arsenic, Barium, Beryllium, Cadmium, Chromium, Cyanide, Fluoride, Mercury, Nickel, Selenium and Thallium.

(A) Sampling of water systems for regulated Inorganic Chemicals shall be conducted as follows:

(i) Community and Non-Transient Non-Community Water systems using surface water sources or groundwater sources under the direct influence of surface water solely or a combination of surface and ground water sources shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment. Surface water systems shall collect samples annually at each sampling point beginning in the initial compliance period according to the schedule in subsection (2)(k) of this rule. The water system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(ii) Community and Non-Transient Non-Community Water systems using ground water sources shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system representative of each source after any application of treatment. Ground water systems shall collect samples once every three years at each sampling point beginning in the initial compliance period according to the schedule in subsection (2)(k) of this rule. The water system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(iii) All new Transient Non-Community and State Regulated water systems or existing Transient Non-Community, and State Regulated water systems with new sources shall sample once for arsenic. Samples are to be collected at the entry points to the distribution system representative of each source after any application of treatment.

(iv) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all the sources being used.

(B) The Department may allow compositing of samples from a maximum of 5 sampling points, provided that the detection limit of the method used for analysis is less than one-fifth of the MCL. Compositing of samples is to be done in the laboratory. Composite samples must be analyzed within 14 days of collection. If the concentration in the composite sample is equal to or greater than one-fifth of the MCL of any inorganic chemical listed in section (2) of this rule, then a follow-up sample must be taken for the contaminants which exceeded one-fifth of the MCL within 14 days at each sampling point included in the composite. If duplicates of the original sample taken from each sampling point used in the composite are available, the system may use these instead of resampling. The duplicates must be analyzed and the results reported to the Department within 14 days of collection. If the population served by the water system is >3,300 persons, then compositing can only be allowed within the system. In systems serving £ 3,300 persons, compositing is allowed among multiple systems provided the 5 sample limit is maintained.

(C) Water systems may apply to the Department for a waiver from the monitoring frequencies specified in paragraph (2)(a)(A) of this rule on the condition that the system shall take a minimum of one sample while the waiver is effective and the effective period for the waiver shall not exceed one nine-year compliance cycle.

(i) The Department may grant a waiver provided surface water systems have monitored annually for at least three years and groundwater systems have conducted a minimum of three rounds of monitoring (at least one sample shall have been taken since January 1, 1990), and all analytical results are less than the maximum contaminant levels prescribed in OAR 333-061-0030 for inorganic chemicals. Systems that use a new water source are not eligible for a waiver until three rounds of monitoring from the new source have been completed.

(ii) Waivers granted by the Department shall be in writing and shall set forth the basis for the determination. The Department shall review and revise, where appropriate, its determination of the appropriate monitoring frequency when the system submits new monitoring data or where other data relevant to the system's appropriate monitoring frequency become available. In determining the appropriate reduced monitoring frequency, the Department shall consider the reported concentrations from all previous monitoring; the degree of variation in reported concentrations; and other factors which may affect concentrations such as changes in groundwater pumping rates, changes in the system's configuration, changes in the system's operating procedures, or changes in stream flows or characteristics.

(D) Systems which exceed the maximum contaminant levels as calculated in subsection (2)(j) of this rule shall monitor quarterly beginning in the next quarter after the violation occurred. The Department may decrease the quarterly monitoring requirement to the frequencies prescribed in paragraph (2)(a)(A) of this rule when it is determined that the system is reliably and consistently below the maximum contaminant level. Before such a decrease is permitted a groundwater system must collect at least two quarterly samples and a surface water system must collect a minimum of four quarterly samples.

(E) All new systems or systems that use a new source of water must demonstrate compliance with the MCL within a period of time specified by the Department. The system must also comply with the initial sampling frequencies specified by the Department to ensure a system can demonstrate compliance with the MCL. Routine and increased monitoring frequencies shall be conducted in accordance with the requirements in this section.

(b) Sulfate:

(A) Samples of water which is delivered to users shall be analyzed for sulfate as follows:

(i) Community and Non-Transient Non-Community water systems using surface or ground sources shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment. Community and Non-Transient Non-Community water systems shall collect one sample at each sampling point beginning in the initial compliance period according to the schedule in subsection (2)(k) of this rule. The water systems must take each sample from the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.

(ii) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all the sources being used.

(B) Each Community and Non-Transient Non-Community water system may apply to the Department for a waiver from the requirements of paragraph (2)(b)(A) of this rule. The Department may grant a waiver if previous analytical results indicate contamination would not occur, provided this data was collected after January 1, 1990.

(C) The Department may require confirmation samples for positive or negative results.

(D) The Department may allow compositing of samples to reduce the number of samples to be analyzed by the system. Composite samples from a maximum of five sampling points are allowed. Compositing of samples must be done in the laboratory and analyzed within 14 days of sample collections. For systems with a population greater than 3,300, the Department may allow compositing at sampling points only within a single system. For systems with a population £ 3,300 the Department may allow compositing among different systems.

(c) Asbestos:

(A) Community and Non-Transient Non-Community water systems regardless of source, shall sample for Asbestos at least once during the initial three-year compliance period of each nine-year compliance cycle starting January 1, 1993 according to the schedule under subsection (2)(k) of this rule unless a water system applies for a waiver and the waiver is granted by the Department.

(B) As reviewed by the Department, if the water system is determined not to be vulnerable to either asbestos contamination in its source water or due to corrosion of asbestos-cement pipe, or both, a waiver may be granted. If granted, the water system will not be required to monitor while the waiver remains in effect. A waiver remains in effect until the completion of the three year compliance period.

(C) A system vulnerable to asbestos contamination due solely to corrosion of asbestos-cement pipe shall take one sample at a tap served by the asbestos-cement pipe under conditions where asbestos contamination is most likely to occur. Systems exceeding the action levels for lead or copper shall monitor for asbestos once every three years.

(D) A system vulnerable to asbestos contamination due solely to source water shall monitor for asbestos once every nine years.

(E) A system vulnerable to asbestos contamination due both to its source water supply and corrosion of asbestos-cement pipe shall take one sample at a tap served by asbestos-cement pipe and under conditions where asbestos contamination is most likely to occur.

(F) A System which exceeds the maximum contaminant levels for asbestos as prescribed in subsection (2)(j) of this rule shall monitor quarterly beginning in the next quarter after the violation occurred. If the Department determines that the system is reliably and consistently below the maximum contaminant level based on a minimum of two quarterly samples for groundwater systems or a minimum of four quarterly samples for surface water systems or combined surface water/groundwater systems, the system may return to the sampling frequency prescribed in paragraph (2)(c)(A) of this rule.

(G) If monitoring data collected after January 1, 1990 are generally consistent with subsection (2)(c) of this rule, then the Health Department may allow the system to use these data to satisfy monitoring requirements for the three-year compliance period beginning January 1, 1993.

(d) Lead and Copper:

(A) Community and Non-Transient, Non-Community water systems shall monitor for lead and copper in tap water as follows: Sample site location:

(i) Each water system shall complete a materials evaluation of its distribution system in order to identify a pool of targeted sampling sites that meets the requirements of this paragraph, and which is sufficiently large to ensure that the water system can collect the number of lead and copper tap samples required in paragraph 2(d)(C) of this rule. All sites from which first draw samples are collected shall be selected from this pool of targeted sampling sites. Sampling sites may not include faucets that have point-of-use or point-of-entry treatment devices designed to remove inorganic contaminants.

(ii) In addition to any information that may have been gathered under the special corrosivity monitoring requirements, the water system shall review the sources of information listed below in order to identify a sufficient number of sampling sites:

(I) All plumbing codes, permits, and records in the files of the building department(s) which indicate the plumbing materials that are installed within publicly and privately owned structures connected to the distribution system; and

(II) All existing water quality information, which includes the results of all prior analyses of the system or individual structures connected to the system, indicating locations that may be particularly susceptible to high lead or copper concentrations.

(iii) The sampling sites selected for a Community water system's sampling pool ("tier 1 sampling sites") shall consist of single family structures that contain copper pipes with lead solder installed from January 1, 1983 through June 30, 1985 or contain lead pipes. When multiple-family residences comprise at least 20 percent of the structures served by a water system, the system may include these types of structures in its sampling pool.

(iv) Any Community water system with insufficient tier 1 sampling sites shall complete its sampling pool with "tier 2 sampling sites", consisting of buildings, including multiple-family residences that contain copper pipes with lead solder installed from January 1, 1983 through June 30, 1985 or contain lead pipes.

(v) Any Community water system with insufficient tier 1 and tier 2 sampling sites shall complete its sampling pool with "tier 3 sampling sites", consisting of single family structures that contain copper pipes with lead solder installed before 1983. A community water system with insufficient tier 1, tier 2 and tier 3 sampling sites shall complete its sampling pool with representative sites throughout the distribution system. A representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the system.

(vi) The sampling sites selected for a Non-Transient Non-Community water system ("tier 1 sampling sites") shall consist of buildings that contain copper pipes with lead solder installed from January 1, 1983 through June 30, 1985 or contain lead pipes.

(vii) A Non-Transient Non-Community water system with insufficient tier 1 sites that meet the targeting criteria in paragraph (2)(d)(A)(vi) of this rule shall complete its sampling pool with sampling sites that contain copper pipes with lead solder installed before 1983. If additional sites are needed, the system shall use representative sites throughout the distribution system. A representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the water system.

(viii) Any water system whose sampling pool does not consist exclusively of tier 1 sites shall demonstrate in a letter submitted to the Department under OAR 333-061-0040(1)(f)(A)(i) why a review of the information listed in paragraph (2)(d)(A)(ii) of this rule was inadequate to locate a sufficient number of tier 1 sites. Any Community water system which includes tier 3 sampling sites in its sampling pool shall demonstrate in such a letter why it was unable to locate a sufficient number of tier 1 and tier 2 sampling sites.

(B) Monitoring requirements for lead and copper in tap water. Sample collection methods:

(i) All tap samples for lead and copper collected in accordance with this paragraph shall be first draw samples.

(ii) Each first-draw tap sample for lead and copper shall be one liter in volume and have stood motionless in the plumbing system of each sampling site for at least six hours. First-draw samples from residential housing shall be collected from the cold-water kitchen tap or bathroom sink tap. First-draw samples from a non-residential building shall be one liter in volume and shall be collected at an interior tap from which water is typically drawn for consumption. First-draw samples may be collected by the system or the system may allow residents to collect first-draw samples after instructing the residents of the sampling procedures specified in this paragraph. To avoid problems of residents handling nitric acid, acid fixation of first draw samples may be done up to 14 days after the sample is collected. If a system allows residents to perform sampling, the system may not challenge, based on alleged errors in sample collection, the accuracy of sampling results.

(iii) A water system shall collect each first-draw tap sample from the same sampling site from which it collected a previous sample. If, for any reason, the water system cannot gain entry to a sampling site in order to collect a follow-up tap sample, the system may collect the follow-up tap sample from another sampling site in its sampling pool as long as the new site meets the same targeting criteria, and is within reasonable proximity of the original site.

(C) Monitoring requirements for lead and copper in tap water. Number of samples: Water systems shall collect at least one sample during each monitoring period specified in paragraph (2)(d)(D) of this rule from the number of sites listed in the first column below ("standard monitoring"). A system conducting reduced monitoring under paragraph (2)(d)(D)(iv) of this rule shall collect at least one sample from the number of sites specified in the second column below during each monitoring period specified in paragraph (2)(d)(D)(iv) of this rule. Such reduced monitoring sites shall be representative of the sites required for standard monitoring. A system that has fewer than five drinking water taps, that can be used for human consumption meeting the sample site criteria of (2)(d)(A) of this rule to reach the required number of sample sites, must collect at least one sample from each tap and then must collect additional samples from those taps on different days during the monitoring period to meet the required number of sites. Alternatively the Department may allow these public water systems to collect a number of samples less than the number of sites specified below provided that 100 percent of all taps that can be used for human consumption are sampled. The Department must approve this reduction of the minimum number of samples in writing based on a request from the system or onsite verification by the Department. The Department may specify sampling locations when a system is conducting reduced monitoring. [Table not included. See ED. NOTE.]

(D) Monitoring requirements for lead and copper in tap water. Timing of monitoring:

(i) Initial tap monitoring requirements:

(I) All large systems shall monitor during two consecutive six-month periods.

(II) All small and medium-size systems shall monitor during each six-month monitoring period until the system exceeds the lead or copper action level and is therefore required to implement the corrosion control treatment requirements specified in OAR 333-061-0034(2), in which case the system shall continue monitoring in accordance with paragraph (2)(d)(D)(ii) of this rule, or the system meets the lead and copper action levels during two consecutive six-month monitoring periods, in which case the system may reduce monitoring in accordance with paragraph (2)(d)(D)(iv) of this rule.

(ii) Monitoring after installation of corrosion control and source water treatment.

(I) Any large system which installs optimal corrosion control treatment pursuant to OAR 333-061-0034(2)(a)(D) shall monitor during two consecutive six-month monitoring periods by the date specified in OAR 333-061-0034(2)(a)(E).

(II) Any small or medium-size system which installs optimal corrosion control treatment pursuant to OAR 333-061-0034(2)(b)(E) shall monitor during two consecutive six-month monitoring periods by the date specified in OAR 333-061-0034(2)(b)(F).

(III) Any system which installs source water treatment pursuant to OAR 333-061-0034(4)(a)(C) shall monitor during two consecutive six-month monitoring periods by the date specified in OAR 333-061-0034(4)(a)(D).

(iii) Monitoring after the Department specifies water quality parameter values for optimal corrosion control. After the Department specifies the values for water quality control parameters under OAR 333-061-0034(3)(l), the system shall monitor during each subsequent six-month monitoring period, with the first monitoring period to begin on the date the Department specifies the optimal values.

(iv) Reduced monitoring

(I) A small or medium-size water system that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the number of samples in accordance with paragraph (2)(d)(C) of this rule, and reduce the frequency of sampling to once per year. A small or medium water system collecting fewer than five samples as specified in (2)(d)(C) of this rule that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the frequency of sampling to once per year. In no case can the system reduce the number of samples required below the minimum of one sample per available tap. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.

(II) Any water system that meets the lead action level and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Department during each of two consecutive six-month monitoring periods may reduce the frequency of monitoring to once per year and reduce the number of lead and copper samples in accordance with paragraph (2)(d)(C) of this rule if it receives written approval from the Department. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period. The Department shall review monitoring, treatment, and other relevant information submitted by the water system, and shall notify the system in writing when it determines the system is eligible to commence reduced monitoring. The Department shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

(III) A small or medium-size water system that meets the lead and copper action levels during three consecutive years of monitoring may reduce the frequency of monitoring for lead and copper from annually to once every three years. Any water system that meets the action level and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Department during three consecutive years of monitoring may reduce the frequency of monitoring from annually to once every three years if it receives written approval from the Department. Samples collected once every three years shall be collected no later than every third calendar year. The Department shall review monitoring, treatment, and other relevant information submitted by the water system and shall notify the system in writing when it determines the system is eligible to reduce the frequency of monitoring to once every three years. The Department shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

(IV) A water system that reduces the number and frequency of sampling shall collect these samples from representative sites included in the pool of targeted sampling sites identified in paragraph (2)(d)(A) of this rule. Systems sampling annually or less frequently shall conduct the lead and copper tap sampling during the months of June, July, August or September. The Department may approve a different period for conducting the lead and copper tap sampling for systems collecting a reduced number of samples. Such a period shall be no longer than four consecutive months and must represent a time of normal operation where the highest levels of lead are most likely to occur. For a Non-transient Non-community water system that does not operate during the months of June through September, and for which the period of normal operation where the highest levels of lead are most likely to occur is not known, the Department shall designate a period that represents a time of normal operation for the system. This sampling shall begin during the period approved or designated by the Department in the calendar year immediately following the end of the second consecutive six-month monitoring period for systems initiating annual monitoring and during the three-year period following the end of the third consecutive calendar year of annual monitoring for systems initiating triennial monitoring. Community and Non-transient Non- community water systems monitoring annually or triennially that have been collecting samples during the months of June through December and that receive Department approval to alter their sample collection period must collect their next round of samples during a time period that ends no later than 21 months or 45 months, respec-

tively, after the previous round of sampling. Subsequent rounds of sampling must be collected annually or triennially as required in this subsection.

(V) A small or medium-size water system subject to reduced monitoring that exceeds the lead or copper action level shall resume sampling in accordance with paragraph (2)(d)(D)(iii) of this rule and collect the number of samples specified for standard lead and copper monitoring in paragraph (2)(d)(C) of this rule and shall also conduct water quality parameter monitoring in accordance with paragraphs (2)(d)(F)(iii), (iv) or (v) of this rule, as appropriate, during the period in which the lead or copper action level was exceeded. Any such system may resume annual monitoring for lead and copper at the tap at the reduced number of sites after it has completed two subsequent consecutive six-month rounds of monitoring that meet the requirement of paragraph (2)(d)(D)(iv)(I) of this rule. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period. Any such system may resume triennial monitoring for lead and copper at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the criteria prescribed in paragraphs (2)(d)(D)(iv)(III) or (VI) of this rule. Any water system subject to reduced monitoring frequency that fails to meet the lead action level during any four-month monitoring period or that fails to operate at or above the minimum value or within the range of values for the water quality control parameters specified by the Department for more than nine days in any six-month period specified in paragraph (2)(d)(F)(v) of this rule shall conduct tap water sampling for lead and copper at the frequency specified in paragraph (2)(d)(D)(iii) of this rule, collect the number of samples specified for standard monitoring, and shall resume monitoring for water quality parameters within the distribution system in accordance with paragraph (2)(d)(F)(v) of this rule. This standard tap water sampling shall begin no later than the six-month monitoring period beginning January 1 of the calendar year following the lead action level exceedance or water quality parameter excursion. Such a system may resume reduced monitoring for lead and copper at the tap and for water quality parameters within the distribution system under the following conditions Such a system may, with written Department approval, resume reduced annual monitoring for lead and copper at the tap after it has completed two subsequent six-month rounds of tap lead and copper monitoring that meet the criteria specified in paragraph (2)(d)(D)(iv)(II) of this rule. Such a system, with written Department approval, may resume reduced triennial monitoring for lead and copper at the tap if it meets the criteria specified in paragraphs (2)(d)(D)(iv)(III) and (VI) of this rule. Such a system may reduce the number and frequency of water quality parameter distribution tap samples required in accordance with paragraph (2)(d)(F)(vi)(I) and (II) of this rule. Such a system may not resume triennial monitoring for water quality parameters distribution tap samples until it demonstrates that it has re-qualified for triennial monitoring.

(VI) Any water system that demonstrates for two consecutive 6-month monitoring periods that the 90th percentile lead level is less than or equal to 0.005 mg/l and the 90th percentile copper level is less than or equal to 0.65 mg/l may reduce the number of samples in accordance with paragraph (2)(d)(C) of this rule and reduce the frequency of sampling to once every three calendar years.

(VII) Any water system subject to a reduced monitoring frequency under (2)(d)(D)(iv) of this rule shall notify the Department in writing of any upcoming long-term change in treatment or addition of a new source. The Department must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system. The Department may require the system to resume standard monitoring or take other appropriate steps such as increased water quality parameter monitoring or re-evaluation of its corrosion control treatment given the potentially different water quality considerations.

(E) Monitoring requirements for lead and copper in tap water. Additional monitoring by systems: The results of any monitoring conducted in addition to the minimum requirements of subsection (d) of this rule shall be considered by the system and the Department in making any determinations (i.e., calculating the 90th percentile lead or copper level). The Department may invalidate lead and copper tap water samples as follows:

(i) The Department may invalidate a lead or copper tap sample if at least one of the following conditions is met. The decision and the rationale for the decision must be documented in writing by the Department. A sample invalidated by the Department does not count toward determining lead or copper 90th percentile levels or toward meeting the minimum monitoring requirements:

(I) The laboratory establishes that improper sample analysis caused erroneous results; or

(II) A site that did not meet the site selection criteria; or

(III) The sample container was damaged in transit; or

(IV) There is substantial reason to believe that the sample was subject to tampering.

(ii) The system must report the results of all samples to the Department and all supporting documentation for samples the system believes should be invalidated.

(iii) The Department may not invalidate a sample solely on the grounds that a follow-up sample result is higher or lower than that of the original sample.

(iv) The water system must collect replacement samples for any samples invalidated if, after the invalidation of one or more samples, the system has too few samples to meet the minimum requirements. Any such replacement samples must be taken as soon as possible, but no later than 20 days after the date the Department invalidates the sample. The replacement samples shall be taken at the same locations as the invalidated samples or, if that is not possible, at locations other than those already used for sampling during the monitoring period.

(F) Monitoring requirements for water quality parameters. All large water systems and all medium and small water systems that exceed the lead or copper action levels shall monitor water quality parameters in addition to lead and copper as follows:

(i) General Requirements. Sample collection methods:

(I) Tap samples shall be representative of water quality throughout the distribution system taking into account the number of persons served, the different sources of water, the different treatment methods employed by the system, and seasonal variability. Water quality parameter sampling is not required to be conducted at taps targeted for lead and copper sampling, however, established coliform sampling sites may be used to satisfy these requirements.

(II) Samples collected at the entry point(s) to the distribution system shall be from locations representative of each source after treatment. If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all sources being used.

(ii) General requirements. Number of samples:

(I) Systems shall collect two tap samples for applicable water quality parameters during each monitoring period specified under paragraphs (2)(d)(F)(iii) through (vi) of this rule from the following number of sites. [Table not included. See ED. NOTE.]

(II) Except as provided in paragraph (2)(d)(F)(iv)(III) of this rule, systems shall collect two samples for each applicable water quality parameter at each entry point to the distribution system during each monitoring period specified in paragraph (2)(d)(F)(iii) of this rule. During each monitoring period specified in paragraphs (2)(d)(F)(iv) through (vi) of this rule, systems shall collect one sample for each applicable water quality parameter at each entry point to the distribution system.

(iii) Initial Sampling. All large water systems shall measure the applicable water quality parameters as specified below at taps and at each entry point to the distribution system during each six-month monitoring period specified in paragraph (2)(d)(D)(i) of this rule. All small and medium-size systems shall measure the applicable water quality parameters at the locations specified below during each six-month monitoring period specified in paragraph (2)(d)(D)(i) of this rule during which the system exceeds the lead or copper action level:

(I) At taps: pH, alkalinity, orthophosphate (when an inhibitor containing a phosphate compound is used), silica (when an inhibitor containing a silicate compound is used), calcium, conductivity, and water temperature.

(II) At each entry point to the distribution system: all of the applicable parameters listed in paragraph (2)(d)(F)(iii)(I) of this rule.

(iv) Monitoring after installation of corrosion control. Any large system which installs optimal corrosion control treatment pursuant to OAR 333-061-0034(2)(a)(D) shall measure the water quality parameters at the locations and frequencies specified below during each six-month monitoring period specified in paragraph (2)(d)(D)(ii)(I) of this rule. Any small or medium-size system which installs optimal corrosion control treatment shall conduct such monitoring during each six-month monitoring period specified in paragraph (2)(d)(D)(ii)(II) of this rule in which the system exceeds the lead or copper action level.

(I) At taps, two samples for: pH, alkalinity, orthophosphate (when an inhibitor containing a phosphate compound is used), silica (when an inhibitor containing a silicate compound is used), calcium (when calcium carbonate stabilization is used as part of corrosion control).

(II) Except as provided in paragraph (2)(d)(D)(iv)(III) of this rule, at each entry point to the distribution system, at least one sample, no less fre-

quently than every two weeks (bi-weekly) for: pH; when alkalinity is adjusted as part of optimal corrosion control, a reading of the dosage rate of the chemical used to adjust alkalinity, and the alkalinity concentration; and when a corrosion inhibitor is used as part of optimal corrosion control, a reading of the dosage rate of the inhibitor used, and the concentration of orthophosphate or silica (whichever is applicable).

(III) Any ground water system can limit entry point sampling to those entry points that are representative of water quality and treatment conditions throughout the system. If water from untreated ground water sources mixes with water from treated ground water sources, the system must monitor for water quality parameters both at representative entry points receiving treatment and no treatment. Prior to the start of any monitoring, the system shall provide to the Department written information identifying the selected entry points and documentation, including information on seasonal variability, sufficient to demonstrate that the sites are representative of water quality and treatment conditions throughout the system.

(v) Monitoring after Department specifies water quality parameter values for optimal corrosion control. After the Department specifies the values for applicable water quality control parameters reflecting optimal corrosion control treatment under OAR 333-061-0034(3)(l), all large systems shall measure the applicable water quality parameters in accordance with paragraph (2)(d)(F)(iv) of this rule and determine compliance every six months with the first six-month period to begin on either January 1 or July 1, whichever comes first, after the Department specifies optimal water quality parameter values. Any small or medium-size system shall conduct such monitoring during each monitoring period specified in this paragraph in which the system exceeds the lead or copper action level. For any such small and medium-size system that is subject to a reduced monitoring frequency pursuant to paragraph (2)(d)(D)(iv) of this rule at the time of the action level exceedance, the start of the applicable six-month monitoring period shall coincide with the start of the applicable monitoring period under (2)(d)(D) of this rule. Compliance with Department-designated optimal water quality parameter values shall be determined as specified under OAR 333-061-0034(3)(m).

(vi) Reduced monitoring:

(I) Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment during each of two consecutive six-month monitoring periods under paragraph (2)(d)(D) of this rule shall continue monitoring at the entry point(s) to the distribution system as specified in paragraph (2)(d)(F)(iv)(II) of this rule. Such system may collect two tap samples for applicable water quality parameters from the following reduced number of sites during each six-month monitoring period. [Table not included. See ED. NOTE.]

(II) Any water system that maintains the minimum values or maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Department under OAR 333-061-0034(3)(l) during three consecutive years of monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in paragraph (2)(d)(F)(vi)(I) of this rule from every six months to annually. This sampling begins during the calendar year immediately following the end of the monitoring period in which the third consecutive year of six-month monitoring occurs. Any water system that maintains the minimum values or maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Department under OAR 333-061-0034(3)(l) during three consecutive years of annual monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters from annually to every three years. This sampling begins no later than the third calendar year following the end of the monitoring period in which the third consecutive year of monitoring occurs.

(III) A water system may reduce the frequency with which it collects tap samples for applicable water quality parameters to every three years if it demonstrates during two consecutive monitoring periods that its tap water lead level at the 90th percentile is less than or equal to 0.005 mg/l, that its tap water copper level at the 90th percentile is less than or equal to 0.65 mg/l, and that it also has maintained the range of values for water quality parameters reflecting optimal corrosion control treatment specified by the Department. Monitoring conducted every three years shall be done no later than every third calendar year.

(IV) A water system that conducts sampling annually shall collect these samples evenly throughout the year so as to reflect seasonal variability.

(V) Any water system subject to reduced monitoring frequency that fails to operate at or above the minimum value or within the range of values for the water quality parameters specified by the Department under OAR 333-061-0034(3)(l) for more than nine days in any six-month period shall resume distribution system tap water sampling in accordance with the number and frequency requirements in paragraph (2)(d)(F)(v) of this rule. Such a system may resume annual monitoring for water quality parameters at the tap at the reduced number of sites after it has completed two subsequent consecutive six-month rounds of monitoring that meet the criteria specified in paragraph (2)(d)(F)(v) of this rule and/or may resume triennial monitoring at the reduced number of sites after it demonstrates through subsequent annual rounds that it meets the criteria of paragraphs (2)(d)(F)(vi)(I) and (II) of this rule.

(vii) Additional monitoring by systems. The results of any monitoring conducted in addition to the minimum requirements of subsection (2)(d) of this rule shall be considered by the system and the Department in making any determinations.

(G) Monitoring requirements for lead and copper in source water. Sample location, collection methods, and number of samples:

(i) A water system that fails to meet the lead or copper action level on the basis of tap samples collected in accordance with paragraphs (2)(d)(A) through (E) of this rule shall collect lead and copper source water samples in accordance with the following requirements regarding sample location, number of samples, and collection methods:

(I) Ground water systems shall take a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant;

(II) Surface water systems shall take a minimum of one sample at every entry point to the distribution system after any application of treatment or in the distribution system at a point which is representative of each source, after treatment. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant; Surface water systems include systems with a combination of surface and ground sources; and

(III) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods when water is representative of all sources being used.

(ii) Where the results of sampling indicate an exceedance of maximum permissible source water levels established under OAR 333-061-0034(4)(b)(D) the Department may require that one additional sample be collected as soon as possible after the initial sample was taken (but not to exceed two weeks) at the same sampling point. If a Department-required confirmation sample is taken for lead or copper, then the results of the initial and confirmation sample shall be averaged in determining compliance with the Department-specified maximum permissible levels. Any sample value below the detection limit shall be considered to be zero. For lead any value above the detection limit but below the Practical Quantitation Level (PQL) (0.005 mg/l) shall either be considered as the measured value or be considered one-half the PQL (0.0025 mg/l). For copper any value above the detection limit but below the PQL (0.050 mg/l) shall either be considered as the measured value or be considered one-half the PQL (0.025 mg/l).

(H) Monitoring requirements for lead and copper in source water. Monitoring frequency after system exceeds tap water action level. Any system which exceeds the lead or copper action level at the tap, shall collect one source water sample from each entry point to the distribution system no later than six months after the end of the monitoring period during which the lead or copper action level was exceeded. For monitoring periods that are annual or less frequent, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or if the Department has established an alternate monitoring period, the last day of that period.

(i) Monitoring frequency after installation of source water treatment. Any system which installs source water treatment pursuant to OAR 333-061-0034(4)(a)(C) shall collect an additional source water sample from each entry point to the distribution system during two consecutive six-month monitoring periods by the deadline specified in OAR 333-061-0034(4)(a)(D).

(ii) Monitoring frequency after Department specifies maximum permissible source water levels or determines that source water treatment is not needed.

(I) A system shall monitor at the frequency specified below in cases where the Department specifies maximum permissible source water levels under OAR 333-061-0034(4)(b)(D) or determines that the system is not required to install source water treatment under OAR 333-061-0034(4)(b)(B). A water system using only groundwater shall collect samples once during the three-year compliance period in effect when the appli-

cable Department determination is made. Such systems shall collect samples once during each subsequent compliance period. Triennial samples shall be collected every third calendar year. A water system using surface water (or a combination of surface and groundwater) shall collect samples once during each calendar year, the first annual monitoring period to begin during the year in which the applicable Department determination is made.

(II) A system is not required to conduct source water sampling for lead and/or copper if the system meets the action level for the specific contaminant in tap water samples during the entire source water sampling period applicable to the system under paragraph (2)(d)(H)(ii)(I) of this rule.

(iii) Reduced monitoring frequency:

(I) A water system using only groundwater may reduce the monitoring frequency for lead and copper in source water to once during each nine-year compliance cycle provided that the samples are collected no later than every ninth calendar year and it demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the Department in OAR 333-061-0034(4)(b)(D) during at least three consecutive compliance periods under paragraph (2)(d)(H)(ii)(I) of this rule or the Department has determined that source water treatment is not needed and the system demonstrates during at least three consecutive compliance periods under paragraph (2)(d)(H)(ii)(I) of this rule that the concentration of lead in source water was _0.005 mg/l and the concentration of copper in source water was 0.65 mg/l.

(II) A water system using surface water (or a combination of surface and ground waters) may reduce the monitoring frequency for lead and copper in source water to once during each nine-year compliance cycle provided that the samples are collected no later than every ninth calendar year and it demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the Department in OAR 333-061-0034(4)(b)(D) for at least three consecutive years or the Department has determined that source water treatment is not needed and the system demonstrates that during at least three consecutive years the concentration of lead in source water was 0.005 mg/l and the concentration of copper in source water was 0.65 mg/l.

(III) A water system that uses a new source of water is not eligible for reduced monitoring for lead and/or copper until concentrations in samples collected from the new source during three consecutive monitoring periods are below the maximum permissible lead and copper concentrations specified by the Department in OAR 333-061-0034(4)(a)(E).

(e) Nitrate:

(A) Community and Non-Transient Non-Community water systems using surface water sources or groundwater sources under the direct influence of surface water shall monitor for Nitrate quarterly beginning January 1,1993. The Department may allow a surface water system to reduce the sampling frequency to annually provided that all analytical results from four consecutive quarters are less than 50% of the MCL. A surface water system shall return to quarterly monitoring if any one sample is 50% of the MCL.

(B) Community and Non-Transient Non-Community water systems using groundwater sources shall monitor for Nitrate annually beginning January 1, 1993. The Department shall require quarterly monitoring for a least one year following any one sample in which the concentration is 50% of the MCL. The system may return to annual monitoring after four consecutive quarterly samples are found to be reliably and consistently below the MCL.

(C) Transient Non-Community and State Regulated water systems shall monitor for Nitrate annually beginning January 1, 1993.

(D) After the initial round of quarterly sampling is completed, each Community and Non-Transient Non-Community water system which is monitoring annually shall take subsequent samples during the quarter(s) which previously resulted in the highest analytical result.

(f)Nitrite:

(A) Community, Non-Transient Non-Community, and Transient Non-Community water systems shall collect one sample at each sampling point for Nitrite during the compliance period beginning January 1, 1993. The Department shall require quarterly monitoring for at least one year following any one sample in which the concentration is 50% of the MCL. The system may return to annual monitoring after four consecutive quarterly samples are found to be reliably and consistently below the MCL.

(B) After the initial sample, all systems where analytical results for Nitrite are <50% of the MCL, shall monitor once during each subsequent compliance cycle.

(C) Systems which are monitoring annually shall take each subsequent sample during the quarter(s) which previously resulted in the highest analytical result.

(g) Sodium

(A) Samples of water which is delivered to users shall be analyzed for Sodium as follows:

(i)Community and Non-Transient Non-Community water systems, surface water sources, once per year for each source;

(ii) Community and Non-Transient Non-Community water systems, ground water sources, once every three years for each source.

(B) The water supplier shall report to the Department the results of the analyses for Sodium as prescribed in rule 333-061-0040. The Department shall notify local health officials of the test results.

(h) Confirmation Samples:

(A) Where the results of sampling for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium or thallium exceed the MCL prescribed in OAR 333-061-0030 for inorganic chemicals, the Department may require one additional sample to be taken as soon as possible after the initial sample was taken (but not to exceed two weeks) at the same sampling point.

(B) Where the results of sampling for nitrate or nitrite exceed the MCL prescribed in OAR 333-061-0030 for inorganic chemicals, the system is required to collect one additional sample within 24 hours of notification of the results of the initial sample at the same sampling point. Systems unable to comply with the 24-hr sampling requirement must initiate consultation with the Department as soon as practical, but no later than 24 hours after the system learns of the violation and must immediately notify their users as prescribed in OAR 333-061-0042(2)(a)(B), and collect one additional sample within two weeks of notification of the results of the initial sample.

(C) If a confirmation sample required by the Department is taken for any contaminant then the results of the initial and confirmation sample shall be averaged. The resultant average shall be used to determine the system's compliance as prescribed in subsection (2)(j) of this rule.

(i) The Department may require more frequent monitoring than specified in subsections (2)(a) through (g) of this rule or may require confirmation samples for positive and negative results. Systems may apply to the Department to conduct more frequent monitoring than is required in this section.

(j) Compliance with the inorganic MCLs as listed in 333-061-0030(1) (Table 1) shall be determined based on the analytical result(s) obtained at each sampling point as follows:

(A) For systems which are conducting monitoring at a frequency greater than annual, compliance with the MCLs for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium or thallium is determined by a running annual average at any sampling point. If the average at any sampling point rounded to the same number of significant figures as the MCL for the substance in question is greater than the MCL, then the system is out of compliance. If any one sample would cause the annual average to be exceeded, then the system is out of compliance immediately. Any sample with results below the detection limit specified for the approved EPA analytical method shall be calculated at zero for the purpose of determining the annual average. If a system fails to collect the required number of samples, compliance (average concentration) will be based on the total number of samples collected.

(B) For systems which are monitoring annually, or less frequently, the system is out of compliance with the MCLs for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium or thallium if the level of the contaminant at any sampling point is greater than the MCL. If confirmation samples are required by the Department, the determination of compliance will be based on the average of the initial MCL exceedance and the confirmation sample. If a system fails to collect the required number of samples, compliance (average concentration) will be based on the total number of samples collected.

(C) Compliance with MCLs for nitrate and nitrite is determined based on one sample if the levels of these contaminants are below the MCLs. If the levels of nitrate and/or nitrite exceed the MCLs in the initial sample, a confirmation sample is required in accordance with paragraph (2)(h)(B) of this rule and compliance shall be determined based on the average of the initial and confirmation samples.

(D) If the results of an analysis as prescribed in this rule indicate the level of any contaminant exceeds the maximum contaminant level, the water supplier shall report the analysis results to the Department within 48 hours as prescribed in OAR 333-061-0040 and initiate the public notice procedures as prescribed by OAR 333-061-0042.

(k) All Community and Non-Transient Non-Community water systems shall monitor according to the following schedule:

Population	Begin Initial monitoring	Complete initial monitoring by
300 or More	January 1, 1993	December 31, 1993
100-299	January 1, 1994	December 31, 1994
Less than 100	January 1, 1995	December 31, 1995

(3) Organic chemicals:

(a) Alachlor, Atrazine, Benzo(a)pyrene, Carbofuran, Chlordane, Dalapon, Dibromochloropropane, Dinoseb, Dioxin(2,3,7,8-TCDD), Diquat, Di(2-ethylhexyl)adipate, Di(2-ethylhexyl)phthalate, Endothall, Endrin, Ethylene dibromide, Glyphosate, Heptachlor, Heptachlor epoxide, Hexachlorobenzene, Hexachlorocyclopentadiene, Lindane(BHC-g), Methoxychlor, Oxamyl(Vydate), Picloram, Polychlorinated biphenyls, Pentachlorophenol, Simazine, Toxaphene, 2,4-D and 2,4,5-TP Silvex.

(A) Samples of water which is delivered to users shall be analyzed for regulated synthetic organic chemicals (SOC) as follows:

(i) Community and Non-Transient Non-Community water systems using surface, ground water under the direct influence of surface water or ground sources shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment. Community and Non-Transient Non-Community water systems shall collect four consecutive quarterly samples at each sampling point beginning with the initial compliance period starting January 1, 1993. The water systems must take each sample from the same sampling point unless conditions make another sampling point more representative of each source or treatment plant. New wells in an existing wellfield, within an existing drinking water protection area, or within an area well characterized by area-wide source water assessments and/or past monitoring results as determined by the Department, may be eligible for a reduction in initial monitoring from four consecutive quarterly samples to one sample if no detections occur and if, based on the system's source assessment, the Department determines that the new well is producing from the same and only the same aquifer or does not significantly modify the existing drinking water protection area.

(ii) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all the sources being used.

(iii) If the initial analysis does not detect any contaminant listed in subsection (3)(a) of this rule, then monitoring at each sampling point may be reduced to:

(I) Two consecutive quarterly samples in one year during each repeat compliance period for systems serving more than 3300 population; or

(II) One sample in each repeat compliance period for systems serving less than or equal to 3300 population; or

(III) Once every 6 years for all SOCs, if the system has a state certified Drinking Water Protection Plan or for those SOCs determined to be "used" and for which that portion of the aquifer identified by the drinking water protection area delineation has been determined to be of "moderate" susceptibility according to the Department's Use and Susceptibility Protocol. Information from the system's Source Water Assessment can be used in this determination; or

(IV) Once every 9 years for those SOCs in an analytical method group determined to be "not used" in the delineated drinking water protection area, or for those SOCs determined to be "used" if that portion of the aquifer identified by the drinking water protection area delineation has been determined to be of "low susceptibility" according to the Department's Use and Susceptibility Waiver Document. Information from the system's Source Water Assessment can be used in this determination.

(iv) If a water system has two or more wells that have been determined by the Department to constitute a "wellfield" as specified in OAR 333-061-0058, the system must sample at the entry point(s) designated by the Department.

(B) Each Community and Non-Transient Non-Community water system may apply to the Department for a waiver from the requirements of paragraph (3)(a)(A) of this rule. Each water system can receive specific guidance in obtaining a waiver from the Use and Susceptibility Waiver Guidance Document developed by the Department. A waiver must be in place prior to the year in which the monitoring is to be accomplished, and the water system must reapply for a waiver for Organics monitoring each compliance period.

(i) The water system shall use the drinking water protection area as delineated during the Source Water Assessment according to procedures described in the Use and Susceptibility Waiver Guidance Document.

(ii) The Use Waiver criteria as described in the Use and Susceptibility Waiver Guidance Document shall take into consideration but is not limited to the use, storage, distribution, transport and disposal of the contaminant within the delineated recharge or watershed area.

(iii) The Susceptibility Waiver criteria as described in the Use and Susceptibility Waiver Guidance Document shall address only those contaminants that remain after the use waiver process has been completed. The Susceptibility Waiver criteria shall take into consideration but is not limited to the history of bacteria and/or nitrate contamination, well construction, agricultural management practices, infiltration potential, and contaminant mobility and persistence.

(iv) Water systems which qualify for use and susceptibility waivers shall follow the monitoring requirements as directed in the Use and Susceptibility Waiver Guidance Document.

(v) The Use and Susceptibility Waiver Guidance Document is made a part of this rule and shall take into consideration the Wellhead Protection Program and shall be updated with new methods and procedures as they become available.

(vi) The Department may establish area-wide waivers based on historical monitoring data, land use activity, and the results of "Source Water Assessments" and/or "Use and Susceptibility Waiver Documents".

(C) If a water system detects in any sample a contaminant listed in subsection (3)(a) of this rule equal to or greater than the minimum detection limit listed in Table 11, then the water system shall monitor quarterly at each sampling point where a detection occurred. [Table not included. See ED. NOTE.]

(i) Based on a minimum of two quarterly samples for ground water sources and four quarterly samples for surface water sources, the Department may reduce the monitoring frequency required in paragraph (3)(a)(C) of this rule to annually provided the system is reliably and consistently below the MCL. Systems which monitor annually must monitor during the quarter that previously yielded the highest analytical result.

(ii) Systems which have three consecutive annual samples with no detection of a contaminant may apply to the Department for a waiver as specified in paragraph (3)(a)(B) of this rule.

(iii) If any monitoring required in paragraph (3)(a)(A) of this rule results in the detection of one or more of certain related contaminants(Aldicarb, Aldicarb sulfone, Aldicarb sulfoxide and Heptachlor, Heptachlor epoxide), then subsequent monitoring shall analyze for all related contaminants.

(D) If the results of an analysis prescribed in paragraph (3)(a)(A) of this rule indicate that the level of any contaminant exceeds a maximum contaminant level, then the system must monitor quarterly. After a minimum of four quarterly samples show the system to be reliably and consistently below the MCL and in compliance with paragraph (3)(a)(G) of this rule, then the system may monitor annually.

(E) The Department may require confirmation samples for positive or negative results. If a confirmation sample is required by the Department, the result must be averaged with the original sample result (unless the previous sample has been invalidated by the Department) and the average used to determine compliance.

(F) The Department may allow compositing of samples to reduce the number of samples to be analyzed by the system. Composite samples from a maximum of five sampling points are allowed, provided that the detection limit of the method used for analysis is less than one-fifth of the MCL. Compositing of samples must be done in the laboratory and analyzed within 14 days of sample collections. If the concentration in the composite sample detects one or more contaminants listed in subsection (3)(a) of this rule, then a follow-up sample must be taken and analyzed within 14 days at each sampling point included in the composite, and be analyzed for that contaminant. Duplicates taken on the original composite samples may be used instead of resampling provided the duplicates are analyzed and the results reported to the Department within 14 days of collection. For systems with a population greater than 3,300, the Department may allow compositing at sampling points only within a single system. For systems with a population £ 3,300, the Department may allow compositing among different systems, provided the 5-sample limit is maintained.

(G) Compliance with contaminants listed in OAR 333-061-0030(2)(a) shall be determined based on the analytical results obtained at each sampling point. If one sampling point is in violation of an MCL, the system is in violation of the MCL. For systems which monitor more than once per year, compliance with the MCL is determined by a running annual average at each sampling point. Systems which monitor annually or less whose sample result exceeds the regulatory detection limit prescribed in paragraph (3)(a)(C) of this rule (Table 11) must begin quarterly sampling. The system will not be considered in violation of the MCL until it has completed one year of quarterly monitoring. If any sample result will cause the

running annual average to exceed the MCL at any sampling point, the system is out of compliance with the MCL immediately. If a system fails to collect the required number of samples, compliance will be based on the total number of samples collected. If a sample result is less than the detection limit, zero will be used to calculate the annual average. If the system is out of compliance, the system shall follow the reporting and public notification procedures as prescribed in OAR 333-061-0040 and 333-061-0042(2)(b)(A).

(H) If monitoring data collected after January 1, 1990 are consistent with the requirements of subsection (3)(a) of this rule, the Department may allow systems to use that data to satisfy the monitoring requirements for the initial compliance periods beginning January 1, 1993 and January 1, 1996.

(I) All Community and Non-Transient Non-Community water systems shall monitor according to the following schedule:

Population	Begin Initial monitoring	Complete initial monitoring by
300 or More	January 1, 1993	December 31. 1993
100-299	January 1, 1994	December 31, 1994
Less than 100	January 1, 1995	December 31, 1995

(J) All new systems or systems that use a new source of water must demonstrate compliance with the MCL within a period of time specified by the Department. The system must also comply with the initial sampling frequencies specified by the Department to ensure a system can demonstrate compliance with the MCL.

(b) Disinfection Byproducts:

(A) General sampling and analytical requirements regarding disinfection byproducts for Community water systems and Non-transient Non-community water systems that add a disinfectant (oxidant) in any part of the treatment process are specified in paragraphs (3)(b)(A) through (N) of this rule.

(i) Water systems must take all samples during normal operating conditions.

(ii) Water systems may consider multiple wells drawing water from a single aquifer as one treatment plant for determining the minimum number of TTHM and HAA5 samples required, with approval from the Department in accordance with criteria developed for Consumer Confidence Reports (OAR 333-061-0043).

(iii) Failure to monitor in accordance with the monitoring plan as specified in paragraph (3)(b)(G) of this rule is a monitoring violation.

(iv) Failure to monitor will be treated as a violation for the entire period covered by the annual average where compliance is based on a running annual average of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with MCLs or MRDLs.

(v) Systems may use only data collected under the provisions of this rule or 40 CFR Parts 141.140 through 141.144 (Subpart M - Information Collection Rule for Public Water Systems) to qualify for reduced monitoring.

(B) Monitoring requirements for disinfection byproducts.

(i) Routine monitoring for TTHMs and HAA5. Systems must monitor at the frequency as specified in Table 12: [Table not included. See ED. NOTE.]

(ii) Systems may reduce monitoring, except as otherwise provided, as specified in Table 13 as follows: [Table not included. See ED. NOTE.]

(iii) Systems on a reduced monitoring schedule may remain on that reduced schedule as long as the average of all samples taken in the year (for systems which must monitor quarterly) or the result of the sample (for systems which must monitor no more frequently than annually) is no more than 0.060 mg/L and 0.045 mg/L for TTHMs and HAA5, respectively. Systems that do not meet these levels must resume monitoring at the frequency identified in paragraph (3)(b)(B)(i) of this rule in the quarter immediately following the monitoring period in which the system exceeds 0.060 mg/L and 0.045 mg/L for TTHMs and HAA5, respectively. For systems using only groundwater not under the direct influence of surface water and serving less than 10,000 persons, if either the TTHMs annual average is greater than 0.080 mg/L or the HAAs annual average is greater than 0.060 mg/L, the water system must go to increased monitoring as specified in paragraph (3)(b)(B)(i) of this rule in the quarter immediately following the monitoring period in which the system exceeds 0.080 mg/L or 0.060 mg/L for TTHMs or HAA5, respectively.

(iv) Systems on increased monitoring may return to routine monitoring if, after at least one year of monitoring, the TTHM annual average is less than or equal to 0.060 mg/L and the HAA5 annual average is less than or equal to 0.045 mg/L.

(v) The Department may return a system to routine monitoring at its discretion.

(C) Chlorite. Community and Non-transient Non-community water systems using chlorine dioxide, for disinfection or oxidation, must conduct monitoring for chlorite.

(i) Routine monitoring.

(I) Daily monitoring. Systems must take daily samples at the entrance to the distribution system. For any daily sample that exceeds the chlorite MCL, the system must take additional samples in the distribution system the following day at the locations required by paragraph (3)(b)(C)(ii) of this rule, in addition to the sample required at the entrance to the distribution system.

(II) Monthly monitoring. Systems must take a three-sample set each month in the distribution system. The system must take one sample at each of the following locations: near the first customer, at a location representative of average residence time, and at a location reflecting maximum residence time in the distribution system. Any additional routine sampling must be conducted in the same manner (as three-sample sets, at the specified locations). The system may use the results of additional monitoring conducted under paragraph (3)(b)(C)(ii) of this rule to meet the requirement for monitoring in this paragraph.

(ii) Additional monitoring. On each day following a routine sample monitoring result that exceeds the chlorite MCL at the entrance to the distribution system, the system is required to take three chlorite distribution system samples at the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

(iii) Reduced monitoring.

(I) Chlorite monitoring at the entrance to the distribution system required by paragraph (3)(b)(C)(i)(I) of this rule may not be reduced.

(II)Chlorite monitoring in the distribution system required by paragraph (3)(c)(C)(i)(II) of this rule may be reduced to one three-sample set per quarter after one year of monitoring where no individual chlorite sample taken in the distribution system under paragraph (3)(b)(C)(i)(II) of this rule has exceeded the chlorite MCL and the system has not been required to conduct monitoring under paragraph (3)(b)(C)(ii) of this rule. The system may remain on the reduced monitoring schedule until either any of the three individual chlorite samples taken quarterly in the distribution system under paragraph (3)(b)(C)(i)(II) of this rule exceeds the chlorite MCL or the system is required to conduct monitoring under paragraph (3)(b)(C)(ii) of this rule, at which time the system must revert to routine monitoring.

(iv) Bromate:

(I) Routine monitoring. Community and Non-transient Non-community water systems using ozone, for disinfection or oxidation, must take one sample per month for each treatment plant in the system using ozone. Systems must take samples monthly at the entrance to the distribution system while the ozonation system is operating under normal conditions.

(II) Reduced monitoring. Systems required to analyze for bromate may reduce monitoring from monthly to once per quarter, if the system demonstrates that the running annual average bromate concentration is less than or equal to 0.0025 mg/L based upon routine monthly bromate measurements for the most recent four quarters. The system may remain on reduced monitoring as long as the running annual average of quarterly bromate samples is less than or equal to 0.0025 mg/L. If the running annual average bromate concentration is greater than 0.0025 mg/L, the system must resume routine monitoring required by paragraph (3)(b)(C)(iv)(I) of this rule.

(D) Monitoring requirements for disinfectant residuals.

(i) Chlorine and chloramines:

(I) Routine monitoring. Community and Non-transient Non-community water systems that use chlorine or chloramines must measure the residual disinfectant level at the same points in the distribution system and at the same time when total coliforms are sampled, as specified in OAR 333-061-0036(5). Water systems using surface water or groundwater under the direct influence of surface water may use the results of residual disinfectant concentration sampling conducted as required by OAR 333-061-0036(4)(a)(F) for unfiltered systems or OAR 333-061-0036(4)(b)(C) for systems which filter, in lieu of taking separate samples. Compliance with this rule is achieved when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. Operators may increase residual disinfectant levels of chlorine or chloramine (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health in order to address specific microbiological contaminant problems resulting from events in the source water or in the distribution system.

(II) Reduced monitoring from paragraph (3)(b)(D)(i)(I) of this rule is not allowed.

(ii) Chlorine dioxide:

(I) Routine monitoring. Community, Non-transient Non-community, and Transient Non-community water systems that use chlorine dioxide for disinfection or oxidation must take daily samples at the entrance to the distribution system. For any daily sample that exceeds the MRDL, the system must take samples in the distribution system the following day at the locations required by paragraph (3)(b)(D)(ii)(II) of this rule, in addition to the sample required at the entrance to the distribution system. Compliance with this rule is achieved when daily samples are taken at the entrance to the distribution system and no two consecutive daily samples exceed the MRDL.

(II) Additional monitoring. On each day following a routine sample monitoring result that exceeds the MRDL, the system is required to take three chlorine dioxide distribution system samples. If chlorine dioxide or chloramines are used to maintain a disinfectant residual in the distribution system, or if chlorine is used to maintain a disinfectant residual in the distribution system and there are no disinfection addition points after the entrance to the distribution system (i.e., no booster chlorination), the system must take three samples as close to the first customer as possible, at intervals of at least six hours. If chlorine is used to maintain a disinfectant residual in the distribution system and there are one or more disinfection addition points after the entrance to the distribution system (i.e., booster chlorination), the system must take one sample at each of the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible (reflecting maximum residence time in the distribution system).

(III) Chlorine dioxide monitoring may not be reduced from paragraph (3)(b)(D)(ii)(II) of this rule.

(E) Monitoring requirements for disinfection byproduct precursors (DBPP)

(i) Routine monitoring. Water systems using surface water or groundwater under the direct influence of surface water which use conventional filtration treatment must monitor each treatment plant for TOC no later than the point of combined filter effluent turbidity monitoring and representative of the treated water. All systems required to monitor under paragraph (3)(b)(I)(i) of this rule must also monitor for TOC in the source water prior to any treatment at the same time as monitoring for TOC in the treated water. These samples (source water and treated water) are referred to as paired samples. At the same time as the source water sample is taken, all systems must monitor for alkalinity in the source water prior to any treatment. Systems must take one paired sample and one source water alkalinity sample per month per plant at a time representative of normal operating conditions and influent water quality.

(ii) Reduced monitoring. Water systems using surface water or groundwater under the direct influence of surface water with an average treated water TOC of less than 2.0 mg/L for two consecutive years, or less than 1.0 mg/L for one year, may reduce monitoring for both TOC and alkalinity to one paired sample and one source water alkalinity sample per plant per quarter. The water system must revert to routine monitoring in the month following the quarter when the annual average treated water TOC greater than or equal to 2.0 mg/L.

(F) Bromide. Water systems required to analyze for bromate may reduce bromate monitoring from monthly to once per quarter, if the system demonstrates that the average source water bromide concentration is less than 0.05 mg/L based upon representative monthly measurements for one year. The system must continue bromide monitoring to remain on reduced bromate monitoring.

(G) Monitoring plans. Each water system required to monitor under this paragraph must develop and implement a monitoring plan. The system must maintain the plan and make it available for inspection by the Department and the general public no later than 30 days following the applicable compliance dates as specified in OAR 333-061-0032(9)(b). All water systems using surface water or groundwater under the direct influence of surface water serving more than 3300 people must submit a copy of the monitoring plan to the Department no later than the date of the first report required by OAR 333-061-0040(1). The Department may also require the plan to be submitted by any other system. After review, the Department may require changes in any plan elements. The plan must include at least the following elements.

(i) Specific locations and schedules for collecting samples for any parameters included in subsection (3)(b) of this rule;

(ii) How the water system will calculate compliance with MCLs, MRDLs, and treatment techniques;

(iii) If approved for monitoring as a consecutive system, or if providing water to a consecutive system, the sampling plan must reflect the entire distribution system.

(H) General compliance requirements.

(i) Where compliance is based on a running annual average of monthly or quarterly samples or averages and the system fails to monitor for TTHM, HAA5, or bromate, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average. Where compliance is based on a running annual average of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with MRDLs for chlorine and chloramines, this failure to monitor will be treated as a monitoring violation for the entire period covered by the annual average.

(ii) All samples taken and analyzed under the provisions of subsection (3)(b) of this rule must be included in determining compliance, even if that number is greater than the minimum required.

(iii) If, during the first year of monitoring as required by subsection (3)(b) of this rule, any individual quarter's average will cause the running annual average of that system to exceed the MCL, the system is out of compliance at the end of that quarter.

(I) Compliance requirements for TTHMs and HAA5.

(i) For systems monitoring quarterly, compliance with MCLs as required by OAR 333-061-0030(2)(b) must be based on a running annual arithmetic average, computed quarterly, of quarterly arithmetic averages of all samples collected by the system as required by paragraph (3)(b)(B) of this rule.

(ii) For water systems monitoring less frequently than quarterly, compliance must be based on an average of samples taken that year as required by paragraph (3)(b)(B)(i) of this rule. If the average of these samples exceeds the MCL, the water system must increase monitoring to once per quarter per treatment plant and the system is not considered in violation of the MCL until it has completed one year of quarterly monitoring, unless the result of fewer than four quarters of monitoring will cause the running annual average to exceed the MCL, in which case the system is in violation at the end of that quarter. Water systems required to increase monitoring frequency to quarterly monitoring must calculate compliance by including the sample which triggered the increased monitoring plus the following three quarters of monitoring.

(iii) If the running annual arithmetic average of quarterly averages covering any consecutive four-quarter period exceeds the MCL, the system is in violation of the MCL and must notify the public as required by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Department as required by OAR 333-061-0040.

(iv) If a water system fails to complete four consecutive quarters' monitoring, compliance with the MCL for the last four-quarter compliance period must be based on an average of the available data.

(J) Compliance requirements for Bromate. Compliance must be based on a running annual arithmetic average, computed quarterly, of monthly samples (or, for months in which the system takes more than one sample, the average of all samples taken during the month) collected by the system as required by paragraph (3)(b)(C)(iv) of this rule. If the average of samples covering any consecutive four-quarter period exceeds the MCL, the water system is in violation of the MCL and must notify the public as required by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Department as required by OAR 333-061-0040. If a water system fails to complete 12 consecutive months monitoring, compliance with the MCL for the last four-quarter compliance period must be based on an average of the available data.

(K) Compliance requirements for Chlorite. Compliance must be based on an arithmetic average of each three sample set taken in the distribution system as required by paragraph (3)(b)(C)(i)(II) of this rule and paragraph (3)(b)(C)(ii) of this rule. If the arithmetic average of any three sample set exceeds the MCL, the water system is in violation of the MCL and must notify the public as required by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Department as required by OAR 333-061-0040.

(L) Compliance requirements for chlorine and chloramines.

(i) Compliance must be based on a running annual arithmetic average, computed quarterly, of monthly averages of all samples collected by the system as required by paragraph (3)(b)(D)(i) of this rule. If the average covering any consecutiv00e four-quarter period exceeds the MRDL, the system is in violation of the MRDL and must notify the public as required by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Department as required by OAR 333-061-0040.

(ii) In cases where water systems switch between the use of chlorine and chloramines for residual disinfection during the year, compliance must

be determined by including together all monitoring results of both chlorine and chloramines in calculating compliance. Reports submitted as required by OAR 333-061-0040(1) must clearly indicate which residual disinfectant was analyzed for each sample.

(M) Compliance requirement for Chlorine dioxide.

(i) Acute violations. Compliance must be based on consecutive daily samples collected by the water system as required by paragraph (3)(b)(D)(ii) of this rule. If any daily sample taken at the entrance to the distribution system exceeds the MRDL, and on the following day one (or more) of the three samples taken in the distribution system exceed the MRDL, the water system is in violation of the MRDL and must take immediate corrective action to lower the level of chlorine dioxide below the MRDL and must notify the public pursuant to the procedures for acute health risks as required by OAR 333-061-0042(2)(a)(C) in addition to reporting to the Department as required by OAR 333-061-0040. Failure to take samples in the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system will also be considered an MRDL violation and the water system must notify the public of the violation in accordance with the provisions for acute violations as required by OAR 333-061-0042(2)(a)(C) in addition to reporting to the Department as required by OAR 333-061-0040.

(ii) Non-acute violations. Compliance must be based on consecutive daily samples collected by the system as required by paragraph (3)(b)(D)(ii) of this rule. If any two consecutive daily samples taken at the entrance to the distribution system exceed the MRDL and all distribution system samples taken are below the MRDL, the water system is in violation of the MRDL and must take corrective action to lower the level of chlorine dioxide below the MRDL at the point of sampling and will notify the public pursuant to the procedures for non-acute health risks specified by OAR 333-061-0042(2)(b)(A), in addition to reporting to the Department as required by OAR 333-061-0040. Failure to monitor at the entrance to the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system is also an MRDL violation and the water system must notify the public of the violation in accordance with the provisions for non-acute violations specified by OAR 333-061-0042(2)(b)(A) in addition to reporting to the Department as required by OAR 333-061-0040.

(N) Compliance requirements for Disinfection byproduct precursors (DBPP). Compliance must be determined as specified by OAR 333-061-0032(9)(f). Water systems may begin monitoring to determine whether Step 1 TOC removals can be met 12 months prior to the compliance date for the system. This monitoring is not required and failure to monitor during this period is not a violation. However, any water system that does not monitor during this period, and then determines in the first 12 months after the compliance date that it is not able to meet the Step 1 requirements as specified in OAR 333-061-0032(9)(e)(B) and must therefore apply for alternate minimum TOC removal (Step 2) requirements, is not eligible for retroactive approval of alternate minimum TOC removal (Step 2) requirements as allowed by OAR 333-061-0032(9)(e)(C) and is in violation. Water systems may apply for alternate minimum TOC removal (Step 2) requirements any time after the compliance date. For systems required to meet step 1 TOC removals, if the value calculated under OAR 333-061-0032(9)(f)(A)(iv) is less than 1.00, the system is in violation of the treatment technique requirements and must notify the public pursuant to OAR 333-061-0042(2)(b)(A), in addition to reporting to the Department pursuant to OAR 333-061-0040.

(c) Volatile Organic Chemicals: Benzene, Carbon tetrachloride, Cis-1,2-Dichloroethylene, Dichloromethane, Ethylbenzene, Monochlorobenzene, O-Dichlorobenzene, P-Dichlorobenzene, Styrene, Tetrachloroethylene(PCE), Toluene, Trans-1,2-Dichloroethylene, Trichloroethylene(TCE), Vinyl chloride, Xylenes(total), 1,1-Dichloroethylene, 1,1,1-Trichloroethane, 1,1,2-Trichloroethane, 1,2-Dichloroethane, 1,2-Dichloropropane, and 1,2,4-Trichlorobenzene.

(A) Samples of water which is delivered to users shall be analyzed for regulated volatile organic chemicals (VOC) as follows:

(i) Community and Non-Transient Non-Community water systems using surface, ground water under the direct influence of surface water or ground water sources shall sample at each point in the distribution system representative of each source after treatment or at entry points to the distribution system after any application of treatment. Community and Non-Transient Non-Community water systems shall collect four consecutive quarterly samples from each sampling point during each compliance period beginning in the initial compliance period starting January 1, 1993. The water system shall take each sample from the same sampling point unless conditions make another sampling point more representative of each source or treatment plant. New wells in an existing wellfield, within an existing drinking water protection area, or within an area well characterized by area-wide source water assessments and/or past monitoring results as determined by the Department, may be eligible for a reduction in initial monitoring from four consecutive quarterly samples to one sample if no detections occur and if, based on the system's Source Water Assessment, the Department determines that the new well is producing from the same and only the same aquifer or does not significantly modify the existing drinking water protection area.

(ii) If warranted, the Department may designate additional sampling points within the distribution system or at the consumer's tap which more accurately determines consumer exposure.

(iii) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions when water is representative of all sources being used.

(iv) If a water system has two or more wells that have been determined by the Department to constitute a "wellfield" as specified in OAR 333-061-0058, the system must sample at the entry point(s) designated by the Department.

(B) For the purpose of subsection (3)(c) of this rule, a detectable level for VOCs is 0.0005 mg/l.

(C) If the initial analyses do not detect any contaminant listed in subsection (3)(c) of this rule, then monitoring for all of the VOCs may be reduced to:

(i) Annual per entry point for surface and ground water systems;

(ii) Once every three years per entry point for ground water systems after a minimum of three years of annual monitoring and no history of detections;

(iii) Once every 6 years if the system has a state certified Drinking Water Protection Plan or if that portion of the aquifer identified by the drinking water protection area delineation has been determined to be of "moderate" susceptibility to the VOCs according to the Department's Use and Susceptibility Protocol. Information from the system's Source Water Assessment can be used in this determination; or

(iv) Once every 9 years if that portion of the aquifer identified by the drinking water protection area delineation has been determined to be of "low susceptibility" to the VOCs according to the Use and Susceptibility Waiver Document. Information from the system's Source Water Assessment can be used in this determination.

(v) The Department may establish area-wide waivers based on historical monitoring data, land use activity, and the results of "Source Water Assessments" and/or "Use and Susceptibility Waiver Documents".

(D) Each Community and Non-Transient Non-Community water system which does not detect any contaminant listed in subsection (3)(c) of this rule after the initial monitoring period may apply to the Department for a waiver from the requirements prescribed in paragraphs (3)(c)(A) and (C) of this rule according to procedures described in paragraph (3)(a)(B) of this rule and the Use and Susceptibility Waiver Guidance Document developed by the Department. A waiver must be in place prior to the year in which the monitoring is to be accomplished, and the water system must reapply for a waiver for Volatile Organic Chemicals monitoring every two compliance periods (6 years).

(E) As a condition of a waiver groundwater systems must take one sample at each sampling point during the time the waiver is in effect and update its vulnerability assessment addressing those factors listed in paragraph (3)(a)(B)(ii) and (iii) of this rule. The Department must confirm that a system is not vulnerable within three years of the original determination or the waiver is invalidated and the system is required to sample annually as specified in paragraph (3)(c)(C) of this rule.

(F) Surface water systems which do not detect any contaminant listed in subsection (3)(c) of this rule after completing the initial monitoring and have been determined to be not vulnerable to VOC contamination by the Department shall monitor at the discretion of the Department. The Department shall reevaluate the vulnerability of such systems during each compliance period.

(G) If a water system detects any contaminant listed in subsection (3)(c) of this rule (except vinyl chloride) in any sample greater than the minimum detection limit of 0.0005 mg/l, then the water system shall monitor quarterly at each sampling point where a detection occurred.

(i) Based on a minimum of two quarterly samples for ground water sources and four quarterly samples for surface water sources, the Department may reduce the monitoring frequency required in paragraph (3)(c)(G) of this rule to annually provided the system is reliably and consistently below the MCL. Systems which monitor annually must monitor during the quarter that previously yielded the highest analytical result.

(ii) Systems which have three consecutive annual samples with no detection of a contaminant may apply to the Department for a waiver as specified in paragraph (3)(c)(D) of this rule.

(iii) Groundwater systems which have detected one or more of the following two-carbon organic compounds: trichloroethylene, tetrachloroethylene, 1,2-dichloroethane, 1,1,1-trichloroethane, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene or 1,1-dichloroethylene shall monitor quarterly for vinyl chloride. A vinyl chloride sample shall be taken at each sampling point at which one or more of the two-carbon organic compounds was detected. If the results of the first analysis do not detect vinyl chloride, the Department may reduce the quarterly monitoring frequency of vinyl chloride monitoring to one sample during each compliance period. Surface water systems are required to monitor for vinyl chloride at the discretion of the Department.

(H) If the results of an analysis prescribed in paragraph (3)(c)(A) of this rule indicate that the level of any contaminant exceeds a maximum contaminant level, then the system shall monitor quarterly. After a minimum of four consecutive quarterly samples show the system to be reliably and consistently below the MCL and in compliance with paragraph (3)(c)(K) of this rule, then the system may monitor annually during the quarter which previously yielded the highest analytical result.

(I) The Department may require confirmation samples for positive or negative results. If a confirmation sample is required by the Department, the result must be averaged with the original sample result and the average used to determine compliance.

(J) The Department may allow compositing of samples to reduce the number of samples to be analyzed by the system. Composite samples from a maximum of five sampling points are allowed, provided that the detection limit of the method used for analysis is less than one-fifth of the MCL. Compositing of samples must be done in the laboratory and analyzed within 14 days of sample collections. If the concentration in the composite sample is 0.0005 mg/l for any contaminant listed in subsection (3)(c) of this rule, then a follow-up sample must be taken and analyzed within 14 days at each sampling point included in the composite, and be analyzed for that contaminant. Duplicates taken on the original composite samples may be used instead of resampling provided the duplicates have not been held for longer than 14 days. For systems with a population greater than 3,300, the Department may allow compositing at sampling points only within a single system. For systems with a population £ 3,300, the Department may allow compositing among different systems provided the 5-sample limit is maintained.

(K) Compliance with contaminants listed in OAR 333-061-0030(2)(c) shall be determined based on the analytical results obtained at each sampling point. If one sampling point is in violation of an MCL, the system is in violation of the MCL. For systems which monitor more than once per year, compliance with the MCL is determined by a running annual average at each sampling point. Systems which monitor annually or less whose sample result exceeds the MCL must begin quarterly sampling. The system will not be considered in violation of the MCL until it has completed one year of quarterly sampling. If any sample result will cause the running annual average to exceed the MCL at any sampling point, the system is out of compliance with the MCL immediately. If a system fails to collect the required number of samples, compliance will be based on the total number of samples collected. If a sample result is less than the detection limit, zero will be used to calculate the annual average. If the water system is out of compliance, the system shall follow the reporting and public notification procedures as prescribed in OAR 333-061-0040 and 333-061-0042(2)(b)(A).

(L) If monitoring data collected after January 1, 1988 are consistent with the requirements of subsection (3)(c) of this rule, the Department may allow systems to use that data (i.e. a single sample rather than four quarterly samples) to satisfy the monitoring requirements prescribed in paragraph (3)(c)(A) of this rule for the initial compliance period. Systems which use grandparented samples and did not detect any contaminant listed in subsection (3)(c) of this rule shall begin monitoring annually in accordance with paragraph (3)(c)(C) of this rule beginning with the initial compliance period.

(M) All Community and Non-Transient Non-Community water systems shall monitor according to the following schedule:

Population	Begin Initial monitoring	Complete initial monitoring by
300 or More	January 1, 1993	December 31, 1993
100-299	January 1, 1994	December 31, 1994
Less than 100	January 1, 1995	December 31, 1995

(N) All new systems or systems that use a new source of water must demonstrate compliance with the MCL within a period of time specified by the Department. The system must also comply with the initial sampling frequencies specified by the Department to ensure a system can demonstrate compliance with the MCL.

(4) Surface Water Treatment.

(a) A public water system that uses a surface water source or a groundwater source under the direct influence of surface water that does not provide filtration treatment must monitor water quality as specified in this subsection beginning January 1, 1991 for systems using a surface water source and January 1, 1991 or 6 months after the Department has identified a source as being under the direct influence of surface water for groundwater sources, whichever is later.

(A) Fecal coliform or total coliform density measurements as required by OAR 333-061-0032(2)(b)(A) must be performed on representative source water samples immediately prior to the first or only point of disinfectant application. The system must sample for fecal or total coliforms at the minimum frequency shown in Table 14 each week the system serves water to the public. These samples must be collected on separate days. [Table not included. See ED. NOTE.]

(B) Turbidity measurements as required by OAR 333-061-0032(2)(b)(B) must be performed on representative grab samples of source water immediately prior to the first or only point of disinfectant application every four hours (or more frequently) that the system serves water to the public. A public water system may substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a protocol approved by the Department. Systems using continuous turbidity monitoring must report the turbidity data to the Department in the same manner that grab sample results are reported. The Department will furnish report forms upon request.

(C) The total inactivation ratio for each day that the system is in operation must be determined based on the CT99.9 values in Tables 15 through 22. The parameters necessary to determine the total inactivation ratio must be monitored as follows:

(i) The temperature of the disinfected water must be measured at least once per day at each residual disinfectant concentration sampling point.

(ii) If the system uses chlorine, the pH of the disinfected water must be measured at least once per day at each chlorine residual disinfectant concentration sampling point.

(iii) The disinfectant contact time(s) ("T") in minutes must be determined for each day during peak hourly flow.

(iv) The residual disinfectant concentration(s) ("C") in mg/l before or at the first customer must be measured each day during peak hourly flow.

(v) If a system uses a disinfectant other than chlorine, the system may demonstrate to the Department, through the use of protocol approved by the Department for on-site disinfection challenge studies or other information satisfactory to the Department, that CT99.9 values other than those specified in the Tables 21 and 22 or other operational parameters are adequate to demonstrate that the system is achieving the minimum inactivation rates required by OAR 333-061-0032(3)(a). [Table not included. See ED. NOTE.]

(D) The total inactivation ratio must be calculated as follows:

(i) If the system uses only one point of disinfectant application, the system may determine the total inactivation ratio based on either of the following two methods:

(I) One inactivation ratio (CTcalc/CTrequired) is determined before or at the first customer during peak hourly flow and if the CTcalc/CTrequired is greater than or equal to 1.0, the Giardia lamblia inactivation requirement has been achieved; or

(II) Successive CTcalc/CTrequired values representing sequential inactivation ratios, are determined between the point of disinfection application and a point before or at the first customer during peak hourly flow. Under this alternative, the following method must be used to calculate the total inactivation ratio:

Step 1: Determine CTcalc/CTrequired for each sequence
Step 2: Add the CTcalc/CTrequired values together
Step 3:If (CTcalc/CTrequired) is greater than or equal to 1.0, the Giardia lamblia inactivation requirement has been achieved.

(ii) If the system uses more than one point of disinfectant application before or at the first customer, the system must determine the CT value of each disinfection sequence immediately prior to the next point of disinfectant application during peak hourly flow. The CTcalc/CTrequired value of each sequence and CTcalc/CTrequired must be calculated using the methods in paragraph (4)(a)(D)(i)(II) of this rule to determine if the system is in compliance with OAR 333-061-032 (3)(a) or (5)(a).

(E) The residual disinfectant concentration of the water entering the distribution system must be monitored continuously, and the lowest value must be recorded each day. If there is a failure in the continuous monitor-

ing equipment, grab sampling every 4 hours may be conducted in lieu of continuous monitoring, but for no more than 5 working days following the failure of the equipment, and systems serving 3,300 or fewer persons may take grab samples in lieu of providing continuous monitoring on an ongoing basis at the frequencies prescribed in Table 23: [Table not included. See ED. NOTE.]

(F) The residual disinfectant concentration must be measured at least at the same points in the distribution system and at the same time as total coliforms are sampled, as specified in section (5) of this rule, except that the Department may allow a public water system which uses both a surface water source or a groundwater source under the direct influence of surface water, and a groundwater source, to take disinfectant residual samples at points other than the total coliform sampling points if the Department determines that such points are more representative of treated (disinfected) water quality within the distribution system.

(b) A public water system that uses a surface water source or a groundwater source under the direct influence of surface water that does provide filtration treatment must monitor water quality as specified in this subsection beginning June 29, 1993 or when filtration treatment is installed, whichever date is later.

(A) Turbidity measurements as required by section OAR333-061-0032(4) must be performed on representative samples of the system's filtered water, measured prior to any storage, every four hours (or more frequently) that the system serves water to the public. A public water system may substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a protocol approved by the Department. Calibration of all turbidimeters must be performed according to manufacturer's specifications, but no less frequently than quarterly. For any systems using slow sand filtration or filtration treatment other than conventional treatment, direct filtration, or diatomaceous earth filtration, the Department may reduce the sampling frequency to once per day if it determines that less frequent monitoring is sufficient to indicate effective filtration performance. Systems using lime softening may acidify representative samples prior to analysis using a method approved by the Department.

(B) The actual CT value achieved must be calculated each day the treatment plant is in operation. The parameters necessary to determine the actual CT value must be monitored as follows:

(i) The temperature of the disinfected water must be measured at least once per day at each residual disinfectant concentration sampling point as prescribed in (4)(b)(B)(iv) of this rule.

(ii) If the system uses chlorine, the pH of the disinfected water must be measured at least once per day at each chlorine residual disinfectant concentration sampling point.

(iii) The disinfectant contact time(s) ("T") in minutes must be determined for each day during peak hourly flow, based on results of a tracer study conducted according to OAR 333-061-0050(6)(a)(R), or other method approved by the Department.

(iv) The residual disinfectant concentration(s) ("C") in mg/l before or at the first customer must be measured each day during peak hourly flow.

(v) If a system uses a disinfectant other than chlorine, the system may demonstrate to the Department, through the use of protocol approved by the Department for on-site disinfection challenge studies or other information satisfactory to the Department, or other operational parameters are adequate to demonstrate that the system is achieving the minimum inactivation rates required by OAR 333-061-0032(5)(a).

(C) The inactivation ratio calculations as prescribed in paragraph (4)(a)(D) of this rule:

(D) Monitoring for the residual disinfectant concentration entering the distribution system shall be performed as prescribed in paragraph (4)(a)(E) of this rule.

(E) Monitoring for the residual disinfectant concentration in the distribution system shall be performed as prescribed in paragraph (4)(a)(F) of this rule.

(c) In addition to subsection (4)(b) of this rule, water systems using surface water or groundwater under the direct influence of surface water where treatment includes conventional filtration treatment or direct filtration treatment must conduct continuous turbidity monitoring for each individual filter and must calibrate turbidimeters using the procedure specified by the manufacturer. Individual filter monitoring results must be recorded every 15 minutes. If there is a failure in the continuous turbidity monitoring equipment, the water system must conduct grab sampling every four hours in lieu of continuous monitoring until the turbidimeter is repaired and back on-line. The water system serving at least 10,000 people has a maximum of five working days after failure to repair the equipment or the water system is in violation. The water system serving less than 10,000 people has a maximum of 14 days to resume continuous monitoring before a violation is incurred. If the water system's conventional or direct filtration treatment plant consists of two or fewer filters, continuous monitoring of the combined filter effluent turbidity may be substituted for continuous monitoring of individual filter effluent turbidity. For systems serving less than 10,000 people, the recording and calibration requirements that apply to individual filters also apply when continuous monitoring of the combined filter effluent turbidity is substituted for the continuous monitoring of individual filter effluent turbidity;

(d) The results of test data collected to meet the requirements prescribed in OAR 333-061-0036 shall be reported as prescribed in OAR 333-061-0040.

(5) Microbiological contaminants:

(a) Routine sampling for pathogens is not required but may be required by the Department when specific evidence indicates the possible presence of such organisms.

(b) Samples shall be collected and analyzed for the purpose of determining compliance with the maximum contaminant levels for coliform bacteria as follows:

(A) Samples shall be collected from points which are representative of conditions, including impacts of multiple sources, within the distribution system at regular time intervals throughout the reporting period.

(B) The standard sample volume required for total coliform analysis, regardless of analytical method used, is 100 ml.

(C) For all Community water systems utilizing surface and/or ground water, all Non-Transient Non-Community and Transient Non-Community water systems utilizing surface water sources, and all Non-Transient Non-Community and Transient Non-Community water systems utilizing groundwater sources serving more than 1000 persons per day, the analyses shall be made at regular time intervals and at a frequency no less than set forth in Table 24.

(D) Non-Transient Non-Community and Transient Non-Community water systems using groundwater under the direct influence of surface water must monitor at a frequency no less than set forth in Table 24. Monitoring must begin at this frequency no later than 6 months after the Department has determined that the groundwater source is under the direct influence of surface water. [Table not included. See ED. NOTE.]

(E) For Transient and Non-Transient Non-Community water systems utilizing ground water sources and serving 1000 persons or fewer per day and all State Regulated water systems, the analyses shall be made in each calendar quarter during which water is provided to the public.

(F) Public water systems must collect total coliform samples at sites which are representative of water throughout the distribution system according to a written sampling site plan. The plan must include, at a minimum, a brief narrative of the water system components, a map of the distribution system showing the representative routine and repeat sampling sites, and sampling protocols. These plans must be approved by the Department.

(G) Any public water system that uses surface water or groundwater under the direct influence of surface water and does not provide filtration treatment as defined by these rules must collect at least one sample at the first customer for each day the turbidity level of the source water measured as prescribed in OAR 333-061-0036(4)(a)(B) exceeds 1 NTU. This sample must be analyzed for the presence of total coliforms. When one or more turbidity measurements in any day exceed 1 NTU, the system must collect this coliform sample within 24 hours of the first exceedance or as early as possible the next business day, unless the Department determines that the system cannot have the sample analyzed within 30 hour of collection due to logistical reasons outside the system's control. Sample results from this coliform monitoring must be included in determining compliance with the microbiological MCL prescribed in OAR 333-061-0030(4).

(c) When a routine sample is total coliform-positive, a set of repeat samples must be collected within 24 hours of being notified of the positive results by the certified laboratory.

(A) Systems which collect more than one routine sample/month must collect at least three repeat samples for each total coliform-positive routine sample found.

(B) Systems which collect one routine sample/month or less must collect at least four repeat samples for each total coliform-positive sample found.

(d) The system must collect at least one repeat sample from the sampling tap where the original total coliform-positive sample was taken, and at least one repeat sample at a tap within five service connections upstream and at least one repeat sample at a tap within five service connections

downstream of the original sampling site. If the original sampling site is at or near the end of the distribution system, the Department may waive the requirement to collect at least one repeat sample upstream or downstream of the original sampling site. All repeat samples must be collected on the same day.

(e) Systems with a single service connection may be allowed by the Department to collect the required set of repeat samples over a four-day period.

(f) The Department may extend the 24-hour limit in subsection (5)(c) of this rule on a case-by-case basis if the system has a logistical problem in collecting the repeat samples within 24 hours that is beyond its control.

(g) Results of all routine and repeat samples not invalidated by the Department must be included in determining compliance with the MCL for total coliforms required in OAR 333-061-0030(4).

(h) If one or more repeat samples in the set is total-coliform positive, the public water system must collect an additional set of repeat samples in the manner specified in subsections (5)(c),(d) and (e) of this rule. The additional samples must be collected within 24 hours of being notified of the positive result, unless the Department extends the limit as provided in subsection (5)(f) of this rule. The system must repeat this process until either total coliforms are not detected in one complete set of repeat samples or The Department determines that the MCL for total coliforms in OAR 333-061-0030(4) has been exceeded. After a system collects a routine sample and before it learns the results of the analysis of that sample, if it collects another routine sample(s) from within five adjacent service connections of the initial sample, and the initial sample, after analysis, is found to contain total coliforms, then the system may count the subsequent sample(s) as a repeat sample instead of a routine sample.

(i) If a system collecting fewer than five routine samples/month has one or more total coliform-positive samples and the Department does not invalidate the sample(s) under subsection (5)(k) of this rule, the system must collect at least five routine samples during the next month the system provides water to the public. The Department may waive this requirement if:

(A) The Department performs a site visit before the end of the next month the system provides water to the public and determines that additional monitoring and/or corrective action is not needed; or

(B) The Department determines why the sample was total coliform-positive and establishes that the system has corrected the problem before the end of the next month the system serves water to the public. The Department must document in writing this decision, have it approved and signed by the supervisor of the official who recommends such a decision, and make this document available to the public. The written documentation must describe the specific cause of the total coliform-positive sample and what action the system has taken and/or will take to correct this problem. The Department cannot waive this requirement solely on the grounds that all repeat samples are total-coliform negative. Under this paragraph, a system must still take at least one routine sample before the end of the next month it serves water to the public and use it to determine compliance with the MCL for total coliforms required in OAR 333-061-0030(4) unless the Department determines that the system has corrected the contamination problem before the system took the set of repeat samples required in subsection (5)(c)(d) and (e) of this rule, and all repeat samples were total coliform negative.

(j) When the maximum microbiological contaminant level for total coliform is exceeded or when the maximum contaminant level for fecal coliform or fecal and total coliform is exceeded the water supplier shall report to the Department as prescribed in OAR 333-061-0040 and notify the public as prescribed in OAR 333-061-0042(2)(b)(A) for total coliform and 333-061-0042(2)(a)(A) for fecal coliform/E.Coli. If the water system has failed to comply with a coliform monitoring requirement, including the sanitary survey requirement, the system must report to the Department as prescribed in OAR 333-061-0040 and notify the public as prescribed in OAR 333-061-0042;

(k) The Department may invalidate a total coliform-positive samples if:

(A) The laboratory establishes that improper sample analysis caused the total coliform-positive result; or

(B) The Department determines that the total coliform-positive sample resulted from a domestic or other non-distribution system plumbing problem on the basis of the results of repeat samples collected as required by subsections (5)(c),(d) and (e) of this rule. The Department cannot invalidate a sample on the basis of repeat sample results unless all repeat sample(s) collected at the same tap as the original total coliform-positive sample are also total coliform-positive, and all repeat samples collected within five service connections of the original tap are total coliform-negative. (The Department cannot invalidate a total coliform-positive sample on the basis of repeat samples if all the repeat samples are total coliform-negative, or if the public water system has only one service connection); or

(C) The Department has substantial grounds to believe that a total coliform-positive result is due to a circumstance or condition which does not reflect water quality in the distribution system. In this case, the system must still collect all repeat samples required by subsections (5)(c) through (h) of this rule and use them to determine compliance with the microbiological MCL prescribed in OAR 333-061-0030(4). To invalidate a total coliform-positive sample under this paragraph, the decision with its rationale must be documented in writing, approved and signed by the supervisor of the Department official who recommended the decision. The Department must make this document available to the public. The written documentation must state the specific cause of the total coliform-positive sample and what action the system has taken, or will take, to correct this problem. The Department may not invalidate a total coliform-positive sample solely on the grounds that all repeat samples are total coliform-negative.

(l) A certified laboratory must invalidate a total coliform sample (unless total coliforms are detected) if the sample produced a turbid culture in the absence of gas production using an analytical method where gas formation is examined (e.g., the Multiple-Tube Fermentation Technique), produces a turbid culture in the absence of an acid reaction in the Presence-Absence (P-A) Coliform Test, or exhibits confluent growth or produces colonies too numerous to count with an analytical method using a membrane filter (e.g.,Membrane Filter Technique). If a certified laboratory invalidates a sample because of such interference, the system must collect another sample from the same location as the original sample within 24 hours of being notified of the interference problem, and have it analyzed for the presence of total coliforms. The system must continue to resample within 24 hours and have the samples analyzed until it obtains a valid result. The Department may waive the 24-hour time limit on a case-by-case basis.

(m) Any total coliform-positive sample invalidated under subsections (5)(k) or (l) of this rule shall not count towards meeting the minimum monitoring requirements as prescribed in subsections (5)(a) through (e) of this rule.

(n) If any routine or repeat sample is total coliform-positive, the system must analyze that total coliform-positive culture medium to determine if fecal coliforms are present. The system may test for E. coli in lieu of fecal coliforms. If fecal coliforms or E. coli are present, the system must notify the Department by the end of the day when the system is notified of the test result or, if the Department office is closed, by the end of the next business day.

(o) The Department may allow a water system to forgo testing for fecal coliform or E. coli on total coliform-positive samples as prescribed in subsection (5)(n) of this rule if the system assumes that the total coliform-positive sample is fecal coliform-positive or E. coli positive. The system must notify the Department as specified in subsection (5)(n) of this rule and the provisions of OAR 333-061-0030(4) apply.

(p) Public water systems which do not collect five or more routine samples per month must undergo an initial sanitary survey by June 29, 1994 for Community water systems and June 29, 1999 for Non-Transient and Transient Non-Community water systems. Thereafter, systems must undergo another sanitary survey every five years, except that Non-Transient and Transient Non-Community water systems using only protected and disinfected groundwater as defined by the Department, must undergo subsequent sanitary surveys at least every ten years after the initial survey. The Department must review the results of each survey to determine whether the existing monitoring frequency is adequate and what additional measures, if any, the system needs to undertake to improve drinking water quality.

(6) Radionuclides:

(a) Gross alpha particle activity, Radium 226, Radium 228, and Uranium:

(A) Initial Monitoring. Community Water Systems without acceptable historical data, as defined below, must conduct initial monitoring to determine compliance with OAR 333-061-0030(5) by December 31, 2007.

(i) Samples must be collected from each entry point to the distribution system during 4 consecutive quarters before December 31, 2007 according to the following schedule:

Population	Begin Initial monitoring	Complete initial monitoring by
300 or More	First quarter 2005	Fourth quarter 2005
100-299	First quarter 2006	Fourth quarter 2006
Less than 100	First quarter 2007	Fourth quarter 2007

(ii) New systems or systems using a new source must conduct initial monitoring beginning the first quarter of operation, followed by three consecutive quarterly samples.

(iii) The Department may waive the final two quarters of the initial monitoring at an entry point if the results of the samples from the first two quarters are below the method detection limit.

(iv) Grandparenting of historical data. A system may use monitoring data from each source or entry point collected between June 2000 and December 8, 2003 to satisfy the initial monitoring requirements.

(v) If the average of the initial monitoring results for a sampling point is above the MCL, the system must collect and analyze quarterly samples at the entry point until the system has results from four consecutive quarters that are at or below the MCL, unless the system enters into another schedule as part of a formal compliance agreement with the Department.

(B) Reduced Monitoring. Radionuclide monitoring may be reduced to once every three years, once every six years, or once every nine years based on the following criteria:

(i) If the average of the initial monitoring result for each contaminant (gross alpha particle activity, radium-226, radium-228, and uranium) at a given entry point is below the detection limit, sampling for that contaminant may be reduced to once every nine years.

(ii) For gross alpha particle activity, combined radium 226 and radium 228, and uranium, if the average of the initial monitoring results is at or above the detection limit but at or below 1/2the MCL, sampling for that contaminant may be reduced to once every six years.

(iii) For gross alpha particle activity, combined radium 226 and radium 228, and uranium, if the average of the initial monitoring results is above 1/2 the MCL but at or below the MCL, the system must collect one sample at that sampling point at least once every three years.

(iv) Systems must use the samples collected during the reduced monitoring period to determine the monitoring frequency for subsequent monitoring periods.

(v) If a system has a monitoring result that exceeds the MCL while on reduced monitoring, the system must collect and analyze quarterly samples at that entry point until the system has results from four consecutive quarters that are below the MCL, unless the system enters into another schedule as part of an formal compliance agreement with the Department.

(C) Compositing of samples. A system may composite up to four consecutive quarterly samples from a single entry point if the analysis is done within a year of the first sample. If the analytical result from the composited sample is greater than 1/2 the MCL, the Department may direct the system to take additional quarterly samples before allowing the system to sample under a reduced monitoring schedule.

(D) Substitution of results.

(i) A gross alpha particle activity measurement may be substituted for the required radium-226 measurement if the gross alpha particle activity does not exceed 5 pCi/L.

(ii) A gross alpha particle activity measurement may be substituted for the required uranium measurement if the gross alpha particle activity does not exceed 15 pCi/L.

(iii) The gross alpha measurement shall have a confidence interval of 95% (1.65 where 1/2 is the standard deviation of the net counting rate of the sample) for radium-226 and uranium.

(iv) When a system uses a gross alpha particle activity measurement in lieu of a radium-226 and/or uranium measurement, the gross alpha particle activity analytical result will be used to determine the future monitoring frequency for radium-226 and/or uranium. If the gross alpha particle activity result is less than detection, _ the method detection limit will be used to determine compliance and the future monitoring frequency.

(b) Beta particle and photon radioactivity:

(A) Community water systems designated by the Department as "vulnerable" must sample for beta particle and photon radioactivity as follows. No waivers shall be granted:

(i) Initial samples must be collected by December 31, 2007.

(ii) Quarterly samples for beta emitters and annual samples for tritium and strontium-90 must be taken at each entry point to the distribution system. Systems already designated by the state must continue to sample until the state removes the designation.

(iii) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity at a sample point has a running annual average less than or equal to 50 pCi/l , sampling for contaminants prescribed in paragraph (6)(b)(A)(i) of this rule maybe reduced to once every three years.

(B) Community water systems designated by the Department as "contaminated" by effluents from nuclear facilities and must sample for beta particle and photon radioactivity as follows. No waivers shall be granted.

(i) Systems must collect quarterly samples for beta emitters as detailed below and iodine-131 and annual samples for tritium and strontium-90 at each entry point to the distribution system. Sampling must continue until the Department removes the designation.

(ii) Quarterly monitoring for gross beta particle activity is based on the analysis of monthly samples or the analysis of a composite of three monthly samples.

(iii) For iodine-131, a composite of five consecutive daily samples shall be analyzed once each quarter. More frequent monitoring may be required if iodine-131 is detected.

(iv) Annual monitoring for strontium-90 and tritium shall be conducted by means of the analysis of a composite of four consecutive quarterly samples or analysis of four quarterly samples.

(v) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity at an entry point has a running annual average less than or equal to 15 pCi/l, the Department may reduce the frequency of monitoring for contaminants prescribed in paragraph (6)(b)(B)(i) of this rule at that entry point to every three years.

(C) For systems in the vicinity of a nuclear facility, the Department may allow the substitution of appropriate environmental surveillance data taken in conjunction with operation of a nuclear facility for direct monitoring of man-made radioactivity by the water supplier where such data is applicable to a particular Community water system. In the event of a release, monitoring must be done at the water system's entry points.

(D) Systems may analyze for naturally occurring potassium-40 beta particle activity from the same or equivalent sample used for the gross beta particle activity analysis. Systems are allowed to subtract the potassium-40 beta particle activity value from the total gross beta particle activity value to determine if the screening level is exceeded. The potassium-40 beta particle activity must be calculated by multiplying elemental potassium concentrations (in mg/l) by a factor of 0.82.

(E) If the gross beta particle activity minus the naturally occurring potassium-40 beta particle activity exceeds the screening level, an analysis of the sample must be performed to identify the major radioactive constituents present in the sample and the appropriate doses must be calculated and summed to determine compliance with OAR 333-061-0030(5). Doses must also be calculated and combined for measured levels of tritium and strontium to determine compliance.

(F) Systems must monitor monthly at the entry point(s) which exceed the MCL listed in OAR 333-061-0030(5) beginning the month after the exceedance occurs. Systems must continue monthly monitoring until the system has established, by a rolling average of three monthly samples, that the MCL is being met. Systems who establish that the MCL is being met must return to quarterly monitoring until they meet the requirements set forth in (6)(b)(A)(ii)or (6)(b)(B)(v) of this rule.

(c) General monitoring and compliance requirements for radionuclides.

(A) The Department may require more frequent monitoring than specified in subsections (6)(a) and (b) of this rule, or may require confirmation samples at its discretion. The results of the initial and confirmation samples will be averaged for use in compliance determinations.

(B) Each system shall monitor at the time designated by the Department during each compliance period. To determine compliance with 333-061-0030(5), averages of data shall be used and shall be rounded to the same number of significant figures as the MCL of the contaminant in question.

(C) Compliance.

(i) For systems monitoring more than once per year, compliance with the MCL is determined by a running annual average at each sampling point. If the average of any sampling point is greater than the MCL, then the system is out of compliance with the MCL.

(ii) For systems monitoring more than once per year, if any sample result will cause the running average to exceed the MCL at any entry point, the system is out of compliance with the MCL immediately.

(iii) Systems must include all samples taken and analyzed under the provisions of this section in determining compliance, even if that number is greater than the minimum required.

(iv) If a system does not collect all required samples when compliance is based on a running annual average of quarterly samples, compliance will be based on the running average of the samples collected.

(v) If a sample is less than the detection limit, zero will be used to calculate the annual average, unless a gross alpha particle activity is being

used in lieu of radium-226 and/or uranium. In that case, if the gross alpha particle activity result is less than detection, 1/2 the detection limit will be used to calculate the annual average.

(D) The Department has the discretion to delete results of obvious sampling or analytical errors.

(E) When the average annual maximum contaminant level for radionuclides as specified in Table 5 is exceeded, the water supplier shall, within 48 hours, report the analysis results to the Department as prescribed in OAR 333-061-0040 and initiate the public notification procedures prescribed in OAR 333-061-0042(2)(b)(A).

(7) Secondary contaminants:

(a) The levels listed in Table 6 of OAR 333-061-0030 represent reasonable goals for drinking water quality, but routine sampling for these secondary contaminants is not required.

(b) The Department may however, require sampling and analysis under the following circumstances:

(A) User complaints of taste, odor or staining of plumbing fixtures.

(B) Where treatment of the water is proposed and the levels of secondary contaminants are needed to determine the method and degree of treatment.

(C) Where levels of secondary contaminants are determined by the Department to present an unreasonable risk to health.

(c) If the results of the analyses do not exceed levels for secondary contaminants, listed in Table 6 of OAR 333-061-0030, subsequent sampling and analysis shall be at the discretion of the Department;

(d) If the results of the analyses indicate that the levels for secondary contaminants, listed in Table 6 of OAR 333-061-0030 are exceeded, the Department shall determine whether the contaminant levels pose an unreasonable risk to health or interfere with the ability of a water treatment facility to produce a quality of water complying with the Maximum Contaminant Levels of these rules and specify follow-up actions to be taken.

(e) During the period while any measures called for in subsection (7)(d) of this rule are being implemented, the water supplier shall follow the procedures relating to variances and permits which are prescribed in OAR 333-061-0045.

(8) Monitoring of disinfectant residuals:

(a) For public water systems where continuous disinfection is practiced, the water supplier shall maintain a detectable residual disinfectant throughout the system and shall measure and record the residual daily at one or more representative points;

(b) Where chlorine is used as the disinfectant, the measurement of residual chlorine shall be by the DPD or other EPA-approved method in accordance with Standard Methods for the Examination of Water and Waste-water, and shall measure the free chlorine residual or total chlorine residual as applicable;

(c) The water supplier shall maintain a summary report of the daily residual disinfectant measurements and shall retain this summary report at a convenient location within or near the area served by the water system.

[ED. NOTE: Tables referenced are available from the agency.]

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150 & 448.273

Hist.: HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 23-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08

333-061-0040
Reporting and Record Keeping

(1) Reporting requirements:

(a) Any person who has reasonable cause to believe that his or her actions have led to contamination of a public water system shall report that fact immediately to the water supplier and the Department.

(b) Results of analyses required by OAR 333-061-0036 and performed by an approved laboratory shall be reported to the Department by the water supplier, unless direct laboratory reporting is authorized by the water supplier, within 10 days after the end of the month, or within 10 days after the end of the required monitoring period. Laboratories that issue final test reports shall report the validated results of any analysis directly to the Department and to the water supplier if the analysis shows that a sample contains contaminant levels in excess of any maximum contaminant level specified in the water quality standards within (24) hours of obtaining the results. Subcontracted laboratories shall report such results to their client laboratory within (24) hours.

(c) If the water system fails to conduct monitoring as required in 333-061-0036 the water system must notify the public as prescribed in 333-061-0042.

(d) The water supplier shall report to the Department within (24) hours the reports on any substance or pathogenic organisms found in the water that has caused or is likely to cause physical suffering or illness.

(e) The water supplier using a surface water source or a groundwater source under direct influence of surface water which provides filtration treatment shall report monthly beginning June 29, 1993 or when filtration is installed, whichever is later, to the Department the results of any test, measurement or analysis required by 333-061-0036(4)(b) of these rules within 10 days after the end of the month.

(A) All systems using surface water or groundwater under the direct influence of surface water shall consult with the Department within twenty-four (24) hours, after learning:

(i) That the turbidity exceeded 5 NTU;

(ii) Of a waterborne disease outbreak potentially attributable to that water system;

(iii) That the disinfectant residual concentration in the water entering the distribution system fell below 0.2 mg/l and whether or not the residual was restored to at least 0.2 mg/l within four hours.

(B) In addition to the reporting and recordkeeping requirements in paragraph (1)(e)(A) of this rule, a public water system which provides conventional filtration treatment or direct filtration serving at least 10,000 people must report monthly to the Department the information specified in paragraphs (1)(e)(B)(i) and (ii) of this rule. Public water systems which provide filtration treatment other than conventional filtration treatment, direct filtration, slow sand filtration, and diatomaceous earth filtration, regardless of population served, must also meet the requirements of paragraph (1)(e)(A) of this rule and must report monthly to the Department the information specified in paragraph (1)(e)(B)(i) of this rule.

(i) Turbidity measurements as required by OAR 333-061-0030 (3) must be reported within 10 days after the end of each month the system serves water to the public. Information that must be reported includes:

(I) The total number of filtered water turbidity measurements taken during the month;

(II) The number and percentage of filtered water turbidity measurements taken during the month which are less than or equal to the turbidity limits specified by OAR 333-061-0030(3)(b)(A) through (D);

(III) The date and value of any turbidity measurements taken during the month which exceed 1 NTU for systems using conventional filtration treatment or direct filtration, or which exceed the maximum level set by the Department specified in OAR 333-061-0030(3)(b)(D).

(IV) The date and value of any turbidity measurements taken during the month which exceed 5 NTU for systems using slow sand filtration or diatomaceous earth filtration.

(ii) Water systems must maintain the results of individual filter monitoring for at least three years. Water systems must report that they have conducted individual filter turbidity monitoring within 10 days after the end of each month the system serves water to the public. Water systems must also report individual filter turbidity measurement results within 10 days after the end of each month the system serves water to the public only if measurements demonstrate one or more of the conditions in paragraphs (1)(e)(B)(ii)(I) through (IV) of this rule. Water systems that use lime softening may apply to the Department for alternative exceedance levels for the levels specified in paragraphs (1)(e)(B)(ii)(I) through (IV) of this rule if the water system can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.

(I) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the water system must report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the water system must either produce a filter profile for the filter within seven days of the exceedance (if the water system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(II) For any individual filter that has a measured turbidity level of greater than 0.5 NTU in two consecutive measurements taken 15 minutes apart at the end of the first four hours of continuous filter operation after the filter has been backwashed or otherwise taken offline, the system must report the filter number, the turbidity, and the date(s) on which the exceedance occurred. In addition, the system must either produce a filter

profile for the filter within seven days of the exceedance (if the system is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(III) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of three consecutive months, the water system must report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the water system must conduct a self-assessment of the filter within 14 days of the exceedance and report that the self-assessment was conducted. The self assessment must consist of at least the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report.

(IV) For any individual filter that has a measured turbidity level of greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of two consecutive months, the water system must report the filter number, the turbidity measurement, and the date(s) on which the exceedance occurred. In addition, the water system must arrange to have a comprehensive performance evaluation by the Department or a third party approved by the Department conducted no later than 30 days following the exceedance and have the evaluation completed and submitted to the Department no later than 90 days following the exceedance.

(iii) If at any time the turbidity exceeds 1 NTU in representative samples of filtered water in a system using conventional filtration treatment or direct filtration, the system must inform the Department as soon as possible, but no later than the end of the next business day.

(iv) If at any time the turbidity in representative samples of filtered water exceed the maximum level set by the Department as specified in OAR 333-061-0030(3)(b)(D) for filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration, the water system must inform the Department as soon as possible, but no later than the end of the next business day.

(C) In addition to the reporting and recordkeeping requirements in paragraph (1)(e)(A) of this rule, a public water system which provides conventional filtration treatment or direct filtration treatment serving less than 10,000 people must report monthly to the Department the information specified in paragraphs (1)(e)(B)(i) of this rule and beginning January 1, 2005 the information specified in paragraph(1)(e)(C)(i) of this rule. Public water systems which provide filtration treatment other than conventional filtration treatment, direct filtration, slow sand filtration, and diatomaceous earth filtration regardless of population served must also meet the requirements of paragraph(1)(e)(A) of this rule and must report monthly to the Department the information specified in paragraph (1)(e)(B)(i) of this rule.

(i) Water systems must maintain the results of individual filter monitoring for at least three years. Water systems must report that they have conducted individual filter turbidity monitoring within 10 days after the end of each month the system serves water to the public. Water systems must also report individual filter turbidity measurement results within 10 days after the end of each month the system serves water to the public only if measurements demonstrate one or more of the conditions in paragraphs (1)(e)(C)(i)(I) through (III) of this rule. Water systems that use lime softening may apply to the Department for alternative exceedance levels for the levels specified in paragraphs (1)(e)(C)(i)(I) through (III) of this rule if the water system can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.

(I) If the turbidity of an individual filter (or the turbidity of the combined filter effluent (CFE) for systems with two or less filters that monitor CFE in lieu of individual filter monitoring) is greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the water system must report to the Department by the 10th day of the following month the filter number(s), the turbidity value(s) that exceeded 1.0 NTU, the corresponding date(s) of occurrence, and the cause (if known) for the elevated turbidity values. The Department may request the water system produce a turbidity profile for the filter(s) in question.

(II) If the turbidity of an individual filter (or the turbidity of the combined filter effluent (CFE) for systems with two or less filters that monitor CFE in lieu of individual filter monitoring) is greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart for three consecutive months, the water system must conduct a filter self-assessment within 14 days of the date the turbidity exceeded 1.0 NTU during the third month, unless a CPE is performed in lieu of a filter self-assessment. Systems with two filters monitoring the CFE must conduct a filter self-assessment for both filters. The self-assessment must consist of the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report. When a self-assessment is required, the watersystem must report the date the self-assessment was triggered, the date the self-assessment was completed, and the conclusion(s) of the self-assessment by the 10th of the following month or 14 days after the self-assessment was triggered only if the self-assessment was triggered during the last four days of the month.

(III) If the turbidity of an individual filter (or the turbidity of the combined filter effluent (CFE) for systems with two or less filters that monitor CFE in lieu of individual filter monitoring) is greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart for two consecutive months, the water system must report these turbidity results to the Department by the 10th of the following month and arrange to have a comprehensive performance evaluation (CPE) by the Department or a third party approved by the Department conducted within 60 days of the date the turbidity exceeded 2.0 NTU during the second month. The CPE report must be submitted to the Department no later than 120 days following the date the turbidity exceeded 2.0 NTU during the second month. A CPE is not needed if the Department or approved third party has conducted a CPE within the last 12 months or the Department and the water system are jointly participating in an on-going Comprehensive Technical Assistance (CTA) project as part of the Composite Correction Program with the water system. When a CPE is required, the water system must report that a CPE is required and the date that the CPE was triggered by the 10th day of the following month.

(f) The water supplier using a surface water source or a groundwater source under direct influence of a surface source which does not provide filtration treatment shall report according to subsection (1)(e) of this rule in addition to the requirements of this subsection. Monthly reporting to the Department will begin January 1, 1991 for systems using surface water sources and January 1, 1991 or six months after the Department determines surface influence for systems using groundwater under the direct influence of surface water.

(A) Report to the Department within 10 days after the end of each month, the results or analysis of:

(i) Fecal coliform and/or total coliform bacteria test results on raw (untreated) source water.

(ii) Daily disinfection "CT" values including parameters such as pH measurements, temperature, and disinfectant residuals at the first customer used to compute the "CT" values.

(iii) Daily determinations using the "CT" values of the adequacy of disinfectant available for inactivation of Giardia lamblia or viruses as specified in OAR 333-061-0032(1)(a).

(B) Report to the Department within 10 days after the end of each Federal Fiscal year (September 30), the results of:

(i) The watershed control program requirements as specified in OAR 333-061-0032(2)(c)(B).

(ii) The on-site inspection summary requirements as specified in OAR 333-061-0032(2)(c)(C).

(g) All Community and Non-Transient Non-Community public water systems shall report all of the following information pertaining to lead and copper to the Department in accordance with the requirements of this subsection.

(A) Except as provided in paragraph (1)(g)(A)(vii) of this rule, a public water system shall report the information below for all tap water samples and for all water quality parameter samples within 10 days following the end of each applicable monitoring period. For monitoring periods with a duration less than six-months, the end of the monitoring period is the last date samples can be collected during that period.

(i) The results of all tap samples for lead and copper including the location of each site and the criteria under which the site was selected for the system's sampling pool. With the exception of initial tap sampling, the system shall designate any site which was not sampled during previous monitoring periods, and include an explanation of why sampling sites have changed. By the applicable date specified in OAR 333-061-0036(2)(d)(D)(i) for commencement of initial monitoring, each Community Water System which does not complete its targeted sampling pool meeting the criteria for tier 1 sampling sites shall send a letter to the Department justifying its selection of tier 2 and/or tier 3 sampling sites. By the applicable date specified in OAR 333-061-0036(2)(d)(D)(i) for commencement of initial monitoring, each Non-Transient Non-Community water system which does not complete its sampling pool meeting the crite-

ria for tier 1 sampling sites shall send a letter to the Department justifying its selection of sampling sites.

(ii) A certification that each first draw sample collected by the water system is one-liter in volume and, to the best of their knowledge, has stood motionless in the service line, or in the interior plumbing of a sampling site, for at least six hours. Where residents collected samples, a certification that each tap sample collected by the residents was taken after the water system informed them of proper sampling procedures according to OAR 333-061-0036(2)(d)(B)(ii).

(iii) The results of all tap samples for pH, and where applicable, alkalinity, calcium, conductivity, temperature, and orthophosphate or silica, and the results of all samples collected at the entry point(s) to the distribution system for applicable water quality parameters according to OAR 333-061-0036(2)(d)(F)(iii) through (vi).

(iv) Each water system that requests that the Department reduce the number and frequency of sampling shall provide the information required in OAR 333-061-0036(2)(d)(D)(iv).

(v) Documentation for each tap water lead and copper sample for which the water system requests invalidation.

(vi) The 90th percentile lead and copper tap water samples collected during each monitoring period.

(vii) A water system shall report the results of all water quality parameter samples collected for follow-up tap monitoring prescribed in OAR 333-061-0036(2)(d)(F)(iv) through (vii) during each six-month monitoring period within 10 days following the end of the monitoring period unless the Department specifies a more frequent monitoring requirement.

(B) A water system shall report the sampling results for all source water samples collected for lead and copper within the first 10 days following the end of each source water monitoring period according to OAR 333-061-0036(2)(d)(G).

(i) With the exception of the first round of source water sampling, the system shall specify any site which was not sampled during previous monitoring periods, and include an explanation of why the sampling point has changed.

(C) Corrosion control treatment reporting requirements. By the applicable dates according to OAR 333-061-0034(2)(a) through (e), systems shall report the following information: for systems demonstrating that they have already optimized corrosion control, the information required in OAR 333-061-0034(2)(d)(B) or (C); for systems required to optimize corrosion control, their recommendation regarding optimal corrosion control treatment according to OAR 333-061-0034(3)(a); for systems required to evaluate the effectiveness of corrosion control treatments, the information required in OAR 333-061-0034(3)(c) of these rules; for systems required to install optimal corrosion control designated by the Department according to OAR 333-061-0034(3)(i), a letter certifying that the system has completed the installation.

(D) Source water treatment reporting requirements. By the applicable dates according to OAR 333-061-0034(4)(a), systems shall report the following information to the Department: the system's recommendation regarding source water treatment if required according to OAR 333-061-0034(4)(b)(A); for systems required to install source water treatment according to OAR 333-061-0034(4)(b)(B), a letter certifying that the system has completed the installation of the treatment designated by the Department within 24 months after the Department designated the treatment.

(E) Public education program reporting requirements.

(i) Any water system that is subject to the public education requirements in OAR 333-061-0034(5) shall, within ten days after the end of each period in which the system is required to perform public education tasks in accordance with OAR 333-061-0034(5)(d), send written documentation to the Department that contains:

(I) A demonstration that the system has delivered the public education materials that meet the content and delivery requirements specified in OAR 333-061-0034(5)(a) through ([d]c); and

(II) A list of all the newspapers, radio stations, television stations, and facilities and organizations to which the system delivered public education materials during the period in which the system was required to perform public education tasks.

(ii) Unless required by the Department, a system that previously has submitted the information in paragraph (1)(g)(E)(i)(II) of this rule need not resubmit the information, as long as there have been no changes in the distribution list and the system certifies that the public education materials were distributed to the same list submitted previously.

(iii) No later than 3 months following the end of the monitoring period, each system must mail a sample copy of the consumer notification of tap results to the Department along with a certification that the notification has been distributed in a manner consistent with the requirements of OAR 333-061-0034(5)(e).

(F) Any system which collects sampling data in addition to that required by this subsection shall report the results to the Department within the first ten days following the end of the applicable monitoring period under OAR 333-061-0036(2)(d)(A) through (H) during which the samples are collected.

(G) At a time specified by the Department prior to the addition of a new source or any long-term change in water treatment, a water system deemed to have optimized corrosion control, or is subject to reduced monitoring, shall submit written documentation to the Department describing the change or addition. The Department must review and approve the addition or change before it is implemented by the water system.

(H) Each ground water system that limits water quality parameter monitoring to a subset of entry points shall provide written correspondence to the Department that identifies the selected entry points and includes information sufficient to demonstrate that the sites are representative of water quality and treatment conditions throughout the system. This correspondence must be submitted to the Department prior to commencement of such monitoring.

(h) The water supplier shall report to the Department the results of any test, measurement or analysis required by these rules that is performed on site (e.g. supplemental fluoride) by trained personnel within 10 days after the end of the month, except that reports which indicate that fluoride levels exceed 4.0 mg/l shall be reported within 48 hours:

(i) The water supplier shall submit to the Department within 10 days after completing any public notification action as prescribed in OAR 333-061-0042 a representative copy of each type of notice distributed to the water users or made available to the public and the media along with certification that the system has fully complied with the distribution and public notification requirements.

(j) Water systems required to sample quarterly or more frequently must report to the Department within 10 days after the end of each quarter in which samples were collected. Water systems required to sample less frequently than quarterly must report to the Department within 10 days after the end of each monitoring period in which samples were collected.

(A) Disinfection byproducts. Water systems must report the information specified in Table 25 as follows: [Table not included. See ED. NOTE.]

(C) Disinfection byproduct precursors and enhanced coagulation or enhanced softening. Water systems must report the information specified in Table 27 as follows: [Table not included. See ED. NOTE.]

(k) Systems using surface water or GWUDI sources must report to the Department or local county health department within 45 days of receiving a sanitary survey report or comprehensive performance evaluation report. Failure to report to the Department requires a Tier 2 public notice as prescribed in OAR 333-061-0042(2)(b)(D).

(2) Record Maintenance by Water Suppliers:

(a)Water suppliers of public water systems shall retain records relating to the quality of the water produced and the condition of the physical components of the system. These records shall be kept at a convenient location within or near the area served by the water system;

(b) Records of bacteriological analyses shall be kept for at least five years and records of chemical analyses, secondary contaminants, turbidity and radioactive substances shall be kept for at least 10 years. Data may be transferred to tabular summaries provided the following information is included:

(A) Date, place and time of sampling, and the name of the person who collected the sample;

(B) Identification of the sample as to whether it was a routine finished water sample, repeat sample, raw water sample or special purpose sample;

(C) Date and time of the analysis, the laboratory and person performing the analysis; and,

(D) Analytical method used and results of the analysis.

(c) Records of actions taken to correct items of non-compliance shall be kept for at least three years after the last action taken with respect to the particular violation;

(d) Reports, summaries or communications on sanitary surveys shall be kept for at least 10 years;

(e) Records concerning variances or permits shall be kept for at least five years after the expiration of the variance or permit;

(f) Records of residual disinfectant measurements shall be kept for at least two years.

(g) All public water systems subject to the requirements of subsection (1)(f) of this rule shall retain the original records of all sampling data and

analyses, reports, surveys, letters, evaluations, schedules, Department determinations, and any other information required for no fewer than 12 years.

(h) Copies of public notices issued pursuant to OAR 333-061-0042 and certifications made to the Department must be kept for three years after issuance.

(i) Water systems using surface water or groundwater under the direct influence of surface water that uses conventional filtration treatment or direct filtration treatment and that recycles spent filter backwash water, thickener, supernatant, or liquids from dewatering processes must collect and retain on file recycle flow information specified in paragraphs (2)(i)(A) through (F) of this rule for review and evaluation by the Department beginning June 8, 2004:

(A) Copy of the recycle notification and information submitted to the Department as required by OAR 333-061-0032(10)(b);

(B) List of all recycle flows and the frequency with which they are returned;

(C) Average and maximum backwash flow rate through the filters and the average and maximum duration of the filter backwash process in minutes;

(D) Typical filter run length and a written summary of how filter run length is determined;

(E) The type of treatment provided for the recycle flow;

(F) Data on the physical dimensions of the equalization and/or treatment units, typical and maximum hydraulic loading rates, type of treatment chemicals used and average dose and frequency of use, and frequency at which solids are removed, if applicable.

(j) For systems required to compile a disinfection profile, the results of the profile (including raw data and analysis) must be kept indefinitely as well as the disinfection benchmark (including raw data and analysis) determined from the profile.

(3) Records Kept by the Department.

(a) Records of turbidity measurements must be kept for not less than one year. The information retained must be set forth in a form which makes possible comparison with the limits specified by OAR 333-061-0030, 0032, and 0036.

(b) Records of disinfectant residual measurements and other parameters necessary to document disinfection effectiveness in accordance with OAR 333-061-0032(3) or (4), 0036(4)(a)(C) through (F), or 0036(4)(b)(B) through (C) of these rules must be kept for not less than one year. Records of decisions made on a system-by-system and case-by-case basis must be made in writing and kept by the Department.

(c) Any decisions made in accordance with consultations made with the Department concerning modifications to disinfection practices including the status of the consultation.

(d) Records of decisions that a water system using alternative filtration technologies, as determined by OAR 333-061-0030(3)(b)(D), can consistently achieve a 99.9 percent removal and/or inactivation of Giardia lamblia cysts, 99.99 percent removal and/or inactivation of viruses, and 99 percent removal of Cryptosporidium oocysts. The decisions must include enforceable turbidity limits for each water system by the Department. A copy of the decision must be kept until the decision is reversed or revised. The Department must provide a copy of the decision to the water system.

(e) Records of water systems required to do a filter self-assessment, required to conduct a comprehensive performance evaluation as required by section (1)(d) of this rule, or required to participate in the Composite Correction Program.

(f) Records of the Department's determinations, including all supporting information and an explanation of the technical basis for the control of disinfectants and disinfection byproducts. These records must also include interim measures toward installation.

(A) Records of water systems that are installing GAC or membrane technology in accordance with OAR 333-061-0030(2)(b)(D). These records must include the date by which the water system is required to have completed installation.

(B) Records of water systems required to meet alternative minimum TOC removal requirements or for whom the Department has determined that the source water is not amenable to enhanced coagulation in accordance with OAR 333-061-0032 (9)(e)(C) and (D), respectively. These records must include the alternative limits and rationale for establishing the alternative limits.

(C) Records of water systems using surface water or groundwater under the direct influence of surface water using conventional treatment meeting any of the alternative compliance criteria specified in OAR 333-061-0032(9)(d)(A).

(g) Monitoring plans for water systems using surface water or groundwater under the direct influence of surface water serving more than 3,300 persons in accordance with OAR 333-061-0036(3)(b)(G).

(h) Records of decisions made on a water system-by-water system and case-by-case basis under provisions of these rules must be made in writing and kept by the Department

(A) Records of decisions made under this paragraph shall be kept for 40 years (or until one year after the decision is reversed or revised) and a copy of the decision must be provided to the water system:

(i) Any decisions made to approve alternate recycle locations, require modifications to recycle return locations, or require modifications to recycle practices.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 431 & 448

Stats. Implemented: ORS 431.110, 431.150, 448.175 & 448.273

Hist.: HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0212, HD 2-1983, f. & ef. 2-23-83; HD 21-1983, f. 10-20-83, ef. 11-1-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef. 12-4-85; HD 3-1987, f. & ef. 2-17-87; HD 3-1988(Temp), f. & cert. ef. 2-12-88; HD 17-1988, f. & cert. ef. 7-27-88; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08

333-061-0043

Consumer Confidence Reports

This rule establishes the minimum requirements for the content of annual reports that community water systems must deliver to their customers. These reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. For the purpose of this rule, customers are defined as billing units or service connections to which water is delivered by a Community Water System.

(1) Delivery deadlines:

(a) Community water systems must deliver their reports by July 1, annually. The report must contain data collected during, or prior to, the previous calendar year;

(b) A new community water system must deliver its first report by July 1 of the year after its first full calendar year in operation and annually thereafter;

(c) A community water system that sells water to another community water system must deliver the applicable information to the buyer system:

(A) No later than April 1, annually; or

(B) On a date mutually agreed upon by the seller and the purchaser, and specifically included in a contract between the parties.

(2) Content of the Reports:

(a) Each community water system must provide to its customers an annual report that contains the information specified in sections (2),(3) and (4) of this rule;

(b) Each report must identify the source(s) of the water delivered by the community water system by providing information on:

(A) The type of water: e.g., surface water, ground water; and

(B) The commonly used name (if any) and location of the body (or bodies) of water.

(c) If a source water assessment has been completed, the report must notify consumers of the availability of this information and the means to obtain it. In addition, systems are encouraged to highlight in the report significant potential sources of contamination in the drinking water protection area if they have readily available information. Where a system has received a source water assessment from the Department, the report must include a brief summary of the system's susceptibility to potential sources of contamination, using language provided by the Department or written by the operator;

(d) Each report must contain the following definitions:

(A) Maximum Contaminant Level Goal or MCLG: The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety;

(B) Maximum Contaminant Level or MCL: The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.

(C) Variance: A system operating under a variance as prescribed in OAR 333-061-0045 must include the following definition in its report: Variances: State permission not to meet an MCL or a treatment technique under certain conditions;

(D) Treatment Technique or Action Level: A system which has a detection for a contaminant for which EPA has set a treatment technique or

an action level must include one or both of the following definitions as applicable:

(i) Treatment Technique: A required process intended to reduce the level of a contaminant in drinking water;

(ii) Action Level: The concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.

(E) Maximum Residual Disinfectant Level Goal or MRDLG: The level of a drinking water disinfectant below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants.

(F) Maximum Residual Disinfectant Level or MRDL: The highest level of disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.

(3) Detected Contaminants:

(a) The following information must be included in each report for contaminants subject to mandatory monitoring (except Cryptosporidium). Detected means at or above the detection level prescribed by each EPA approved analytical method set forth in 40 CFR 141:

(A) Contaminants subject to an MCL, action level, MRDL, or treatment technique (regulated contaminants);

(B) Unregulated contaminants for which monitoring is required; and

(C) Disinfection by-products or microbial contaminants for which monitoring is required under the Federal Information Collection Rule CFR 141.142 and 141.143 except as required by paragraph (3)(m)(A) of this rule, and which are detected in the finished water.

(b) The data relating to these contaminants must be displayed in one table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its report must be displayed separately.

(c) The data must be derived from data collected to comply with state monitoring and analytical requirements during the calendar year except that:

(A) Where a system is allowed to monitor for regulated contaminants less often than once a year, the table(s) must include the date and results of the most recent sampling and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulation. No data older than 5 years need be included.

(B) Results of monitoring in compliance with the Federal Information Collection Rule CFR 141.142 and 141.143 need only be included for 5 years from the date of last sample or until any of the detected contaminants becomes regulated and subject to routine monitoring requirements, whichever comes first.

(d) For detected regulated contaminants (listed in Table 28 of this rule), the table(s) in the report must contain:

(A) The MCL for that contaminant expressed as a number equal to or greater than 1.0 (as provided in Table 28);

(B) The MCLG for that contaminant expressed in the same units as the MCL;

(B) If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique and/or action level, as appropriate, specified in paragraph (2)(d)(D) of this rule;

(D) For contaminants subject to an MCL, except turbidity and total coliforms, the highest contaminant level used to determine compliance with OAR 333-061 and the range of detected levels, as follows:

(i) When compliance with the MCL is determined annually or less frequently: the highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL;

(ii) When compliance with the MCL is determined by calculating a running annual average of all samples taken at a sampling point: the highest average of any of the sampling points and the range of all sampling points expressed in the same units as the MCL;

(iii) When compliance with the MCL is determined on a system wide basis by calculating a running annual average of all samples at all sampling points: the highest running annual average and range of detections expressed in the same units as the MCL;

(iv) When rounding of results to determine compliance with the MCL is allowed by the regulations, rounding should be done prior to multiplying the results by the factor listed in Table 28 of this rule. [Table not included. See ED. NOTE.]

(e) Turbidity:

(A) When it is reported pursuant to OAR 333-061-0030(3)(a), 333-061-0032(2), and 333-061-0036(4)(a): the highest monthly value. The report should include an explanation of the reasons for measuring turbidity. This includes water systems currently without filtration treatment, but required to install filtration through a Notice of Violation and Remedial Order.

(B) When it is reported pursuant to OAR 333-061-0030(3): The highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in OAR 333-061-0030(3) for the filtration technology being used. The report should include an explanation of the reasons for measuring turbidity.

(f) Lead and copper: the 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level and the lead-specific information as prescribed in (4)(c) of this rule.

(g) Total coliform:

(A) The highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or

(B) The highest monthly percentage of positive samples for systems collecting at least 40 samples per month.

(h) Fecal coliform: the total number of positive samples.

(i) The likely source(s) of detected contaminants to the best of the operator's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and should be used when available to the operator. If the operator lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in Table 29 which are most applicable to the system.

(j) If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table should contain a separate column for each service area and the report should identify each separate distribution system. Alternatively, systems could produce separate reports tailored to include data for each service area.

(k) The table(s) must clearly identify any data indicating violations of MCLs, MRDLs, or treatment techniques and the report must contain a clear and readily understandable explanation of the violation, the length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use the relevant language in Table 29 of this rule.

(l) For detected unregulated contaminants for which monitoring is required (except Cryptosporidium), the table(s) must contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reasons for monitoring for unregulated contaminants.

(m) Information on Cryptosporidium, radon, and other contaminants:

(A) If the system has performed any monitoring for cryptosporidium, including monitoring performed to satisfy the requirements of the Federal Information Collection Rule CFR 141.142 and 141.143 (microbials) which indicates that Cryptosporidium may be present in the source water or the finished water, the report must include:

(i) A summary of the results of the monitoring, and

(ii) An explanation of the significance of the results.

(B) If the system has performed any monitoring for radon which indicates that radon may be present in the finished water, the report must include:

(i) The results of the monitoring; and

(ii) An explanation of the significance of the results.

(C) If the system has performed additional monitoring which indicates the presence of other contaminants in the finished water, the system is strongly encouraged to report any results which may indicate a health concern. To determine if results may indicate a health concern, EPA recommends that systems find out if EPA has proposed a National Primary Drinking Water Regulation or issued a health advisory for that contaminant by calling the Safe Drinking Water Hotline (800-426-4791). EPA considers detects above a proposed MCL or health advisory level to indicate possible health concerns. For such contaminants, EPA recommends that the report include:

(i) The results of the monitoring; and

(ii) An explanation of the significance of the results noting the existence of a health advisory or a proposed regulation. [Table not included. See ED. NOTE.]

(n) Compliance with OAR 333-061: In addition to subsection (3)(k) of this rule, the report must note any violation that occurred during the year covered by the report of a requirement listed below, and include a clear and

readily understandable explanation of the violation, any potential adverse health effects, and the steps the system has taken to correct the violation.

(A) Monitoring and reporting of compliance data;

(B) Filtration and disinfection prescribed by OAR 333-061-0032: For systems which have failed to install adequate filtration or disinfection equipment or processes which constitutes a violation or have an equipment failure constituting a violation, the report must include the following language as part of the explanation of potential adverse health effects: Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches;

(C) Lead and copper control requirements: For systems which fail to take one or more actions prescribed by OAR 333-061-0034 the report must include the applicable language in Table 29 of this rule for lead, copper, or both;

(D) Treatment techniques for Acrylamide and Epichlorohydrin: For systems which violate the requirements of OAR 333-061-0030(7), the report must include the relevant health effects language in Table 29 of this rule.

(E) Recordkeeping of compliance data;

(F) Special monitoring requirements prescribed by OAR 333-061-0036(3)(b), and 333-061-0036(2)(b),(g);

(G) Violation of the terms of a variance, administrative order or judicial order.

(o) Variances: If a system is operating under the terms of a variance as prescribed in OAR 333-061-0045, the report must contain:

(A) An explanation of the reasons for the variance;

(B) The date on which the variance was issued;

(C) A brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance; and

(D) A notice of any opportunity for public input in the review, or renewal, of the variance.

(p) Additional information:

(A) The report must contain a brief explanation regarding contaminants which may reasonably be expected to be found in drinking water including bottled water. This explanation may include the language in paragraphs (3)(p)(A)(i), (ii) and (iii) of this rule, or systems may use their own comparable language. The report also must include the language of paragraph (3)(p)(A)(iv) of this rule.

(i) The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals and, in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity;

(ii) Contaminants that may be present in source water include:

(I) Microbial contaminants, such as viruses and bacteria, which may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife;

(II) Inorganic contaminants, such as salts and metals, which can be naturally-occurring or result from urban stormwater runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming;

(III) Pesticides and herbicides, which may come from a variety of sources such as agriculture, urban stormwater runoff, and residential uses;

(IV) Organic chemical contaminants, including synthetic and volatile organic chemicals, which are by-products of industrial processes and petroleum production, and can also come from gas stations, urban stormwater runoff, and septic systems;

(V) Radioactive contaminants, which can be naturally-occurring or be the result of oil and gas production and mining activities.

(iii) In order to ensure that tap water is safe to drink, EPA prescribes regulations which limit the amount of certain contaminants in water provided by public water systems. FDA regulations establish limits for contaminants in bottled water which must provide the same protection for public health;

(iv) Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency's Safe Drinking Water Hotline (800-426-4791).

(B) The report must include the telephone number of the owner, operator, or designee of the community water system as a source of additional information concerning the report;

(C) In communities with a large proportion of non-English speaking residents the report must contain information in the appropriate language(s) regarding the importance of the report or contain a telephone number or address where such residents may contact the system to obtain a translated copy of the report or assistance in the appropriate language;

(D) The report must include information (e.g., time and place of regularly scheduled board meetings) about opportunities for public participation in decisions that may affect the quality of the water;

(E) The systems may include such additional information as they deem necessary for public education consistent with, and not detracting from, the purpose of the report.

(4) Required additional health information:

(a) All reports must prominently display the following language: Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. EPA/CDC guidelines on appropriate means to lessen the risk of infection by Cryptosporidium and other microbial contaminants are available from the Safe Drinking Water Hotline (800-426-4791).

(b) A system which detects nitrate at levels above 5 mg/l, but does not exceed the MCL:

(A) Must include a short informational statement about the impacts of nitrate on children using language such as: Nitrate in drinking water at levels above 10 mg/l is a health risk for infants of less than six months of age. High nitrate levels in drinking water can cause blue baby syndrome. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity. If you are caring for an infant you should ask advice from your health care provider.

(B) May write its own educational statement, but only in consultation with the Department.

(c) Every report must include the following lead-specific information:

(A) A short informational statement about the lead in drinking water and its effects on children. The statement must include the following information: If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from materials and components associated with service lines and home plumbing. {NAME OF WATER UTILITY} is responsible for providing high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline or at http://www.epa.gov/safewater/lead.

(B) The water system may write its own educational statement, but only in consultation with the Department.

(5) Report delivery and recordkeeping:

(a) Except as provided in subsection (5)(g) of this rule, each community water system must mail or otherwise directly deliver one copy of the report to each customer.

(b) The system must make a good faith effort to reach consumers who do not get water bills, using means recommended by the Department. EPA expects that an adequate good faith effort will be tailored to the consumers who are served by the system but are not bill-paying customers, such as renters or workers. A good faith effort to reach consumers would include a mix of methods appropriate to the particular system such as: Posting the reports on the Internet; mailing to postal patrons in metropolitan areas; advertising the availability of the report in the news media; publication in a local newspaper; posting in public places such as cafeterias or lunch rooms of public buildings; delivery of multiple copies for distribution by single-biller customers such as apartment buildings or large private employers; delivery to community organizations.

(c) No later than the date the system is required to distribute the report to its customers, each community water system must mail a copy of the report to the Department, followed within 3 months by a certification that the report has been distributed to customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to the Department.

(d) No later than the date the system is required to distribute the report to its customers, each community water system must deliver the report to any other agency or clearinghouse identified by the Department.

(e) Each community water system must make its reports available to the public upon request.

(f) Each community water system serving 100,000 or more persons must post its current year's report to a publicly-accessible site on the Internet.

(g) The Governor of a State or his designee, can waive the requirement of subsection (5)(a) of this rule for community water systems serving fewer than 10,000 persons.

(A) Such systems must:

(i) Publish the reports in one or more local newspapers serving the area in which the system is located;

(ii) Inform the customers that the reports will not be mailed, either in the newspapers in which the reports are published or by other means approved by the State; and

(iii) Make the reports available to the public upon request.

(B) Systems serving 500 or fewer persons may forego the requirements of paragraphs (5)(g)(A)(i) and (ii) of this rule if they provide notice at least once per year to their customers by mail, door-to-door delivery or by posting in an appropriate location that the report is available upon request.

(h) Any system subject to this rule must retain copies of its consumer confidence report for no less than 5 years.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 431 & 448

Stats. Implemented: ORS 431.110, 431.150

Hist.: OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08

333-061-0045
Variances

(1) Variances from the maximum contaminant levels and treatment requirements may be granted by the Department to public water systems under the following circumstances where:

(a) An evaluation satisfactory to the Department indicates that alternative sources of water are not reasonably available to the system; and

(b) There will be no unreasonable risk to health; and

(c) The water supplier has provided sufficient evidence to confirm that the best available treatment techniques which are generally available are unable to treat the water in question so that it meets maximum contaminant levels; and

(d) The water supplier agrees to notify the water users at least once every three months, or more frequently if determined by the Department, that the water system is not in compliance; and

(e) A compliance schedule is submitted which outlines how the water supplier intends to achieve compliance, and the water supplier agrees to review this schedule once every three years to determine whether changes have occurred in the conditions which formed the basis for the schedule; and

(f) A plan is submitted which outlines interim control measures including application of the best technology treatment technique to be implemented during the period that the variance is in effect.

(2) The Department shall document all findings of its determinations and if the Department prescribes a schedule requiring compliance with a contaminant level for which the variance is granted later than five years from the date of issuance of the variance the Department shall:

(a) Document the rationale for the extended compliance schedule;

(b) Discuss the rationale for the extended compliance schedule in the required public notice and opportunity for public hearing; and

(c) Provide the shortest practicable time schedule feasible under the circumstances.

(3) Before denying a request for a variance, the Department shall advise the water supplier of the reasons for the denial and shall give the supplier an opportunity to present additional information. If the additional information is not sufficient to justify granting the variance, the variance shall be denied.

(4) If the Department determines that the variance should be granted, it shall announce its intention to either hold a public hearing in the affected area prior to granting the variance; or serve notice of intent to grant the variance either personally, or by registered or certified mail to all customers connected to the water system, or by publication in a newspaper in general circulation in the area. If no hearing is requested within 10 days of the date that notice is given, the Department may grant the variance.

(5) When a variance has been granted, and a water supplier fails to meet the compliance schedule, or fails to implement the interim control measures, or fails to undertake the monitoring required under the conditions of the variance, the Department may initiate enforcement action authorized by these rules.

(6) Variances from the maximum contaminant levels for volatile organic chemicals, organic chemicals and inorganic chemicals shall be issued by the Department as follows:

(a) The Department shall require Community water systems and Non-Transient Non-Community water systems to install and/or use any treatment method identified in OAR 333-061-0050(4)(b)(B), (E) and (F) as a condition for granting a variance except as provided in subsection (6)(b) of this rule. If, after the system's installation of the treatment method, the system cannot meet the MCL, that system shall be eligible for a variance.

(b) If a system can demonstrate through comprehensive engineering assessments, which may include pilot plant studies, that the treatment methods identified in OAR 333-061-0050(4)(b)(B), (E) and (F) would only achieve an insignificant reduction in contaminants, the Department may issue a schedule of compliance that requires the system being granted the variance to examine other treatment methods as a condition of obtaining the variance.

(c) If the Department determines that a treatment method identified in subsection (6)(b) of this rule is technically feasible, the Department may require the system to install and/or use that treatment method in connection with a compliance schedule. The Department's determination shall be based upon studies by the system and other relevant information.

(d) The Department may require a public water system to use bottled water, point-of-use devices, point-of-entry devices or other means as a condition of granting a variance to avoid an unreasonable risk to health.

(7) The variances from the maximum contaminant level for fluoride shall be granted by the Department as follows:

(a) The Department shall require a Community water system to install and/or use any treatment method identified in OAR 333-061-0050(4)(b)(C) as a condition for granting a variance unless the Department determines that such treatment method is not available and effective for fluoride control for the system. A treatment method shall not be considered to be "available and effective" for an individual system if the treatment method would not be technically appropriate and technically feasible for that system. If, upon application by a system for a variance, the Department determines that none of the treatment methods identified in OAR 333-061-0050(4)(b)(C) are available and effective for the system, that system shall be entitled to a variance. The Department's determination as to the availability and effectiveness of such treatment methods shall be based upon studies by the system and other relevant information. If a system submits information to demonstrate that a treatment method is not available and effective for fluoride control for that system, the Department shall make a finding whether this information supports a decision that such treatment method is not available and effective for that system before requiring installation and/or use of such treatment method.

(b) The Department shall issue a schedule of compliance that may require the system being granted the variance to examine the following treatment methods to determine the probability that any of the following methods will significantly reduce the level of fluoride for that system, and if such probability exists, to determine whether any of these methods are technically feasible and economically reasonable, and that the fluoride reductions obtained will be commensurate with the costs incurred with the installation and use of such treatment methods for that system:

Modification of lime softening; Alum coagulation; Electrodialysis; Anion exchange resins; Well field management; Alternate source; Regionalization.

(c) If the Department determines that a treatment method identified in subsection (6)(b) of this rule or any other treatment method is technically feasible, economically reasonable, and will achieve fluoride reductions commensurate with the costs incurred with the installation and/or use of such treatment method for the system, the Department shall require the system to install and/or use that treatment method in connection with a compliance schedule. The Department's determination shall be based upon studies by the system and other relevant information.

(8) Public water systems that use bottled water as a condition for receiving a variance must meet the following requirements.

(a) The public water system must develop and put in place a monitoring program approved by the Department that provides reasonable assurances that the bottled water meets all MCLs. The public water system must monitor a representative sample of the bottled water for all applicable contaminants under OAR 333-061-0036 the first quarter that it supplies the

bottled water to the public, and annually thereafter. Results of the monitoring program shall be provided to the Department annually.

(b) As an alternative to subsection (7)(a) of this rule, the public water system must receive a certification from the bottled water company that the bottled water supplied has been taken from an "approved source" as defined in 21 CFR 129.3(a); the bottled water company has conducted monitoring in accordance with 21 CFR 129.80(g)(1) through (3); and the bottled water does not exceed any MCLs or quality limits as set out in 21 CFR 103.35, 110, and 129. The public water system shall provide the certification to the Department the first quarter after it supplies bottled water and annually thereafter.

(c) The public water system is fully responsible for the provision of sufficient quantities of bottled water to every person supplied by the public water system, via door-to-door bottled water delivery.

(9) Public water systems that use point-of-use devices as a condition for obtaining a variance must meet the following requirements:

(a) It is the responsibility of the public water system to operate and maintain the point-of-use treatment system.

(b) The public water system must develop a monitoring plan and obtain Department approval for the plan before point-of-use devices are installed for compliance. This monitoring plan must provide health protection equivalent to a monitoring plan for central water treatment.

(c) Effective technology must be properly applied under a plan approved by the Department and the microbiological safety of the water must be maintained.

(d) The water system must submit adequate certification of performance, field testing and, if not included in the certification process, a rigorous engineering design review to the Department for approval prior to installation.

(e) The design and application of the point-of-use devices must consider the tendency for increase in heterotrophic bacteria concentrations in water treated with activated carbon. It may be necessary to use frequent backwashing, post-contractor disinfection, and Heterotrophic Plate Count monitoring to ensure that the microbiological safety of the water is not compromised.

(f) All consumers shall be protected. Every building connected to the system must have a point-of-use device installed, maintained, and adequately monitored. The Department must be assured that every building is subject to treatment and monitoring, and that the rights and responsibilities of the public water system customer convey with title upon sale of property.

(10) Public water systems shall not use bottled water to achieve compliance with an MCL. At the discretion of the Department, point-of-use devices may be used to achieve compliance with MCLs for radionuclides and arsenic. Bottled water or point-of-use devices may be used on a temporary basis to avoid an unreasonable risk to health.

(11) The Department may grant a variance from the requirements of OAR 333-061-0030(4) "Microbiological Contaminants" for any system that demonstrates to the satisfaction of the Department that violations of the total coliform MCL are due to persistent growth of total coliform in the distribution system rather than fecal or pathogenic contamination, a treatment lapse or deficiency, or a problem in the operation or maintenance of the distribution system. This demonstration, made by the system in writing and submitted to the Department for review, shall show that the system meets the following conditions:

(a) The system meets treatment level requirements of OAR 333-061-0032,

(b) The system shows no occurrence of coliforms at the entry point to the distribution system,

(c) The system meets the turbidity MCL,

(d) The system maintains a detectable disinfectant residual in the distribution system,

(e) The system has no history of waterborne disease outbreaks using the current treatment and source configuration,

(f) The system maintains regular contact with the Department to assess possible illness outbreaks,

(g) The system complies with coliform monitoring requirements and shows no occurrence of E. coli positive samples during the previous six months,

(h) The system has addressed requirements and recommendations of the previous sanitary survey conducted by the Department,

(i) The system fully complies with cross connection control program requirements contained in OAR 333-061-0070,

(j) The system agrees to submit a biofilm control plan to the Department within twelve months of the granting of the first request for a variance,

(k) The system monitors heterotrophic plate count weekly in conjunction with routine coliform sample collection and maintains HPC counts at levels less than 500 colonies per ml at any point where the disinfectant residual is less than 0.2 mg/l, and

(l) The system has a microbiological contaminant sampling plan approved by the Department.

(12) The Department is not permitted to issue any variances to the requirements of OAR 333-061-0030(3) as well as the requirements of OAR 333-061-0032, 333-061-0034 and 333-061-0036 pertaining to the treatment of surface water and groundwater under the direct influence of surface water and corrosion control treatment requirements for lead and copper. In addition, no exemptions will be granted for OAR 333-061-0032(3)(c) and 333-061-0032(5)(b).

Stat. Auth.: ORS 448

Stats. Implemented: ORS 448.115, 448.135

Hist.: HD 9-1981(Temp), f. & ef. 6-30-81; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0213, HD 2-1983, f. & ef. 2-23-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef. 12-4-85; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 9-1991(Temp), f. & cert. ef. 6-24-91; HD 1-1992, f. & cert. ef. 3-5-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 2-2008, f. & cert. ef. 2-15-08

333-061-0050

Construction Standards

(1) General:

(a) These standards shall apply to the construction of new public water systems and to major additions or modifications to existing public water systems and are intended to assure that the system facilities, when constructed, will be free of public health hazards and will be capable of producing water which consistently complies with the maximum contaminant levels;

(b) Public water systems which may not comply fully with these construction standards, shall be allowed to continue in operation and shall not be required to undertake alterations to existing facilities, unless the standard is listed as a significant deficiency as prescribed in OAR 333-061-0076(3) or maximum contaminant levels are being exceeded. Existing facilities are:

(A) Facilities at public water systems constructed or installed prior to August 21, 1981; and

(B) Facilities at public water systems which have been in continual use in or as a public water system and not inoperative for more than 1 year.

(c) Non-public water systems that are converted to public water systems shall be modified as necessary to conform to the requirements of this rule.

(d) Facilities at public water systems shall be designed and constructed in a manner such that contamination will be effectively excluded, and the structures and piping will be capable of safely withstanding external and internal forces acting upon them;

(e) Only materials designed for potable water service and meeting National Sanitation Foundation Standard 61, Section 9 —Drinking Water System Components — Health Effects (Revised September, 1994) or equivalent shall be used in those elements of the water system which are in contact with potable water;

(f) New tanks, pumps, equipment, pipe valves and fittings shall be used in the construction of new public water systems, major additions or major modifications to existing water systems. The Department may permit the use of used items when it can be demonstrated that they have been renovated and are suitable for use in public water systems;

(g) Prior to construction of new facilities, the water supplier shall submit plans to the Department for approval as specified in OAR 333-061-0060(1)(a).

(h) Construction may deviate from the requirements of this section provided that documentation is submitted, to the satisfaction of the Department, that the deviation is equal to or superior to the requirements of this section as specified in OAR 333-061-0055 (variances from construction standards).

(i) A public water system or other Responsible Management Authority using groundwater, or groundwater under the direct influence of surface water, derived from springs, confined or unconfined wells that wish to have a state certified wellhead protection program shall comply with the requirements as specified in OAR 333-061-0057, 0060, and 0065, as well as 340-040-0140 through 0200. Additional technical information is available in the **Oregon Wellhead Protection Guidance Manual**.

(j) All new groundwater sources are subject to consideration for potential direct influence of surface water as prescribed in OAR 333-061-0032(7).

(2) Groundwater:

(a) Wells:

(A) For the purpose of this rule, wells are defined as holes or other excavations that are drilled, dug or otherwise constructed for the purpose of capturing groundwater or groundwater in hydraulic connection with surface water as a source of public drinking water.

(B) The area within 100 feet of the well shall be owned by the water supplier, or a perpetual restrictive easement shall be obtained by the water supplier for all land (with the exception of public rights-of-way) within 100 feet of the well. The easement shall be recorded with the county in which the well is located and with the recorded deed to the property. A certified true copy shall be filed with the Department;

(C) Not withstanding paragraph (2)(a)(A) of this rule, wells located on land owned by a public entity, (Federal, State, County, Municipality) which is not the water supplier, a permit issued by the public entity to the water supplier shall suffice in lieu of an easement. Said permit shall state that no existing or potential public health hazard shall be permitted within a minimum of 100 feet of a well site;

(D) Not withstanding paragraph (2)(a)(A) of this rule, in those areas served by community gravity sanitary sewers, the area of ownership or control may be reduced to 50 feet;

(E) Public or private roadways may be allowed within 100 feet of a confined well, provided the well is protected against contamination from surface runoff or hazardous liquids which may be spilled on the roadway and is protected from unauthorized access;

(F) The following sanitary hazards are not allowed within 100 feet of a well which serves a public water system unless waived by the Department: any existing or proposed pit privy, subsurface sewage disposal drain field; cesspool; solid waste disposal site; pressure sewer line; buried fuel storage tank; animal yard, feedlot or animal waste storage; untreated storm water or gray water disposal; chemical (including solvents, pesticides and fertilizers) storage, usage or application; fuel transfer or storage; mineral resource extraction, vehicle or machinery maintenance or long term storage; junk/auto/scrap yard; cemetery; unapproved well; well that has not been properly abandoned or of unknown or suspect construction; source of pathogenic organisms or any other similar public health hazards. No gravity sewer line or septic tank shall be permitted within 50 feet of a well which serves a public water system. Clearances greater than indicated above shall be provided when it is determined by the Department that the aquifer sensitivity and degree of hazard require a greater degree of protection. Above-ground fuel storage tanks provided for emergency water pumping equipment may be exempted from this requirement by the Department provided that a secondary containment system is in place that will accommodate 125% of the fuel tank storage;

(G) Wells shall not be located at sites which are prone to flooding. In cases where the site is subject to flooding, the area around the well shall be mounded, and the top of the well casing shall be extended at least 2 feet above the anticipated 100-year (1%) flood level;

(H) Except as otherwise provided herein, wells shall be constructed in accordance with the general standards for the construction and maintenance of water wells in Oregon as prescribed in OAR Chapter 690, Departments 200 through 220;

(I) Wells as defined in paragraph (2)(a)(A) of this rule that are less than 12 feet in depth must be constructed so as to be cased and sealed from the surface to a minimum of three feet above the bottom of the well. The casing may consist of concrete or metal culvert pipe or other pre-approved materials. The seal shall be watertight, be a minimum of four inches in thickness and may consist of cement, bentonite or concrete (see concrete requirements prescribed in OAR 690-210-315). The construction and placement of these wells must comply with all requirements of this rule.

(J) Before a well is placed into operation as the source of supply at a public water system, laboratory reports as required by OAR rule 333-061-0036 shall be submitted by the water supplier;

(K) Water obtained from wells which exceed the maximum contaminant levels shall be treated as outlined in section (4) of this rule;

(L) The pump installation, piping arrangements, other appurtenances, and well house details at wells which serve as the source of supply for a public water system, shall meet the following requirements:

(i) The line shaft bearings of turbine pumps shall be water-lubricated, except that bearings lubricated with non-toxic approved food-grade lubricants may be permitted in wells where water-lubricated bearings are not feasible due to depth to the water;

(ii) Where turbine pumps are installed, the top of the casing shall be sealed into the pump motor. Where submersible pumps are installed, the top of the casing shall be provided with a watertight sanitary seal;

(iii) A casing vent shall be provided and shall be fitted with a screened return bend;

(iv) Provisions shall be made for determining the depth to water surface in the well under pumping and static conditions;

(v) A sampling tap shall be provided on the pump discharge line;

(vi) Piping arrangements shall include provisions for pumping the total flow from the well to waste;

(vii) A method of determining the total output of each well shall be provided. This requirement may be waived by the Department at confined wells which serve as the source of supply for Transient Non-Community water systems;

(viii) A reinforced concrete slab shall be poured around the well casing at ground surface. The slab shall be sloped to drain away from the casing;

(ix) The ground surface around the well slab shall be graded so that drainage is away from the well;

(x) The top of the well casing shall extend at least 12 inches above the concrete slab;

(xi) Provisions shall be made for protecting pump controls and other above-ground appurtenances at the well head. Where a wellhouse is installed for this purpose, it shall meet applicable building codes and shall be insulated, heated and provided with lights, except that where the wellhouse consists of a small removable box-like structure the requirement for lights may be waived by the Department;

(xii) The wellhouse shall be constructed so that the well pump can be removed.

(xiii) Wells equipped with pitless adaptors or units are not required to meet the requirements of paragraphs (L)(iii), (viii) and (xii) of this subsection.

(M) The area in the vicinity of a well, particularly the area uphill or upstream, shall be surveyed by the water supplier to determine the location and nature of any existing or potential public health hazards;

(N) The requirements with respect to land ownership, clearances from public health hazards, and protection against flooding for wells in an unconfined aquifer shall be the same or more restrictive than those prescribed for wells in confined aquifers, as determined by the Department.

(O) Before a well is placed into operation as the source of supply for a public water system, the following documents shall be submitted by the water supplier:

(i) Reports on pumping tests for yield and drawdown for unconfined wells;

(ii) Reports of laboratory analyses on contaminants in the water as required by OAR 333-061-0036;

(iii) Performance data on the pumps and other equipment;

(iv) Proposals for disinfection as required by section (5) of this rule, if applicable.

(v) Reports on determination of potential direct influence by surface water into groundwater source as prescribed in section (3) of this rule.

(b) Springs:

(A) In addition to those requirements under subsection (2)(a) of this rule, construction of spring supplies shall meet the following requirements:

(i) An intercepting ditch shall be provided above the spring to effectively divert surface water;

(ii) A fence shall be installed around the spring area unless other provisions are made to effectively prevent access by animals and unauthorized persons;

(iii) The springbox shall be constructed of concrete or other impervious durable material and shall be installed so that surface water is excluded;

(iv) The springbox shall be provided with a screened overflow which discharges to daylight, an outlet pipe provided with a shutoff valve, a bottom drain, an access manhole with a tightly fitting cover, and a curb around the manhole.

(v) Spring collection facilities that meet the definition of well in paragraph (2)(a)(A) of this rule must comply with construction requirements specified in paragraph (2)(a)(I) of this rule.

(B) Reports on flow tests shall be provided to establish the yield of springs.

(3) Surface water and groundwater under direct surface water influence source facilities:

(a) In selecting a site for an infiltration gallery, or for a direct intake from a stream, lake, or impounding reservoir, consideration shall be given

to land use in the watershed. A sanitary survey of the watershed shall be made by the water supplier to evaluate natural and man-made factors which may affect water quality and investigations shall also be made of seasonal variations in water quality and quantity. A report giving the results of this survey shall be submitted for review and approval by the Department.

(b) A determination shall be made as to the status of water rights, and this information shall be submitted to the Department for review.

(c) Impounding reservoirs shall be designed and constructed so that they include the following features:

(A) The capacity shall be sufficient to meet projected demands during drought conditions;

(B) Outlet piping shall be arranged so that water can be withdrawn from various depths;

(C) Facilities shall be provided for releasing undesirable water.

(d) Direct intake structures shall be designed and constructed so that they include the following features:

(A) Screens shall be provided to prevent fish, leaves and debris from entering the system;

(B) Provisions shall be made for cleaning the screens, or self-cleaning screens shall be installed;

(C) Motors and electrical controls shall be located above flood level;

(D) Provisions shall be made to restrict swimming and boating in the vicinity of the intake;

(E) Valves or sluice gates shall be installed at the intake to provide for the exclusion of undesirable water when required.

(4) Water treatment facilities (other than disinfection):

(a) General

(A) Water treatment facilities shall be capable of producing water which consistently does not exceed maximum contaminant levels. The type of treatment shall depend on the raw water quality. The Department shall make determinations of treatment capabilities based upon recommendations in the USEPA SWTR Guidance Manual.

(B) Investigations shall be undertaken by the water supplier prior to the selection or installation of treatment facilities to determine the physical, chemical and microbiological characteristics of the raw water as appropriate. These investigations shall include a determination of the seasonal variations in water quality, as well as a survey to identify potential sources of contamination which may affect the quality of the raw water.

(C) Water obtained from wells constructed in conformance with the requirements of these rules and which is found not to exceed the maximum contaminant levels, may be used without treatment at public water systems;

(D) Laboratory equipment shall be provided so that the water supplier can perform analyses necessary to monitor and control the treatment processes.

(b) Best Available Technology

(A) Pilot studies or other supporting data shall be used to demonstrate the effectiveness of any treatment method other than that defined as best available technology. Pilot study protocol shall be approved beforehand by the Department. When point-of-use (POU) or point-of-entry (POE) devices are used for compliance, programs to ensure proper long-term operation, maintenance, and monitoring shall be provided by the water system to ensure adequate performance.

(B) The Department identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for volatile organic chemicals:

(i) Central treatment using packed tower aeration for all these chemicals.

(ii) Central treatment using granular activated carbon for all these chemicals except vinyl chloride.

(C) The Department identifies the following as the best available technology, treatment techniques or other means generally available for achieving compliance with the Maximum Contaminant Level for fluoride.

(i) Activated alumina absorption, centrally applied.

(ii) Reverse osmosis, centrally applied.

(D) The Department identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant level for total coliforms.

(i) Protection of wells from contamination by coliforms by appropriate placement and construction;

(ii) Maintenance of a disinfectant residual throughout the distribution system;

(iii) Proper maintenance of the distribution system including appropriate pipe replacement and repair procedures, main flushing programs, proper operation and maintenance of storage tanks and reservoirs, and maintaining a minimum pressure of 20 psi at all service connections.

(iv) Filtration treatment and/or disinfection of surface water or groundwater under the direct influence of surface water, or disinfection of groundwater using strong oxidants such as chlorine, chlorine dioxide, or ozone; and

(v) For systems using groundwater, compliance with the requirements of a Department-approved wellhead protection program.

(E) The Department identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for organic chemicals.

(i) Central treatment using packed tower aeration for Dibromochloropropane, Ethylene Dibromide, Hexachlorocyclopentadiene and Di(2-ethylhexyl)adipate.

(ii) Central treatment using granular activated carbon for all these chemicals except Trihalomethanes and Glyphosate.

(iii) Central treatment using oxidation (chlorination or ozonation) for Glyphosate.

(F) The Department identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for inorganic chemicals. Preoxidation may be required to convert Arsenic III to Arsenic V.

(i) Central treatment using coagulation/filtration for systems with 500 or more service connections for Antimony, Arsenic V (for systems with populations 501-10,000), Asbestos, Beryllium, Cadmium, Chromium, Mercury (influent concentration ≥ 10ug/L), and Selenium (Selenium IV only).

(ii) Central treatment using direct and diatomite filtration for Asbestos.

(iii) Central treatment using granular activated carbon for Mercury.

(iv) Central treatment using activated alumina for Arsenic V (for systems with populations l0,000 or less), Beryllium, Selenium and Thallium.

(v) Central treatment using ion exchange for Arsenic V (for systems with populations 10,000 or less), Barium, Beryllium, Cadmium, Chromium, Cyanide, Nickel, Nitrate, Nitrite and Thallium.

(vi) Central treatment using lime softening for systems with 500 or more service connections for Arsenic V (for systems with populations of 501-10,000), Barium, Beryllium, Cadmium, Chromium (Chromium III only), Mercury (influent concentration ≥ 10ug/L), Nickel and Selenium.

(vii) Central treatment using reverse osmosis for Antimony, Arsenic V (for systems with populations of 501-10,000), Barium, Beryllium, Cadmium, Chromium, Cyanide, Mercury (influent concentration ≥ 10ug/L), Nickel, Nitrate, Nitrite, and Selenium.

(viii) Central treatment using corrosion control for Asbestos and Lead and Copper.

(ix) Central treatment using electrodialysis for Arsenic V (for systems with populations of 501-10,000), Barium, Nitrate, and Selenium.

(x) Central treatment using alkaline chlorination (pH≥8.5) for Cyanide.

(xi) Central treatment using coagulation-assisted microfiltration for Arsenic V (for systems with populations 501-10,000).

(xii) Central treatment using oxidation/filtration for Arsenic V (to obtain high removals, iron to Arsenic ratio must be at least 20:1).

(xiii) Point-of-use treatment using activated alumina for Arsenic V (for systems with populations 10,000 or less).

(xiv) Point-of-use treatment using reverse osmosis for Arsenic V (for systems with populations 10,000 or less).

(G) The Department identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for disinfection byproducts:

(i) Enhanced coagulation or enhanced softening or GAC10, with chlorine as the primary and residual disinfectant for total trihalomethanes.

(ii) Enhanced coagulation or enhanced softening or GAC10, with chlorine as the primary and residual disinfectant for HAA5s.

(iii) Control of ozone treatment process to reduce production of bromate for bromate concentrations.

(iv) Control of treatment processes to reduce disinfectant demand and control of disinfection treatment processes to reduce disinfectant levels for chlorite.

(H) The Department identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum residual disinfectant levels: Control of treatment processes to reduce disinfectant demand and control of disinfection treatment processes to reduce disinfectant levels.

(I) The Department identifies the following as the best available technology, treatment techniques, or other means available for achieving compliance with the MCLs for radionuclides.

(i) Central treatment using ion exchange for combined radium-226/228, beta particle/photon activity and uranium.

(ii) Central treatment using reverse osmosis for combined radium-226/228, gross alpha particle activity, beta particle/photon activity, and uranium (for systems with populations 501-10,000).

(iii) Central treatment using lime softening for combined radium-226/228, and uranium (for systems with populations 501-10,000).

(iv) Central treatment using enhanced coagulation/filtration for uranium.

(v) Central treatment using activated alumina for uranium (for systems with populations of 10,000 or less).

(vi) Central treatment using greensand filtration for combined radium-226/228.

(vii) Central treatment using electrodialysis for combined radium-226/228.

(viii) Central treatment using pre-formed hydrous manganese oxide filtration for combined radium-226/228.

(ix) Central treatment using co-precipitation with barium for combined radium-226/228.

(x) Point-of-use treatment using ion exchange for combined radium-226/228, beta particle/photon activity, and uranium.

(xi) Point-of use treatment using reverse osmosis for combined radium-226/228, gross alpha particle activity, beta particle/ photon activity, and uranium (for systems with populations of 10,000 or less).

(c) Filtration of Surface Water Sources and Groundwater Sources Under the Direct Influence of Surface Water

(A) All water systems using surface water or groundwater sources under the direct influence of surface water that fail to meet the criteria for avoiding filtration prescribed in OAR 33-061-0032(2) and (3) must meet all requirements of this subsection for installing filtration treatment.

(B) There are four standard filtration methods: conventional filtration, direct filtration, slow sand, and diatomaceous earth. Other filtration technologies are only acceptable if their efficiency at removing target organisms and contaminants can be demonstrated to be equal to or more efficient than these. The assumed log removals credited to filtration of Giardia lamblia and viruses will be based on recommendations in the USEPA SWTR Guidance Manual. For membrane filtration, removal credits shall be 2.5 log for Giardia and 2.0 for Cryptosporidium, as long as removal has been verified by a third party. The combination of filtration and disinfection must meet the inactivation levels prescribed in OAR 333-061-0032(1). Any water system wishing to challenge the assumed log removal credits must conduct demonstration studies based on the recommendations in the USEPA SWTR Guidance Manual and have the study protocol approved by the Department.

(C) Pilot studies shall be conducted by the water supplier to demonstrate the effectiveness of any filtration method other than conventional filtration. Pilot study protocol shall be approved in advance by the Department. Results of the pilot study shall be submitted to the Department for review and approval.

(D) Regardless of the filtration method used, the water system must achieve a minimum of 0.5-log reduction of Giardia lamblia and a 1.0-log reduction of viruses from disinfection alone after filtration treatment.

(E) All filtration systems shall be designed and operated so as to meet the requirements prescribed in OAR 333-061-0032(4) and (5). Design of the filtration system must be in keeping with accepted standard engineering references acknowledged by the Department such as the Great Lakes Upper Mississippi River "Recommended Standards for Water Works" technical reports by the International Reference Center for Community Water Supply and Sanitation, or publications from the World Health Organization. A list of additional references is available from the Department upon request.

(F) Systems using conventional or direct filtration that employ multiple filters shall be designed such that turbidity measurements are monitored for each filter independently of the other filter(s). Each filter shall have a provision to discharge effluent water as waste.

(G) Additional requirements for membrane filtration. Each membrane filter system must have a particle counter or laser turbidimeter installed after filtration for continuous integrity monitoring. Once operating, physical integrity testing must be done on each filter canister at least weekly, using pressure hold, diffusive air flow, bubble point, or sonic sensing testing. The operation and maintenance manual must include a diagnosis and repair plan such that the ability to remove pathogens is not compromised.

(d) Criteria and procedures for public water systems using point-of-entry (POE) or point-of-use (POU) devices.

(A) Public water systems may use POE or POU devices to comply with maximum contaminant levels, where allowed, only if they meet the requirements of this subsection.

(B) It is the responsibility of the public water system to operate and maintain the POE or POU treatment system.

(C) The public water system must develop and obtain Department approval for a monitoring plan before POE or POU devices are installed for compliance. Under the plan approved by the Department, POE or POU devices must provide health protection equivalent to central water treatment. "Equivalent" means that the water would meet all Maximum Contaminant Levels as prescribed in OAR 333-061-0030 and would be of acceptable quality similar to water distributed by a well-operated central treatment plant. Monitoring must include contaminant removal efficacy, physical measurements and observations such as total flow treated and mechanical condition of the treatment equipment.

(D) Effective technology must be properly applied under a plan approved by the Department and the microbiological safety of the water must be maintained.

(i) The water supplier must submit adequate certification of performance, field testing, and, if not included in the certification process, a rigorous engineering design review of the POE or POU devices to the Department for approval prior to installation.

(ii) The design and application of the POE or POU devices must consider the tendency for increase in heterotrophic bacteria concentrations in water treated with activated carbon. It may be necessary to use frequent backwashing, post-contractor disinfection, and Heterotrophic Plate Count monitoring to ensure that the microbiological safety of the water is not compromised.

(iii) The POE or POU device must be evaluated to assure that the device will not cause increased corrosion of lead and copper bearing materials located between the device and the tap that could increase contaminant levels of lead and copper at the tap.

(E) All consumers shall be protected. Every building connected to the system must have a POE or POU device installed, maintained, and adequately monitored. The Department must be assured that every building is subject to treatment and monitoring, and that the rights and responsibilities of the public water system customer convey with title upon sale of property.

(5) Facilities for continuous disinfection:

(a) Water obtained from surface sources or groundwater sources under the direct influence of surface water shall, as a minimum, be provided with continuous disinfection before such water may be used as a source of supply for a public water system. Water obtained from wells constructed in conformance with the requirements of these rules and which is found not to exceed microbiological maximum contaminant levels, may be used without treatment at public water systems;

(b) Water obtained from wells or springs shall be considered groundwater unless determined otherwise by the Department. Wells and springs may be utilized without continuous disinfection if the construction requirements of section (2) of this rule are met and analyses indicate that the water consistently meets microbiological standards. A well or spring that is inadequately constructed and shows a history of microbiological contamination shall first be upgraded to meet current construction standards, and if microbiological contamination still persists, then continuous disinfection shall be provided prior to use in public water systems.

(c) In public water systems where continuous disinfection is required as the sole form of treatment, or as one component of more extensive treatment to meet the requirements prescribed in OAR 333-061-0032(1), the facilities shall be designed so that:

(A) The disinfectant applied shall be capable of effectively destroying pathogenic organisms; and

(B) The disinfectant is applied in proportion to flow; and

(C) Disinfectants, other than ultraviolet light and ozone disinfection treatment, shall be capable of leaving a residual in the water which can be readily measured and which continues to serve as an active disinfectant; and

(D) Sufficient contact time shall be provided to achieve "CT" values capable of the inactivations required by OAR 333-061-0032(1) For ultraviolet light disinfection treatment, sufficient irradiance expressed in milliWatts per square centimeter (mW/cm2) and exposure time expressed in seconds (s) shall be provided to achieve UV dose levels expressed as (mWs/cm2) or milli-Joules per square centimeter (mJ/cm2) capable of the inactivations required by OAR 333-061-0032(1).

(d) When continuous disinfection, other than ultraviolet light disinfection, is required for reasons other than the treatment of surface water sources or groundwater sources under the direct influence of surface water, in addition to the requirements of paragraphs (5)(c)(A) through (C) of this rule, the facilities shall be designed so that:

(A) The primary disinfection treatment is sufficient to ensure at least 99.99 percent (4-log) inactivation and/or removal of viruses as determined by the Department, or;

(B) There is sufficient contact time provided to achieve disinfection under all flow conditions between the point of disinfectant application and the point of first water use:

(i) When chlorine is used as the primary disinfectant, the system shall be constructed to achieve a free chlorine residual of 0.2 mg/l after 30 minutes contact time under all flow conditions before first water use;

(ii) When ammonia is added to the water with the chlorine to form a chloramine as the disinfectant, the system shall be constructed to achieve a combined chlorine residual of at least 2.0 mg/l after 3 hours contact time under all flow conditions before first water use;

(e) Provisions shall be made to alert the water supplier before the chlorine supply is exhausted.

(f) Provisions shall be made for sampling the water before and after chlorination;

(g) Testing equipment shall be provided to determine the chlorine residual;

(h) Chlorinator piping shall be designed to prevent the contamination of the potable water system by backflow of untreated water or water having excessive concentrations of chlorine;

(i) Chlorine gas feeders and chlorine gas storage areas shall:

(A) Be enclosed and separated from other operating areas;

(B) Chlorine cylinders shall be restrained in position to prevent upset by chaining 100 and 150 pound cylinders two-thirds of their height up from the floor and by double chocking one ton cylinders;

(C) The room housing the feeders and cylinders shall be above ground surface, shall have doors which open outward and to the outside and shall be ventilated by mechanical means at floor level and shall have an air intake located higher than the exhaust ventilation;

(D) Be located so that chlorine gas, if released, will not flow into the building ventilation systems;

(E) Have corrosion resistant lighting and ventilation switches located outside the enclosure, adjacent to the door;

(F) Be provided with a platform or hydraulic scale for measuring the weight of the chlorine cylinders;

(G) Be provided with a gas mask or self contained breathing apparatus approved by the National Institute of Occupational Safety and Health (NIOSH) for protection against chlorine gas and kept in good working condition. Storage of such equipment shall be in an area adjoining the chlorine room and shall be readily available. (Also see the Oregon Occupational Health and Safety regulations contained in OAR Chapter 437.)

(j) When continuous disinfection treatment is provided through ultraviolet light disinfection, the facilities shall be designed to meet the requirements of this subsection:

(A) Ultraviolet light may be used as the sole disinfectant for non-community systems serving groundwater with minimal distribution systems, as determined by the Department;

(B) Ultraviolet systems must meet the specifications of a Class A UV system under the National Sanitation Foundation (NSF) Standard 55;

(C) The ultraviolet light failsafe dosage set point shall be equivalent to 38 mWs/cm2 (38 mJ/cm2) with a wavelength between 200 and 300 nanometers;

(D) Ultraviolet lamps are insulated from direct contact with the influent water and are removable from the lamp housing;

(E) The treatment unit must have a fixed flow rate control that prevents flows exceeding the manufacturer's maximum rated flow rate, an ultraviolet light sensor that monitors light intensity through the water during operation, and a visual and audible alarm with an automatic water flow shut-off if the ultraviolet light intensity drops below the failsafe set point;

(F) There must be a visual means to verify operation of all ultraviolet lamps;

(G) The lamps, lamp sleeves, housings and other equipment must be able to withstand a working pressure of at least 100 psig (689 kPa);

(H) The treatment facility must be sheltered from the weather and accessible for routine maintenance as well as routine cleaning and replacement of the lamp sleeves and cleaning of the sensor windows/lenses;

(I) The lamps must be changed as per the manufacturer's recommendation, or at least annually; and

(J) The treatment unit must be connected into the main water line at the source with the shut-off valves at both the inlet side and the outlet side of the treatment unit. There shall be no bypass piping around the treatment unit.

(6) Finished water storage:

(a) Distribution reservoirs and treatment plant storage facilities for finished water shall be constructed to meet the following requirements:

(A) They shall be constructed of concrete, steel, wood or other durable material capable of withstanding external and internal forces which may act upon the structure;

(B) Ground-level reservoirs shall be constructed on undisturbed soil, bedrock or other stable foundation material capable of supporting the structure when full;

(C) Steel reservoirs, standpipes and elevated tanks shall be constructed in conformance with the AWWA Standards D100 and D103;

(D) Concrete reservoirs shall be provided with sufficient reinforcing to prevent the formation of cracks, and waterstops and dowels shall be placed at construction joints. Poured-in-place wall castings shall be provided where pipes pass through the concrete;

(E) Wooden reservoirs shall be redwood or other equally durable wood and shall be installed on a reinforced concrete base. Where redwood reservoirs are used, separate inlet and outlet pipes are required and the water entering the reservoir must be continuously disinfected so as to result in a detectable residual in the water leaving the reservoir;

(F) Start-up procedures for new redwood tanks shall consist of filling the tank with a solution of water containing a minimum of 2 pounds of sodium carbonate per 1,000 gallons of water and retaining this solution in the tank a minimum of seven days before flushing;

(G) Where ground-level reservoirs are located partially below ground, he bottom shall be above the ground water table and footing drains discharging to daylight shall be provided to carry away ground water which may accumulate around the perimeter of the structure;

(H) The finished water storage capacity shall be increased to accommodate fire flows when fire hydrants are provided;

(I) Finished water storage facilities shall have watertight roofs;

(J) An access manhole shall be provided to permit entry to the interior for cleaning and maintenance. When the access manhole is on the roof of the reservoir there shall be a curbing around the opening and a lockable watertight cover that overlaps the curbing;

(K) Internal ladders of durable material, shall be provided where the only access manhole is located on the roof;

(L) Screened vents shall be provided above the highest water level to permit circulation of air above the water in finished water storage facilities;

(M) A drain shall be provided at the lowest point in the bottom, and an overflow of sufficient diameter to handle the maximum flow into the tank shall be provided at or near the top of the sidewall. The outlet ends of the drain and overflow shall be fitted with angle-flap valves or equivalent protection and shall discharge with an airgap to a watercourse or storm drain capable of accommodating the flow;

(N) A silt stop shall be provided at the outlet pipe;

(O) Where a single inlet/outlet pipe is installed and the reservoir floats on the system, provisions shall be made to insure an adequate exchange of water and to prevent degradation of the water quality and to assure the disinfection levels required in paragraph (5)(c)(D)(i) of this rule;

(P) A fence or other method of vandal deterrence shall be provided around distribution reservoirs;

(Q) When interior surfaces of finished water storage tanks are provided with a protective coating, the coating shall meet the requirements of National Sanitation Foundation Standard 61, Section 9 - Drinking Water System Components — Health Effects (Revised September 1994) or equivalent.

(R) Reservoirs and clearwells that are to be used as disinfection contact time shall use a tracer study to determine the actual contact time. The Department must approve procedures and protocols for the tracer study prior to the initiation of the study. The Department recommends the USEPA SWTR Guidance Manual for tracer study procedure and protocol.

(S) Reservoirs and clearwells that are to be used for disinfection contact time shall have a means to adequately determine the flow rate on the effluent line.

(b) Pressure tanks for finished water shall meet the following requirements:

(A) Pressure tanks shall be installed above normal ground surface;

(B) Bypass piping around the pressure tank shall be provided to permit operation of the system while the tank is being maintained or repaired;

(C) Pressure tanks greater than 1,000 gallons shall be provided with an access manhole and a water sight-glass.

(D) All pressure tanks shall be provided with a drain, a pressure gauge, an air blow-off valve, means for adding air and pressure switches for controlling the operation of the pump(s);

(E) Pressure tanks shall be constructed of steel or an alternative material provided the tank is NSF 61 certified and shall be designed for pressure at least 50% greater than the maximum system pressure anticipated.

(7) Pumping facilities:

(a) Wherever possible, booster pumps shall take suction from tanks and reservoirs to avoid the potential for negative pressures on the suction line which result when the pump suction is directly connected to a distribution main;

(b) Pumps which take suction from distribution mains for the purpose of serving areas of higher elevation shall be provided with a low pressure cut-off switch on the suction side set at no less than 20 psi;

(c) Suction lift at pumping stations shall be avoided as far as possible, and pumps shall be installed so that the suction line is under a positive head. If suction lift cannot be avoided, provision shall be made for priming with water which does not exceed maximum contaminant levels;

(d) Pumping stations shall be located above maximum anticipated 100-year (1%) flood level, and the area around the pumping station shall be graded so that surface drainage is away from the station;

(e) Pumping stations shall be of durable construction so as to protect the equipment from the elements. The door to the pumping station shall be lockable, and facilities for heating and lighting shall be provided. The floor of the pumping station shall be sloped to provide adequate drainage.

(8) Distribution systems:

(a) Wherever possible, distribution pipelines shall be located on public property. Where pipelines are required to pass through private property, easements shall be obtained from the property owner and shall be recorded with the county clerk;

(b) Pipe, pipe fittings, valves and other appurtenances utilized at Community water systems shall be manufactured, installed and tested in conformance with the latest standards of the American Water Works Association, National Sanitation Foundation or other equivalent standards acceptable to the Department;

(c) In Community water systems, distribution mains located in public roadways or easements, and the portion of the service connections from the distribution main to the customer's property line or service meter where provided are subject to the requirements of these rules. The piping from the customer's property line, or the meter where provided, to the point of water use (the building supply line) is subject to the requirements of the State Plumbing Code;

(d) In all Public Water Systems where the system facilities and the premises being served are both on the same parcel of property, requirements relating to pipe materials and pipe installation shall comply with the State Plumbing Code;

(e) Distribution piping shall be designed and installed so that the pressure measured at the property line in the case of Community water systems, or at the furthest point of water use, in the case of a Transient Non-Community water system of the type described in subsection (d) of this section, shall not be reduced below 20 psi;

(f) Distribution piping shall be carefully bedded and fully supported in material free from rocks and shall be provided with a cover of at least 30 inches. Select backfill material shall be tamped in layers around and over the pipe to support and protect it. Large rocks or boulders shall not be used as backfill over the pipe;

(g) Provision shall be made at all bends, tees, plugs, and hydrants to prevent movement of the pipe or fitting;

(h) Wherever possible, dead ends shall be minimized by looping. Where dead ends are installed, or low points exist, blow-offs of adequate size shall be provided for flushing;

(i) Air-relief valves shall be installed at high points where air can accumulate. The breather tube on air-relief valves shall be extended above ground surface and provided with a screened, downward facing elbow;

(j) Yarn, oakum, lead or other material which may impair water quality shall not be used where it will be in contact with potable water;

(k) Nonconductive water pipe (plastic or other material) that is not encased in conductive pipe or casing must have an electrically conductive wire or other approved conductor for locating the pipe when the pipeline is underground. The wire shall be No. 18 AWG (minimum) solid copper with blue colored insulation. Ends of wire shall be accessible in water meter boxes, valve boxes or casings, or outside the foundation of buildings where the pipeline enters the building. The distance between tracer lead access locations shall not be more than 1,000 feet. Joints or splices in wire shall be waterproof.

(l) Piping that is to be used for disinfection contact time shall be verified by plug flow calculations under maximum flow conditions.

(9) Crossings-Sanitary sewers and water lines:

(a) All reference to sewers in this section shall mean sanitary sewers;

(b) In situations involving a water line parallel to a sewer main or sewer lateral, the separation between the two shall be as indicated in Figure 1;

(c) In situations where a water line and a sewer main or sewer lateral cross, the separation between the two shall be as follows:

(A) Wherever possible, the bottom of the water line shall be 1.5 feet or more above the top of the sewer line and one full length of the water line shall be centered at the crossing;

(B) Where the water line crosses over the sewer line but with a clearance of less than 1.5 feet, the sewer line shall be exposed to the sewer line joints on both sides of the crossing to permit examination of the sewer pipe. If the sewer pipe is in good condition and there is no evidence of leakage from the sewer line, the 1.5-foot separation may be reduced. However, in this situation, the water supplier must center one length of the water line at the crossing and must prepare a written report of the findings and indicating the reasons for reducing the separation. If the water supplier determines that the conditions are not favorable or finds evidence of leakage from the sewer line, the sewer line shall be replaced with a full length of pipe centered at the crossing point, of PVC pressure pipe (ASTM D-2241, SDR 32.5), high-density PE pipe (Drisco pipe 1000), ductile-iron Class 50 (AWWA C-51), or other acceptable pipe; or the sewer shall be encased in a reinforced concrete jacket for a distance of 10 feet on both sides of the crossing.

(C) Where the water line crosses under the sewer line, the water supplier shall expose the sewer line and examine it as indicated in paragraph (9)(c)(B) of this rule. If conditions are favorable and there is no evidence of leakage from the sewer line, the sewer line may be left in place, but special precautions must be taken to assure that the backfill material over the water line in the vicinity of the crossing is thoroughly tamped in order to prevent settlement which could result in the leakage of sewage. In this situation, the water supplier must center one length of the water line at the crossing and must prepare a written report recording the manner in which the sewer line was supported at the crossing and the material and methods used in backfilling and tamping to prevent settlement of the sewer. If the water supplier determines that conditions are not favorable or finds evidence of leakage from the sewer line, the provisions of paragraph (9)(c)(B) of this rule apply.

(d) When a water main is installed under a stream or other watercourse, a minimum cover of 30 inches shall be provided over the pipe. Where the watercourse is more than 15 feet wide, the pipe shall be of special construction with flexible watertight joints, valves shall be provided on both sides of the crossing so that the section can be isolated for testing or repair, and test cocks shall be provided at the valves.

Figure 1: Water Line-Sewer Line Separation;
Zone 1: Only crossing restrictions apply;
Zone 2: Case-by-case determination;
Zone 3: Parallel water line prohibited;
Zone 4: Parallel water line prohibited;

(10) Disinfection of facilities:

(a) Following completion of new facilities and repairs to existing facilities, those portions of the facilities which will be in contact with the water delivered to users shall be disinfected with chlorine before they are placed into service. Other disinfectants may be used if it is demonstrated that they can also achieve the same result as chlorine;

(b) Prior to disinfection, the facilities shall be cleaned and flushed with potable water according to AWWA Standards C651 through C654;

(c) For wells, valves, pumps, water mains and service connections, disinfection by chlorination shall be accomplished according to AWWA standards C651 through C654 which includes, but is not limited to, the introduction of a chlorine solution with a free chlorine residual of 25 mg/l into the system in a manner which will result in a thorough wetting of all surfaces and the discharge of all trapped air. The solution shall remain in place for 24 hours. After the 24-hour period, the free chlorine residual shall be checked, and if it is found to be 10 mg/l or more, the chlorine solution shall be drained, the facility flushed with potable water and a minimum of two consecutive samples taken at least 24 hours apart shall be collected from the facility for microbiological analysis. If the results of the analysis indicate that the water is free of coliform organisms, the facility may be put into service. If the check measurement taken after the 24-hour contact period indicates a free chlorine residual of less than 10 mg/l, the facilities shall be flushed, rechlorinated and rechecked until a final residual of 10 mg/l or more is achieved. Likewise, if the microbiological analysis indicates the

presence of coliform organisms, the flushing and disinfection must be repeated until a sample free of coliform organisms is obtained;

(d) For reservoirs and tanks, disinfection by chlorination shall be accomplished according to AWWA Standard C652 which includes, but is not limited to, the following methods:

(A) Filling the reservoir or tank and maintaining a free chlorine residual of not less than 10 mg/l for the appropriate 6 or 24 hour retention period; or

(B) Filling the reservoir or tank with a 50 mg/l chlorine solution and leaving for 6 hours; or

(C) Directly applying by spraying or brushing a 200 mg/l solution to all surfaces of the storage facility in contact with water if the facility were full to the overflow elevation.

(e) When the procedures described in paragraphs (10)(d)(A) and (B) of this rule are followed, the reservoir or tank shall be drained after the prescribed contact period and refilled with potable water, and a sample taken for microbiological analysis. If the results of the analysis indicate that the water is free of coliform organisms, the facility may be put into service. If not, the procedure shall be repeated until a sample free of coliform organisms is obtained;

(f) When the procedure described in paragraph (10)(d)(C) of this rule is followed, the reservoir or tank shall be filled with potable water and a sample taken for microbiological analysis. It will not be necessary to flush the reservoir or tank after the chlorine solution is applied by spraying or brushing. Microbiological analysis shall indicate that the water is free of coliform organisms before the facility can be put into service;

(g) When a reservoir is chlorinated following routine maintenance, inspection, or repair, it may be put back into service prior to receiving the report on the microbiological analysis provided the water leaving the reservoir has a free chlorine residual of at least 0.4 mg/l or a combined chlorine residual of at least 2.0 mg/l.

(h) Underwater divers used for routine maintenance, inspection, or repair of reservoirs shall use a full body dry suit with hardhat scuba and an external air supply. The diver shall be disinfected by spraying a 200 mg/l solution of chlorine on all surfaces that will come into contact with drinking water.

(i) A water line may be returned to service, following repairs or routine maintenance, prior to receiving a report on the microbiological analysis if the following procedures have been completed. The trench shall be liberally treated with hypochlorites, the interior of all pipes and fittings shall be swabbed or sprayed with a 1% hypochlorite solution, and the line shall be thoroughly flushed. Where practical, the repaired line shall be disinfected with a 100 mg/l chlorine solution for 3 hours or a 300 mg/l chlorine solution for 15 minutes then the line shall be flushed thoroughly.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.273 & 448.279

Hist.: HD 106, f. & ef. 2-6-76; HD 12-1979, f. & ef. 9-11-79; HD 10-1981, f. & ef. 6-30-81; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0215, HD 2-1983, f. & ef. 2-23-83; HD 21-1983, f. 10-20-83, ef. 11-1-83; HD 11-1985, f. & ef. 7-2-85; HD 30-1985, f. & ef. 12-4-85 HD 3-1987, f. & ef. 2-17-87; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 7-1992, f. & cert. ef. 6-9-92; HD 12-1992, f. & cert. ef. 12-7-92; HD 3-1994, f. & cert. ef. 1-14-94; HD 11-1994, f. & cert. ef. 4-11-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 7-2000, f. 7-11-00, cert. ef. 7-15-00; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2008, f. & cert. ef. 2-15-08

333-061-0061

Capacity Requirements for Public Water Systems

(1) Water system capacity is defined as the technical, managerial, and financial capability of the water system necessary to plan for, achieve, and maintain compliance with applicable drinking water standards.

(2) Capacity requirements for new public water systems.

(a) Any new community, non-transient non-community, or transient non-community public water system commencing operations on or after October 1, 1999, must meet the applicable requirements in this rule prior to serving drinking water to the public. The owner of such water system shall submit evidence of meeting all applicable requirements to the Department for review and shall commence operation only after Department approval. This rule does not apply to water systems that were built and operating prior to October 1, 1999.

(b) Requirements for Technical Capacity

(A) The water system must comply with the local land use requirements of OAR 333-061-0062, including submission to the Department of evidence of approval by the local land use authority.

(B) The water system must comply with plan submission and review requirements of OAR 333-061-0060, and plans submitted must comply with construction standards in OAR 333-061-0050.

(C) The owner of a new water system must demonstrate a valid water right permit as required and prescribed by the Oregon Water Resources Department (ORS Chapter 537).

(D) The water system must submit initial water quality test results demonstrating compliance with applicable Maximum Contaminant Levels (OAR 333-061-0030), and applicable treatment requirements and performance standards (OAR 333-061-0032 and 0034).

(E) Community water systems shall have water use meters installed at all service connections.

(F) Community water systems with 300 or more service connections shall have a master plan meeting the requirements of OAR 333-061-0060.

(c) Requirements for Managerial Capacity:

(A) Community and non-transient non-community water systems must employ or contract for the services of a certified operator as required by OAR 333-061-0225.

(B) Community water systems within areas of Oregon where State or Federally listed sensitive, threatened or endangered fish species are located, shall consult with the Oregon Water Resources Department. If required by the Oregon Water Resources Department, community water systems shall have water management and conservation plans meeting the requirements of Oregon Water Resources Department OAR 690-86-0010 through 0920.

(d) Requirements for Financial Capacity. The water system must establish a water rate structure and billing procedure, or alternate financial plan, to assure that funds are collected and available to meet the anticipated operation, maintenance, and replacement costs of the water system.

(3) Capacity requirements for public water systems applying for a loan from the Drinking Water State Revolving Loan Fund.

(a) All public water systems qualifying for a Drinking Water State Revolving Fund loan must receive a capacity assessment for technical and managerial capacity from the Department, and financial capacity from the Oregon Economic & Community Development Department through the loan application process, prior to contract execution.

(b) All deficiencies identified in the capacity assessment must be corrected such that:

(A) Those deficiencies identified in the capacity assessment as major deficiencies must be corrected prior to contract execution. Major deficiencies include but are not limited to the following:

(i) Under technical capacity, major infrastructure deficiencies identified in the sanitary survey and not corrected as a part of this project or identified as a deficiency under paragraph (E) of this subsection; or

(ii) Under managerial capacity, no certified operator and no contract or agreement for operator services from another water system or management agency; or

(iii) Under financial capacity, inappropriate financial statements, lack of a capital financing program, or an inadequate rate structure to cover necessary systemoperation, debt service, or capital replacement.

(B) Those deficiencies identified in the capacity assessment as loan conditions must be corrected as a part of the contract prior to contract completion or on a schedule set and/or approved and tracked by the Department or its designee. Loan condition deficiencies are deficiencies which may take considerable staff or contractor time and possibly some funding to correct. Loan condition deficiencies include but are not limited to the following:

(i) Under technical capacity, inadequate or no water rights, incomplete installation of water use meters, incomplete or no engineering drawings of the water system, out-of-date or no master plan, or incomplete or no plan review on prior construction projects; or

(ii) Under managerial capacity, having an operator at a lower level than required in responsible charge of the water system, no written emergency response plan, no written water conservation program if required by the Water Resources Department under OAR 690-086-0010 through 690-086-0920, no written water system operations manual, or no cross connection program.

(C) Those deficiencies identified in the capacity assessment as short term deficiencies must be corrected prior to contract completion and will be tracked by the Department. Short term deficiencies are deficiencies which can be quickly corrected with additional staff attention. Short term deficiencies include but are not limited to the following:

(i) Under technical capacity, water quality monitoring is incomplete, no coliform sample plan or site map, or no written water quality monitoring plan; or

(ii) Under managerial capacity, no annual cross connection summary report if required, or no consumer confidence report if required.

(D) Those deficiencies identified in the capacity assessment as corrected with the project will be considered by the Department as corrected with contract completion.

(E) All other deficiencies identified in the capacity assessment must be identified and established as a future construction project in the water system master plan, feasibility study, or other such document in order to be considered by the Department as corrected in the future.

(c) Funding to correct a deficiency identified as a loan condition under paragraph (b)(B) of this section may be included as part of the project contract under the Drinking Water State Revolving Fund, if that part of the project to correct the deficiency qualifies under the terms of the Drinking Water State Revolving Fund.

(4) Capacity requirements for other public water systems.

(a) All community, non-transient non-community, and transient non-community public water systems will receive capacity assessments conducted by or with the assistance of the Department.

(A) The capacity assessment consists of a written report identifying deficiencies in technical, managerial, and financial capacity, and a letter listing recommendations to correct the deficiencies. The findings of the capacity assessment and recommendations for correction will be presented to the management of the water system at a regular or special meeting.

(B) The frequency of capacity assessments for a public water system, as described in this subsection, is dependent on the risk to human health as determined by the Department.

(C) The recommendations for correction of deficiencies identified in capacity assessments are, or, become requirements for any public water system, as described in this subsection, with multiple violations of the drinking water standards, in significant non-compliance with the drinking water standards, or an Administrative Order issued by the Department.

Stat. Auth.: ORS 431 & 448, 448.131

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.268, 448.273

Hist.: OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 2-2008, f. & cert. ef. 2-15-08

333-061-0070

Cross Connection Control Requirements

(1) Water suppliers shall undertake cross connection control programs to protect the public water systems from pollution and contamination.

(2) The water supplier's responsibility for cross connection control shall begin at the water supply source, include all public treatment, storage, and distribution facilities under the water supplier's control, and end at the point of delivery to the water user's premise.

(3) Water suppliers shall develop and implement cross connection control programs that meet the minimum requirements set forth in these rules.

(4) Water suppliers shall develop a procedure to coordinate cross connection control requirements with the appropriate local administrative authority having jurisdiction.

(5) The water supplier shall ensure that inspections of approved air gaps, approved devices, and inspections and tests of approved backflow prevention assemblies protecting the public water system are conducted:

(a) At the time of installation, any repair or relocation;

(b) At least annually;

(c) More frequently than annually for approved backflow prevention assemblies that repeatedly fail, or are protecting health hazard cross connections, as determined by the water supplier;

(d) After a backflow incident; or

(e) After an approved air gap is re-plumbed.

(6) Approved air gaps, approved devices, or approved backflow prevention assemblies, found not to be functioning properly shall be repaired, replaced or re-plumbed by the water user or premise owner, as defined in the water supplier's local ordinance or enabling authority, or the water supplier may take action in accordance with subsection 9(a) of these rules.

(7) A water user or premise owner who obtains water from a water supplier must notify the water supplier if they add any chemical or substance to the water.

(8) Premise isolation requirements:

(a) For service connections to premises listed or defined in Table 32 (Premises Requiring Isolation), the water supplier shall ensure an approved backflow prevention assembly or an approved air gap is installed;

(A) Premises with cross connections not listed or defined in Table 32 (Premises Requiring Isolation), shall be individually evaluated. The water supplier shall require the installation of an approved backflow prevention assembly or an approved air gap commensurate with the degree of hazard on the premise, as defined in Table 33 (Backflow Prevention Methods);

(B) In lieu of premise isolation, the water supplier may accept an in-premise approved backflow prevention assembly as protection for the public water system when the approved backflow prevention assembly is installed, maintained and tested in accordance with the Oregon Plumbing Specialty Code and these rules.

(b) Where premise isolation is used to protect against a cross connection, the following requirements apply;

(A) The water supplier shall:

(i) Ensure the approved backflow prevention assembly is installed at a location adjacent to the service connection or point of delivery;

(ii) Ensure any alternate location used must be with the approval of the water supplier and must meet the water supplier's cross connection control requirements; and

(iii) Notify the premise owner and water user, in writing, of thermal expansion concerns.

(B) The premise owner shall:

(i) Ensure no cross connections exist between the point of delivery from the public water system and the approved backflow prevention assemblies, when these are installed in an alternate location; and

(ii) Assume responsibility for testing, maintenance, and repair of the installed approved backflow prevention assembly to protect against the hazard.

(c) Where unique conditions exist, but not limited to, extreme terrain or pipe elevation changes, or structures greater than three stories in height, even with no actual or potential health hazard, an approved backflow prevention assembly may be installed at the point of delivery; and

(d) Where the water supplier chooses to use premise isolation by the installation of an approved backflow prevention assembly on a one- or two-family dwelling under the jurisdiction of the Oregon Plumbing Specialty Code and there is no actual or potential cross connection, the water supplier shall:

(A) Install the approved backflow prevention assembly at the point of delivery;

(B) Notify the premise owner and water user in writing of thermal expansion concerns; and

(C) Take responsibility for testing, maintenance and repair of the installed approved backflow prevention assembly.

(9) In community water systems, water suppliers shall implement a cross connection control program directly, or by written agreement with another agency experienced in cross connection control. The local cross connection program shall consist of the following elements:

(a) Local ordinance or enabling authority that authorizes discontinuing water service to premises for:

(A) Failure to remove or eliminate an existing unprotected or potential cross connection;

(B) Failure to install a required approved backflow prevention assembly;

(C) Failure to maintain an approved backflow prevention assembly; or

(D) Failure to conduct the required testing of an approved backflow prevention assembly.

(b) A written program plan for community water systems with 300 or more service connections shall include the following:

(A) A list of premises where health hazard cross connections exist, including, but not limited to, those listed in Table 32 (Premises Requiring Isolation);

(B) A current list of certified cross connection control staff members;

(C) Procedures for evaluating the degree of hazard posed by a water user's premise;

(D) A procedure for notifying the water user if a non-health hazard or health hazard is identified, and for informing the water user of any corrective action required;

(E) The type of protection required to prevent backflow into the public water supply, commensurate with the degree of hazard that exists on the water user's premise, as defined in Table 33 (Backflow Prevention Methods);

(F) A description of what corrective actions will be taken if a water user fails to comply with the water supplier's cross connection control requirements;

(G) Current records of approved backflow prevention assemblies installed, inspections completed, backflow prevention assembly test results on backflow prevention assemblies and verification of current Backflow Assembly Tester certification; and

(H) A public education program about cross connection control.

(c) The water supplier shall prepare and submit a cross connection control Annual Summary Report to the Department, on forms provided by the Department, before the last working day of March each year.

(d) In community water systems having 300 or more service connections, water suppliers shall ensure at least one person is certified as a Cross Connection Control Specialist, unless specifically exempted from this requirement by the Department.

(10) Fees: Community water systems shall submit to the Department an annual cross connection program implementation fee, based on the number of service connections, as follows:

Service Connections:	Fee:
15-99	$30.
100-999	$75.
1,000-9,999	$200.
10,000 or more	$350.

(a) Billing invoices will be mailed to water systems in the first week of November each year and are due by January first of the following year;

(b) Fees are payable to Department of Human Services by check or money order;

(c) A late fee of 50% of the original amount will be added to the total amount due and will be assessed after January 31 of each year.

(11) In transient or non-transient non-community water systems, the water supplier that owns and/or operates the system shall:

(a) Ensure no cross connections exist, or are isolated from the potable water system with an approved backflow prevention assembly, as required in section (12) of this rule;

(b) Ensure approved backflow prevention assemblies are installed at, or near, the cross connection; and

(c) Conduct a cross connection survey and inspection to ensure compliance with these rules. All building permits and related inspections are to be made by the Department of Consumer and Business Services, Building Codes Division, as required by ORS 447.020.

(12) Approved backflow prevention assemblies required under these rules shall be assemblies approved by the University of Southern California, Foundation for Cross Connection Control and Hydraulic Research, or other equivalent testing laboratories approved by the Department.

(13) Backflow prevention assemblies installed before the effective date of these rules that were approved at the time of installation, but are not currently approved, shall be permitted to remain in service provided the assemblies are not moved, the piping systems are not significantly remodeled or modified, the assemblies are properly maintained, and they are commensurate with the degree of hazard they were installed to protect. The assemblies must be tested at least annually and perform satisfactorily to the testing procedures set forth in these rules.

(14) Tests performed by Department-certified Backflow Assembly Testers shall be in conformance with procedures established by the University of Southern California, Foundation for Cross Connection Control and Hydraulic Research, Manual of Cross Connection Control, 9th Edition, December 1993, or other equivalent testing procedures approved by the Department.

(15) Backflow prevention assemblies shall be tested by Department-certified Backflow Assembly Testers, except as otherwise provided for journeyman plumbers or apprentice plumbers in OAR 333-061-0072 of these rules (Backflow Assembly Tester Certification). The Backflow Assembly Tester shall provide a copy of each completed test report to the water user or premise owner, and the water supplier:

(a) Within 10 working days; and

(b) The test reports will be in a manner and form acceptable to the water supplier.

(16) All approved backflow prevention assemblies subject to these rules shall be installed in accordance with OAR 333-061-0071 and the Oregon Plumbing Specialty Code.

(17) The Department shall establish an advisory board for cross connection control issues consisting of not more than nine members, and including representation from the following:

(a) Oregon-licensed Plumbers;

(b) Department-certified Backflow Assembly Testers;

(c) Department-certified Cross Connection Specialists;

(d) Water Suppliers;

(e) The general public;

(f) Department-certified Instructors of Backflow Assembly Testers or Cross Connection Specialists;

(g) Backflow assembly manufacturers or authorized representatives;

(h) Engineers experienced in water systems, cross connection control and/or backflow prevention; and

(i) Oregon-certified Plumbing Inspectors. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 431 & 448

Stats. Implemented: ORS 431.110, 431.150, 448.131, 448.150, 448.268, 448.271, 448.273, 448.279, 448.295 & 448.300

Hist.: HD 106, f. & ef. 2-6-76; HD 17-1981(Temp), f. & ef. 8-28-81; HD 4-1982, f. & ef. 2-26-82; Renumbered from 333-042-0230, HD 2-1983, f. & ef. 2-23-83; HD 20-1983, f. 10-20-83, ef. 11-1-83; HD 30-1985, f. & ef. 12-4-85; HD 3-1987, f. & ef. 2-17-87; HD 1-1988, f. & cert. ef. 1-6-88; HD 9-1989, f. & cert. ef. 11-13-89; HD 26-1990, f. 12-26-90, cert. ef. 12-29-90; HD 1-1994, f. & cert. ef. 1-7-94; HD 1-1996, f. 1-2-96, cert. ef. 1-2-96; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; PH 34-2004, f. & cert. ef. 11-2-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08

333-061-0072

Backflow Assembly Tester Certification

(1) The Department shall certify individuals who successfully complete all the requirements of these rules for testing backflow prevention assemblies. Only persons certified by the Department to test backflow prevention assemblies shall perform the required field-testing on backflow prevention assemblies, except as otherwise provided that:

(a) Journeyman plumbers defined as those who hold a certificate of competency issued under ORS 693 or apprentice plumbers, as defined under ORS 693.010; and

(b) Journeyman plumbers or apprentice plumbers who test backflow prevention assemblies shall satisfactorily complete a Department-approved Backflow Assembly Tester training course, according to rules adopted by the Director of Consumer and Business Services.

(2) Requirements for initial application for Backflow Assembly Tester certification shall include:

(a) Satisfactory completion of a Department-approved Backflow Assembly Tester training course within 12 months prior to the Department receiving the applicant's completed application;

(b) Satisfactory completion of all written and physical-performance examinations, including questions specific to OAR 333-061-0070 through 333-061-0073, administered by a Department-approved certification agency;

(A) A minimum score of 75% is required to pass the Department-approved Backflow Assembly Tester written examination;

(B) A minimum score of 90% is required to pass the Department-approved Backflow Assembly Tester physical-performance examination; and

(C) The Department will make available a list of approved certification training and testing sources.

(c) Registration with the Construction Contractor's Board or licensure with the Landscape Contractor's Board, as required by ORS 448.279(2);

(d) Submission of proof of high school graduation or equivalent;

(e) Submission of a completed initial application with all required documentation as specified on the initial application form and in these rules; and

(f) Submission of an initial application fee as defined in OAR 333-061-0072(5).

(3) Requirements for Backflow Assembly Tester certification renewal shall include:

(a) All Backflow Assembly Tester certificates will expire on June 30 of every odd-numbered year, beginning June 30, 2005. Backflow Assembly Testers can only perform tests if they possess a current, valid certificate;

(b) Satisfactory completion of 0.5 CEU in backflow prevention-related fields taken at a Department-approved certification training agency within the 2-year period immediately prior to the date of the certification renewal application;

(c) Satisfactory completion of all written and physical-performance examinations, including questions specific to OAR 333-061-0070 through 333-061-0073, administered by a Department-approved certification agency;

(A) A minimum score of 75% is required to pass the Department-approved Backflow Assembly Tester written examination;

(B) A minimum score of 90% is required to pass the Department-approved Backflow Assembly Tester physical-performance examination; and

(C) The Department will make available a list of approved certification training and testing sources.

(d) Registration with the Construction Contractor's Board or licensure with the Landscape Contractor's Board, as required by ORS 448.279(2);

(e) Submission of yearly test gauge calibration reports performed in the same month every year, as determined by the Backflow Assembly Tester;

(f) Submission of a completed renewal application with all required documentation as specified on the renewal application form and in these rules;

(g) Submission of a renewal application fee, as defined in OAR 333-061-0072(5);

(h) The Department may grant certification renewal without a reinstatement fee for up to 30 days after the expiration date of a certificate. A reinstatement fee of $50 will be added to the renewal fee for all renewal application fees received after the 30-day period; and

(i) A Backflow Assembly Tester who does not renew within 12 months of the expiration date of his or her certificate will be required to meet all requirements of an initial applicant in section (2) of these rules.

(4) The Department may issue Backflow Assembly Tester certification based on reciprocity if the Department determines the issuing state or entity has certification training and testing standards and qualifications substantially equivalent to the Department's certification training and testing standards and qualifications, and the applicant/Backflow Assembly Tester meets all requirements set forth in these rules, including:

(a) Submission of current certification from a state or entity having substantially equivalent certification training and testing standards, as determined by the Department;

(b) Submission of attendance and successful completion of an Oregon Department-approved Backflow Assembly Tester certification renewal class, including questions specific to OAR 333-061-0070 through 333-061-0073, within the 12 months prior to submitting the completed reciprocity application;

(A) A minimum score of 75% is required to pass the Department-approved Backflow Assembly Tester written examination;

(B) A minimum score of 90% is required to pass the Department-approved Backflow Assembly Tester physical-performance examination; and

(C) The Department will make available a list of approved certification training and testing sources.

(c) Registration with the Construction Contractor's Board or licensure with the Landscape Contractor's Board, as required by ORS 448.279(2);

(d) Submission of proof of high school graduation or equivalent;

(e) Submission of yearly test gauge calibration reports performed in the same month every year, as determined by the Backflow Assembly Tester;

(f) Submission of a completed reciprocity application form with all required documentation as specified on the reciprocity application form and in these rules; and

(g) Submission of a reciprocity application fee, as defined in OAR 333-061-0072(5).

(5) Application fees for Backflow Assembly Tester certification.

(a) Applicants for certification shall pay an application fee, made payable to the Department of Human Services, Health Services;

(b) The Department will not refund any fees once it has initiated processing an application;

(c) The application fees are:

(A) Initial Certification (2-years) $70;

(B) Certificate Renewal (2-years) $70;

(C) Reciprocity Review $35 + Initial Certification fee;

(D) Reinstatement $50 + Certificate Renewal fee; and

(E) Combination Certificate Renewal $110.

(d) Initial certification fees shall be prorated to the nearest year for the remainder of the 2-year certification period; and

(e) The Department shall apply the Combination Certificate Renewal fee when an applicant simultaneously applies for renewal of his or her Backflow Assembly Tester and Cross Connection Specialist certifications.

(6) Enforcement actions for applicant/Backflow Assembly Tester.

(a) The Department may deny an initial application for certification, an application for renewal of certification, an application for certification based on reciprocity, or revoke a certification if the Department determines:

(A) The applicant/Backflow Assembly Tester provided false information to the Department;

(B) The applicant/Backflow Assembly Tester certification issued by another state or entity was revoked;

(C) The applicant/Backflow Assembly Tester has permitted another person to use his or her certificate number;

(D) The applicant/Backflow Assembly Tester has failed to properly perform backflow prevention assembly testing;

(E) The applicant/Backflow Assembly Tester has falsified a backflow assembly test report;

(F) The applicant/Backflow Assembly Tester has failed to obtain and maintain a Construction Contractor's Board registration or a Landscape Contractor's Board license, as required by ORS 448.279(2);

(G) The applicant/Backflow Assembly Tester has failed to comply with these rules or other applicable Federal, State or local laws or regulations; or

(H) The applicant/Backflow Assembly Tester performs backflow assembly tests with a gauge that was not calibrated for accuracy within the 12-month period prior to testing the assembly.

(b) A person whose initial or renewal application has been denied, whose application for reciprocity has been denied, or whose certification has been revoked, has the right to appeal under the provisions of Chapter 183, Oregon Revised Statutes;

(c) Applicants or Backflow Assembly Testers who have been denied initial, renewal, or reciprocity certification or whose certifications have been revoked, may not reapply for certification for 1 year from the date of denial or revocation of certification; and

(d) Applicants or Backflow Assembly Testers may petition the Department prior to a year from the date of denial or revocation and may be allowed to reapply at an earlier date, at the discretion of the Department.

(e) Backflow Assembly Tester test reports shall be made available to the Department upon request.

Stat. Auth.: ORS 431 & 448

Stats. Implemented: ORS 448.280, 285, 290

Hist.: HD 1-1994, f. & cert. ef. 1-7-94; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 4-1999, f. 7-14-99, cert. ef. 7-15-99; PH 34-2004, f. & cert. ef. 11-2-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08

333-061-0076
Sanitary Surveys

(1) All sanitary surveys as defined by OAR 333-061-0020(141) and this rule shall be conducted by the Department or contract county health department staff.

(2) The sanitary survey report shall be completed by staff and sent to the water system following the site visit. The content of the sanitary survey report shall address, at a mininum, the following components of a water system: source of supply; treatment; distribution system; finished water storage; pumps, pump facilities and controls; monitoring, reporting and data verification; system management and operations; and operator certification compliance.

(3) The sanitary survey report must identify any significant deficiency prescribed in this section discovered in the on-site visit. Significant deficiencies for systems using surface water or groundwater sources under the direct influence of surface water as follows:

(a) Surface Water Treatment:

(A) Incorrect location for compliance turbidity monitoring;

(B) For systems serving >3300 no auto-dial, call-out alarm or auto-plant shutoff for low chlorine residual;

(C) For conventional or direct filtration, no auto-dial, call-out alarm or auto-plant shutoff for high turbidity when no operator is on-site.

(D) For conventional or direct filtration, settled water turbidity not measured daily;

(E) For conventional or direct filtration, turbidity profile not conducted on individual filters at least quarterly;

(F) For cartridge filtration, no pressure gauges before and after cartridge filter;

(G) For diatomaceous earth filtration, body feed not added with influent flow.

(b) Disinfection:

(A) No means to adequately determine flow rate on contact chamber effluent line;

(B) Failure to calculate CT values correctly;

(C) No means to adequately determine disinfection contact time under peak flow and minimum storage conditions.

(c) Finished water storage:

(A) Hatch not locked;

(B) Roof and hatch not watertight;

(C) No flap-valve or equivalent over drain/overflow;

(D) No screened vent.

(4) Sanitary survey fees. All community, non-transient noncommunity, transient noncommunity, and state regulated water systems are required to undergo a sanitary survey on a frequency determined by the Department and are subject to a fee payable to the Department by December 31of the year in which the sanitary survey is conducted. The fee schedule is as follows: [Table not included. See ED. NOTE.]

(5) Water systems that use surface water sources or groundwater sources under direct influence of surface water must respond in writing to the Department or county Health Department within 45 days of receiving the sanitary survey report. The response of the water system must include:

(a) The plan the public water system will follow to resolve or correct the identified significant deficiencies; and

(b) The plan the public water system will follow to resolve or correct any violations of drinking water regulations as identified during the sanitary survey or any other time; and

(c) The schedule the public water system will follow to execute the plan.

(6) Water systems that use surface water sources or groundwater sources under direct influence of surface water that fail to respond to the Department or county Health Department within the specified 45 days, are required to issue a tier 2 public notice as prescribed in OAR 333-061-0042(2)(b)(D).

(7) Water systems that use surface water sources or groundwater sources under direct influence of surface water must correct the deficiencies or violations identified in the sanitary survey according to the documented schedule identified in section (4) of this rule. Failure to do so constitutes a violation of these rules.

Stat. Auth.: ORS 431 & 448
Stats. Implemented: ORS 431.123, 431.131, 448.175, 448.273
Hist.: OHD 23-2001, f. & cert. ef. 10-31-01; OHD 17-2002, f. & cert. ef. 10-25-02; PH 12-2003, f. & cert. ef. 8-15-03; PH 2-2008, f. & cert. ef. 2-15-08

333-061-0215
Definitions

(1) "Available" means on-site or able to be contacted as needed, to initiate the appropriate action in a timely manner.

(2) "Certificate" means a certificate of competency issued by the Department stating that the operator meets the requirements for a specific operator classification and level.

(3) "Continuing Education Unit (CEU)" — A nationally recognized unit of measurement for assigning credits for education or training that provides the participant with advanced or post high school learning. One CEU is awarded for every ten classroom hours of lecture or the equivalent of participation in an organized education experience, conducted under responsible sponsorship, capable direction and qualified instruction as determined by the Department or its designee.

(4) "Conventional Filtration Treatment Plant" means a water system using conventional or direct filtration to treat surface water or groundwater under the direct influence of surface water.

(5) "Department" means the Department of Human Services.

(6) "Direct Responsible Charge" (DRC) means an individual designated by the owner to make decisions regarding the daily operational activities of a public water system, water treatment facility and/or distribution system, that will directly impact the quality and/or quantity of drinking water.

(7) "Filtration Endorsement" means a special provision added to a Water Treatment Operator's certification that includes experience in and knowledge of the operational decision making of a Conventional Filtration Treatment Plant.

(8) "Industrial/Commercial Water Treatment" means treatment for the production of high purity and/or process water for industrial or commercial use.

(9) "On Call" means available to respond immediately by radio or telephone.

(10) "Operator" means an individual with responsibilities that directly impact the quality of drinking water including individuals making process control or system integrity decisions about water quality or quantity that affect public health. This term does not include officials, managers, engineers, directors of public works, or equivalent whose duties do not include the actual "hands-on" operation or supervision on-site of water system facilities or operators.

(11) "Operating Experience" means the routine performance of duties, tasks, and responsibilities at a drinking water system or in a related field as allowed under OAR 333-061-0245(6)(b).

(12) "Operational Decision Making" means having responsibility for making decisions among the alternatives in the performance of the water treatment plant or the water distribution system regarding water quality or quantity which affect public health.

(13) "Post High School Education" means, that education acquired through programs such as short schools, bona fide correspondence courses, trade schools, colleges, universities, formalized workshops or seminars that are acceptable to the Department and for which college or continuing education credit is issued by the training sponsor.

(14) "Small Water System" means a community or non-transient non-community water system serving fewer than 150 connections and either uses groundwater as its only source or purchases its water from another public water system without adding any additional treatment.

(15) "Water System" means potable water treatment plants and water distribution systems:

(a) That have 15 or more service connections used by year-round residents or that regularly serve 25 or more year-round residents; or

(b) That regularly serve at least 25 of the same persons for more than six months per year;

(c) That are defined as a community or nontransient noncommunity water systems in OAR 333-061-0020.

(16) "Water Treatment" means a process of altering water quality by physical or chemical means and may include domestic, industrial and/or commercial applications.

Stat. Auth.: ORS 448
Stats. Implemented: ORS 448.450, 448.455, 448.460, 448.465 & 448.994
Hist.: HD 2-1988(Temp), f. & cert. ef. 2-10-88; HD 18-1988, f. & cert. ef. 7-27-88; HD 19-1990, f. 6-28-90, cert. ef. 7-2-90; HD 14-1997, f. & cert. ef. 10-31-97; OHD 3-2000, f. 3-8-00, cert. ef. 3-15-00; OHD 16-2001(Temp), f. 7-31-01, cert. ef. 8-1-01 thru 1-28-02; Administrative correction 3-14-02; OHD 7-2002, f. & cert. ef. 5-2-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08

333-061-0245
Applications For Certification Levels 1–4

(1) Certification will be granted to applicants on the following basis:

(a) The information submitted on the application form as well as any information already on file with the Department;

(b) An evaluation of the applicant's qualifications to take the examination by the Department; and

(c) Successfully passing an examination approved and administered by the Department.

(2) Certification by reciprocity is based on current, valid certification in another state or province which has a recognized certification program. Certification may be granted at the level where the examination, experience, and education requirements are equivalent to those outlined in these rules.

(a) Individuals requesting reciprocity must submit a complete exam/reciprocity application and pay the reciprocity application fee for each certificate desired.

(b) Reciprocity applications are reviewed on a case-by-case basis.

(c) The Department may issue a certificate without examination, when, in the judgment of the Department, the certification examination requirements in the other state or province are substantially equivalent to, and the person's education and experience meet the requirements set forth herein.

(d) The applicant must pay an exam fee for any examination required.

(e) When reciprocity is granted, the person will be subject to the same requirements of renewal as any other persons certified under these rules.

(3) Each applicant for certification must meet the minimum requirements of experience and education as listed under 333-061-0235 "Operator Requirements Levels 1-4" in order to be eligible for admission to an examination.

(4) Applicants denied admission to the certification examination or denied certification by reciprocity have the right to appeal such a decision to the Department.

(5) Transcripts or proof of satisfactory completion of all education and documentation of experience claimed must be submitted with the application.

(6) Experience and education qualifications are based on the following:

(a) One year of experience is equivalent to 12 months full-time with 100% of time spent on activities directly relating to the certificate type for which application is made.

(b) The Department may credit substitute experience, not to exceed one-half of the qualifying operating experience required, in any of the following areas:

(A) When applying for a Water Distribution Certificate:

(i) Wastewater Collection experience;

(ii) Water Treatment Plant experience; and

(iii) Cross Connection Control experience.

(iv) Industrial/commercial process water treatment experience.

(B) When applying for a Water Treatment Certificate:

(i) Wastewater Treatment Plant experience;

(ii) Wastewater Treatment Laboratory experience;

(iii) Water Distribution System experience; and

(iv) Industrial/commercial process water treatment experience.

(c) Post High School Education must be directly related to the field of water treatment/water distribution and either acceptable as college transfer or valid Continuing Education Units (CEUs).

(A) Each year of college education completed, (one year of college education is 30 semester hours or 45 quarter hours, or the equivalent) in the fields of engineering, chemistry, water/wastewater technology, or allied sciences.

(B) Forty-Five (45) valid CEUs is equivalent to one year of post high school education.

(A) Any combination of 45 college credits and CEUs can be used to total one year of post high school education.

(D) Any degree or accumulation of college credit hours must be from an educational institution accredited through an agency recognized by the U.S. Department of Education to be acceptable.

(d) Where education credit is earned for on-the-job training, the Department will consider experience or education, but not both, in qualifying experience for an applicant.

(7) All applications for a new certificate or certificate at a higher grade, and some applications for reciprocity, require an examination and must be accompanied by a fee payment equal to the sum of the appropriate application fee and exam fee as prescribed in OAR 333-061-0265.

(8) All applications for regular exams scheduled by the Department, must be accompanied by the appropriate exam fee, application fee, and documentation and be postmarked to the Department by the 15th day of March and the 15th day of August prior to the scheduled examination.

(9) The Department will review the qualifications of each applicant for the purpose of determining whether the applicant has met the minimum requirements for experience, education, and special training as described in these rules.

Stat. Auth.: ORS 448

Stats. Implemented: ORS 448.450, 448.455, 448.460, 448.465 & 448.994

Hist.: HD 2-1988(Temp), f. & cert. ef. 2-10-88; HD 18-1988, f. & cert. ef. 7-27-88; HD 11-1989(Temp), f. & cert. ef. 12-29-89; HD 19-1990, f. 6-28-90, cert. ef. 7-2-90; HD 1-1996, f. 1-2-96, cert. ef. 1-5-96; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2002, f. & cert. ef. 5-2-02; OHD 17-2002, f. & cert. ef. 10-25-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08

333-061-0250

Examinations Levels 1–4

(1) Examinations will be given at least twice annually at locations and at times designated by the Department.

(2) The applicant must submit an examination fee and an application fee with all applications submitted to the Department.

(3) The applicant must include documentation of all claims of education and experience.

(4) The applicant must obtain a minimum score of 70% in order to pass the examination.

(5) If an applicant needs to take an examination at a time other than when regularly scheduled by the Department, the applicant will submit an application fee and a special exam fee. The Department will act upon these requests at its earliest opportunity. The regular exam fee will apply to special exams needing disability accommodation under the Federal American's With Disabilities Act.

(6) An applicant may not take the same examination more than twice in a twelve month period unless they can demonstrate to the satisfaction of the Department specific education completed in the subject area since taking the second examination.

(7) The Department will deny any application for examination or reciprocity if the certificate requested is of the same type as an expired Oregon certificate that is still under the one-year reinstatement period. Once the expired certificate is reinstated, the application may be processed.

(8) The Department will not accept incomplete, unsigned, or improperly signed applications or applications not accompanied by appropriate fee(s) and documentation for all claims of education and experience.

(9) The Department or its designee will score all examinations and notify applicants of the results. Examinations will not be returned to the applicant.

(10) After passing an examination, the Department will certify operators and issue a wall and a wallet certificate valid for the remainder of the year.

Stat. Auth.: ORS 488

Stats. Implemented: ORS 448.450, 448.455, 448.460, 448.465 & 448.994

Hist.: HD 2-1988(Temp), f. & cert. ef. 2-10-88; HD 18-1988, f. & cert. ef. 7-27-88; HD 19-1990, f. 6-28-90, cert. ef. 7-2-90; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2002, f. & cert. ef. 5-2-02; PH 4-2003, f. & cert. ef. 3-28-03; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08

333-061-0260

Certificate Renewal Levels 1–4

(1) All certificates expire December 31 of each year. Applications for renewals and required documentation must be postmarked to the Department by December 31. An applicant may renew the certificate upon the payment of a renewal fee and satisfactory evidence presented to the Department that the operator has demonstrated the accumulation of two college credits or Continuing Education Units every two years as described below:

(a) The Department, or its designee, shall determine the relevance of the subject matter to the public health objectives of certification when determining the number of CEUs allowed for specialized operator training using the following criteria:

(A) Technical capacity includes: water treatment facilities construction and performance, source construction and protection, capacity, storage, pumping and distribution facility construction and protection, water distribution integrity/leakage and water quality issues related to public/user health.

(B) Managerial capacity includes: water system operation, planning, system governance, development and implementation of system policies, professional support, record keeping, Drinking Water and related regulations to insure protection of public health, communication and involvement with water users.

(C) Financial capacity includes: adequacy of revenues to meet expenses, revenue sources, affordability of user charges, rate setting process, budgeting, production and utilization of a capital improvement plan, periodic financial audits, bond ratings, debt and borrowing.

(b) Two college credits in the fields of engineering, chemistry, water/wastewater technology, or allied sciences will meet continuing education requirements.

(c) CEUs from other states having standards equal to or greater than these rules may be accepted by the Department.

(d) Maintaining CEU records is the responsibility of the operator.

(2) The Department will send a notice of certificate expiration to each certificate holder at the last address of record. Operators are not relieved of responsibility to reinstate their certificates if they do not receive the notice.

(3) An operator who fails to renew the certificate pursuant to the provisions of this section by the expiration date cannot be in direct responsible charge of a water system. The suspension may be lifted by paying the late fee, the renewal fee, and documentation of CEUs (when required), if postmarked by March 31 following the date of expiration.

(4) An operator who has failed to renew the certificate by March 31 following the date of expiration must apply for reinstatement of certification by submitting a Renewal Form accompanied by a reinstatement fee plus the annual renewal fee, and provide documentation of CEUs (when needed).

(5) If an operator fails to renew for a year following the date of expiration, the requirements established for new applicants must be met by passing an examination and paying examination and reinstatement fees.

Stat. Auth.: ORS 488

Stats. Implemented: ORS 448.450, 448.455, 448.460, 448.465 & 448.994

Hist.: HD 2-1988(Temp), f. & cert. ef. 2-10-88; HD 18-1988, f. & cert. ef. 7-27-88; HD 19-1990, f. 6-28-90, cert. ef. 7-2-90; HD 14-1997, f. & cert. ef. 10-31-97; OHD 7-2002, f. & cert. ef. 5-2-02; PH 4-2003, f. & cert. ef. 3-28-03; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08

333-061-0265

Fees

(1) All fees are to be made payable to the Department of Human Services.

(2) Application fees are not refundable unless:

(a) The Department has taken no action on a certification application;

(b) The Department determines the wrong application has been filed.

(3) Applicants for initial certification by exam must submit the exam fee and application fee, along with a complete application. Examination fees may be refunded if:

(a) The application is denied, or

(b) The applicant notifies the Department no less than one week in advance of the exam that the applicant is unable to sit for the exam.

(4) Applications will be accepted for processing only when accompanied by the appropriate fees as indicated below.

(a) Certification Renewal — $40;

(b) Combination Certification-each additional — $20;

(c) Exam Fee-all — $35;

(d) Special Exam Fee — $70;
(e) Application Fee:
(A) Level 1 Distribution or Treatment — $50;
(B) Level 2 Distribution or Treament — $70;
(C) Level 3 Distribution or Treatment — $90;
(D) Level 4 Distribution or Treatment — $110;
(E) Filtration Endorsement — $50;
(f) Reciprocity Review (each certification) — $100;
(g) Reinstatement $50 + Certificate Renewal Fee;
(h) Late Fee $30 + Certificate Renewal Fee;
(i) Document Replacement Fee — $25.

(5) Operators having more than one certification pertaining to water systems (water treatment and water distribution) may receive a combination certification. The fee is the full certification renewal fee for one certification and a lesser fee for each additional certification.

(6) The filtration endorsement is an extension of an operator's water treatment certification, and no additional annual fee is required to maintain the endorsement.

(7) A document Replacement Fee must be paid at the time of request for a replacement document.

Stat. Auth.: ORS 448
Stats. Implemented: ORS 448.450, 448.455, 448.460, 448.465 & 448.994
Hist.: HD 2-1988(Temp), f. & cert. ef. 2-10-88; HD 18-1988, f. & cert. ef. 7-27-88; HD 11-1989(Temp), f. & cert. ef. 12-29-89; HD 19-1990, f. 6-28-90, cert. ef. 7-2-90; OHD 3-2000, f. 3-8-00, cert. ef. 3-15-00; OHD 7-2002, f. & cert. ef. 5-2-02; PH 16-2004(Temp), f. & cert. ef. 4-9-04 thru 10-5-04; PH 20-2004, f. & cert. ef. 6-18-04; PH 33-2004, f. & cert. ef. 10-21-04; PH 2-2006, f. & cert. ef. 1-31-06; PH 2-2008, f. & cert. ef. 2-15-08

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Department of Human Services, Seniors and People with Disabilities Division
Chapter 411

Rule Caption: Nursing Facility Staffing and Definitions.
Adm. Order No.: SPD 1-2008(Temp)
Filed with Sec. of State: 2-8-2008
Certified to be Effective: 3-1-08 thru 8-28-08
Notice Publication Date:
Rules Amended: 411-085-0005, 411-086-0100
Subject: The Department of Human Services, Seniors and People with Disabilities Division (SPD) is temporarily amending OAR 411-085-0005 to update the definition for nursing assistant and add a definition for restorative aid. OAR 411-086-0100 is being temporarily amended to increase the minimum staffing requirement of nursing assistants assigned to provide resident services in licensed nursing facilities for the purpose of maximizing quality outcomes for nursing facility residents.
Rules Coordinator: Christina Hartman—(503) 945-6398

411-085-0005
Definitions

As used in OAR chapter 411, divisions 70 and 85-89, unless the rule requires otherwise, the following definitions apply:

(1) "Abuse" means:

(a) Any physical injury to a resident that has been caused by other than accidental means. This includes injuries that a reasonable and prudent person would have been able to prevent such as hitting, pinching or striking, or injury resulting from rough handling.

(b) Failure to provide basic care or services to a resident, which results in physical harm or unreasonable discomfort or serious loss of human dignity.

(c) Sexual contact, including fondling, with a resident caused by an employee, agent or other resident of a long-term care facility by force, threat, duress or coercion, or sexual contact where the resident has no ability to consent.

(d) Illegal or improper use of a resident's resources for the personal profit or gain of another person, borrowing resident funds, spending resident funds without the resident's consent or if the resident is not capable of consenting, spending resident funds for items or services from which the resident cannot benefit or appreciate, or spending resident funds to acquire items for use in common areas when such purchase is not initiated by the resident.

(e) Verbal abuse as prohibited by federal law, including the use of oral, written or gestured communication to a resident or visitor that describes a resident in disparaging or derogatory terms.

(f) Mental abuse as prohibited by law including humiliation, harassment, threats of punishment or deprivation directed toward the resident.

(g) Corporal punishment.

(h) Involuntary seclusion for convenience or discipline.

(2) "Abuse Complaint" means any oral or written communication to the Department of Human Services, one of its agents or a law enforcement agency alleging abuse.

(3) "Activities Program" means services offered to each resident that encourage the resident to participate in physical and mental exercise and that are designed to maintain or improve physical and mental well-being and social skills.

(4) "Applicant" means the person or persons required to complete a nursing facility application for a license. Applicant includes a sole proprietor, each partner in a partnership, or the corporation that owns the nursing facility business. Applicant also includes the sole proprietor, each partner in a partnership, or the corporation that operates the nursing facility on behalf of the nursing facility business owner.

(5) "Area Agency on Aging" or "AAA" means a Type B Area Agency on Aging that is an established public agency within a planning and service area designated under the Older Americans Act, 42 U.S.C. 3025, that has responsibility for local administration of Seniors and People with Disabilities Division programs.

(6) "Assessment" means a written evaluation of the resident's abilities, condition and needs based upon resident interview, observation, clinical and social records, and other available sources of information.

(7) "Care" means services required to maximize resident independence, personal choice, participation, health, self-care, psychosocial functioning and provide reasonable safety, all consistent with the preferences of the resident.

(8) "Certified Medication Assistant" or "Certified Medication Aide" means a certified nursing assistant who has successfully completed an Oregon State Board of Nursing approved training program for the administration of non-injectable medication.

(9) "Certified Nursing Assistant" means a person who has been certified as a nursing assistant pursuant to ORS chapter 678 and the rules adopted thereunder.

(10) "Change of Ownership" and "Change of Operator" means a change in the person or entity that owns the facility business and/or a change in the person or entity responsible for the provision of services at the facility. Events that change ownership include, but are not limited to the following:

(a) A change in the form of legal organization of the licensee;

(b) Transfer of the title to the nursing facility enterprise by the owner to another party;

(c) If the licensee is a corporation, dissolution of the corporation, merger of the corporation with another corporation, or consolidation of one or more corporations to form a new corporation;

(d) If the licensee is a partnership, any event that dissolves the partnership;

(e) Any lease, management agreement, or other contract or agreement that results in a change in the legal entity responsible for the provision of services at the facility; or

(f) Any other event that results in a change of the operating entity.

(11) "Day Care Resident" means a person who receives services and care in a nursing facility for not more than 16 hours per day and who is not bedfast.

(12) "Department" means the Department of Human Services.

(13) "Drug(s)" has the same meaning set forth in ORS chapter 689.

(14) "Entity" means "Person" as defined by these rules.

(15) "Establish a Nursing Facility" or "Maintain a Nursing Facility" means to possess or hold an incident of ownership in a nursing facility business.

(16) "Facility" or "Nursing Facility" means an establishment that is licensed by the Seniors and People with Disabilities Division as a nursing facility.

(17) "Health Care Facility" means a health care facility as defined in ORS 442.015, but also includes residential care facility as defined in ORS 443.400 and adult foster home as defined in ORS 443.705.

(18) "Hearing" means a contested case hearing according to the Administrative Procedures Act and the rules of the Department of Human Services.

(19) "Incident of Ownership" means:

(a) An ownership interest;

(b) An indirect ownership interest; or

(c) A combination of direct and indirect ownership interest.

(20) "Indirect Ownership Interest" means an ownership interest in an entity that has an ownership interest in another entity. This term includes an ownership interest in an entity that has an indirect ownership interest in another entity.

(21) "Inpatient Beds" means a bed in a facility available for occupancy by a resident who will or may be cared for and treated on an overnight basis.

(22) "Inspection" means any on-site visit to the facility by anyone designated by the Secretary of the U.S. Department of Health and Human Services, the Department of Human Services or a "Type B" Area Agency on Aging and includes but is not limited to a licensing inspection, certification inspection, financial audit, Medicaid Fraud Unit review, monitoring and complaint investigation.

(23) "Legal Representative" means Attorney at Law, a person holding a general power of attorney or special power of attorney for health care, guardian, conservator, or any person appointed by a court to manage the personal or financial affairs of a resident or person or agency legally responsible for the welfare or support of a resident, other than the facility.

(24) "Licensed Nurse" means a registered nurse (RN) or a licensed practical nurse (LPN).

(25) "Licensed Practical Nurse (LPN)" means a person licensed under ORS chapter 678 to practice practical nursing.

(26) "Licensee" means the applicant to whom a nursing facility license has been issued.

(27) "Local Designee of the Department" means the local unit of the Seniors and People with Disabilities Division or the Type B Area Agency on Aging.

(28) "Long Term Care Facility" means nursing facility.

(29) "Major Alteration" means change other than repair or replacement of building materials or equipment with materials and equipment of a similar type.

(30) "Management" or "Control Interest" means possessing the right to exercise operational or management control over, or to directly or indirectly conduct the day-to-day operation of an institution, organization or agency, or an interest as an officer or director of an institution, organization or agency organized as a corporation.

(31) "New Construction" means:

(a) A new building;

(b) An existing building or part of a building that is not currently licensed as a nursing facility;

(c) A part of an existing building that is not currently licensed for the purpose for which such part is proposed to be licensed (e.g., rooms that are proposed to be licensed as resident rooms, but that are not currently licensed as nursing facility resident rooms);

(d) A major alteration to an existing building, additions, conversions in use; or

(e) Renovation or remodeling of existing buildings.

(32) "NFPA" means National Fire Protection Association.

(33) "Nurse Practitioner" means a person certified under ORS chapter 678 as a nurse practitioner.

(34) "Nursing Assessment" means evaluation of fluids, nutrition, bowel/bladder elimination, respiration, circulation, skin, vision, hearing, musculoskeletal systems, allergies, personal hygiene, mental status, communicative skills, safety needs, rest, sleep, comfort, pain, other appropriate measures of physical status, and medication and treatment regimes. Nursing assessment includes data collection, comparison with previous data, and analysis or evaluation of that data, and utilization of available resource information.

(35) "Nursing Assistant" or "Nurse Aide" means a person who assists licensed nurses in the provision of nursing care services. "Nursing Assistant" includes but is not limited to certified nursing assistant, certified medication assistant and persons that have successfully completed a state approved certified nurse assistant training course.

(36) "Nursing Care" means direct and indirect care provided by a registered nurse, licensed practical nurse, or nursing assistant.

(37) "Nursing Facility" means an establishment with permanent facilities that include inpatient beds, providing medical services, including nursing services but excluding surgical procedures, and that provides care and treatment for two or more unrelated residents. In this definition, "treatment" means complex nursing tasks that cannot be delegated to an unlicensed person. "Nursing facility" shall not be construed to include facilities licensed and operated pursuant to any Oregon Revised Statute (ORS) other than ORS 441.020(2).

(38) "Nursing Facility Law" means ORS chapter 441 and the Oregon Administrative Rules for nursing facilities adopted pursuant thereto.

(39) "Nursing Home" means nursing facility.

(40) "Nursing Home Administrator" means a person licensed under ORS chapter 678 who is responsible to the licensee and is responsible for planning, organizing, directing and controlling the operation of a nursing facility.

(41) "Nursing Staff" means registered nurses, licensed practical nurses and nursing assistants providing direct resident care in the facility.

(42) "Owner" means a person with an ownership interest.

(43) "Ownership Interest" means the possession of equity in the capital, the stock, or the profits of an entity.

(44) "Person" means an entity, including an individual, a trust, an estate, a partnership, a corporation, or a state or governmental unit, including associations, joint stock, companies and insurance companies, a state, or a political subdivision or instrumentality including a municipal corporation, as defined in ORS 442.015.

(45) "Pharmacist" has the same meaning set forth in ORS 689.005.

(46) "Pharmacy" has the same meaning set forth in ORS 689.005.

(47) "Physician" means a person licensed under ORS chapter 677 as a physician.

(48) "Physician's Assistant" means a person registered under ORS chapter 677 as a physician assistant.

(49) "Podiatrist" means a person licensed under ORS chapter 672 to practice podiatry.

(50) "Prescription" has the same meaning set forth in ORS 689.005.

(51) "Public or Private Official" means:

(a) Physician, including any intern or resident;

(b) Licensed practical nurse or registered nurse;

(c) Employee of the Department of Human Services, Area Agency on Aging, county health department, community mental health program, or nursing facility;

(d) Person who contracts to provide services to a nursing facility;

(e) Peace officer;

(f) Clergyman;

(g) Registered social worker;

(h) Physical therapist;

(i) Legal counsel for the resident; or

(j) Guardian or family member for the resident.

(52) "Registered Nurse (RN)" means a person licensed under ORS chapter 678.

(53) "Rehabilitative Services" means specialized services by a therapist or a therapist assistant to a resident to attain optimal functioning including but not limited to, physical therapy, occupational therapy, speech and language therapy, and audiology.

(54) "Relevant Evidence" means factual information that tends to either prove or disprove the following:

(a) Whether abuse or other rule violation occurred;

(b) How abuse or other rule violation occurred; or

(c) Who was involved in the abuse or other rule violation.

(55) "Resident" means a person who has been admitted, but not discharged, from the facility.

(56) "Restorative Aide" means a certified nursing assistant specifically assigned to perform therapeutic exercises and activities to maintain or re-establish a resident's optimum physical function and abilities, according to the resident's restorative plan of care and pursuant to OAR 411-086-0150 (Nursing Services: Restorative Care).

(57) "Restorative Services" or "Restorative Nursing" means those measures provided by nursing staff and directed toward re-establishing and maintaining the resident to the resident's fullest potential.

(58) "Safety" means the condition of being protected from environmental hazards without compromise to resident's or legal guardian's choice or undue sacrifice of resident independence.

(59) "Significant Other" means a person designated by the resident or by the court to act in behalf of the resident. If the resident is not capable of such designation, and there is no court-appointed person, then a significant other shall mean a family member or friend who has demonstrated consistent concern for the resident. No rule using this term is intended to allow release of or access to confidential information to persons who are not otherwise entitled to such information or to allow such persons to make decisions on behalf of a resident that they are not entitled to make.

(60) "SPD" means the Department of Human Services, Seniors and People with Disabilities Division.

(61) "Suspected Abuse" means reasonable cause to believe that abuse may have occurred.

(62) "Trusteeship Fund" means a fund created under ORS 441.303 to meet expenses relating to the appointment of a Trustee for a nursing facility or a residential care facility.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 410.070, 441.055, 441.615, 441.637

Stats. Implemented: ORS 410.070, 441.055, 441.615, 441.630, 441.637, 441.650

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SSD 1-1995, f. 1-30-95, cert. ef. 2-1-95; SPD 26-2004, f. 7-30-04, cert.ef. 8-1-04; SPD 1-2008(Temp), f. 2-8-08, cert. ef. 3-1-08 thru 8-28-08

411-086-0100

Nursing Services: Staffing

(1) STAFFING PLAN.

(a) The facility shall have a written plan that:

(A) Ensures staffing sufficient to meet the minimum staffing requirements described in sections (3)(4) and (5) of this rule;

(B) Ensures staffing sufficient to meet the needs of each resident; and

(C) Identifies procedures to obtain required staff when absences occur.

(b) The facility shall maintain a written, weekly staffing schedule showing the number and category of staff assigned to each shift and the person to be called in the event of any absence.

(2) DAILY STAFF PUBLIC POSTING.

(a) The facility shall have the number of nursing staff on duty publicly posted 24 hours each day, using the DHS Nursing Facility Staff Posting Form SPD 717.

(A) The posted report shall be prominently displayed in a public area, readily accessible to residents and visitors.

(B) The posted report shall be at least 8.5 x 14 inches and printed in a minimum font size of 16.

(C) The staffing information shall be an accurate reflection of the actual staff working each shift.

(b) The posted staffing report shall include:

(A) Facility name;

(B) Current date;

(C) Current resident census;

(D) The total number and actual hours worked by registered nurses (RN), licensed practical nurses (LPN) and nursing assistants directly responsible for resident services per shift; and

(E) The minimum staffing standard, nursing assistant to resident ratio, referenced at sections (5)(c)(A) and (5)(c)(B) of this rule.

(c) The facility shall, upon oral or written request, make nurse staffing data available to the public for review at a cost not to exceed the community standard.

(d) The facility shall maintain the posted nurse staffing data for a minimum of 18 months.

(3) MINIMUM STAFFING, GENERALLY. Resident service needs shall be the primary consideration in determining the number and categories of nursing personnel needed. Nursing staff shall be sufficient in quantity and quality to provide nursing services for each resident as needed, including restorative services that enable each resident to achieve and maintain the highest possible degree of function, self-care and independence, as determined by the resident's care plan. Such staffing shall be provided even though it exceeds other requirements specified by this rule or specified in any waiver.

(4) MINIMUM LICENSED NURSE STAFFING.

(a) Licensed nurse hours shall include no less than one RN hour per resident per week.

(b) When a RN serves as the administrator in the temporary absence of the administrator, the RN's hours shall not be used to meet minimum nursing hours.

(c) In facilities with 41 or more beds, the hours of a licensed nurse who serves as facility administrator shall not be included in any licensed nurse coverage required by this rule.

(d) The licensed nurse serving as charge nurse may not be counted toward the minimum staffing requirement under sections (5)(c)(A) and (5)(c)(B) of this rule.

(e) The facility shall have a licensed charge nurse on each shift, 24-hours per day.

(A) A RN must serve as the licensed charge nurse for no less than eight consecutive hours between the start of day shift and end of evening shift, seven days a week.

(B) The Director of Nursing Services may serve as charge nurse only when the facility has 60 or fewer residents.

(C) Section (4)(e) of this rule may be waived by the Seniors and People with Disabilities Division (SPD). The request for waiver must comply with OAR 411-085-0040 and shall be reviewed annually. This waiver shall be considered by SPD if the facility certifies that:

(i) It has been unable to recruit appropriate personnel despite diligent effort (including offering wages at the community prevailing rate for nursing facilities);

(ii) The waiver will not endanger the health or safety of residents; and

(iii) A RN or physician is available and obligated to immediately respond to telephone calls from the facility.

(5) MINIMUM CERTIFIED NURSING ASSISTANT STAFFING.

(a) The facility shall determine the specific time frame for beginning and ending each consecutive eight hour shift using the following options:

(A) Option 1.

(i) Day shift from 5:30 a.m. to 1:30 p.m.

(ii) Swing shift from 1:30 p.m. to 9:30 p.m.

(iii) Night shift from 9:30 p.m. to 5:30 a.m.

(B) Option 2.

(i) Day shift from 6 a.m. to 2 p.m.

(ii) Swing shift from 2 p.m. to 10 p.m.

(iii) Night shift from 10 p.m. to 6 a.m.

(C) Option 3.

(i) Day shift from 6:30 a.m. to 2:30 p.m.

(ii) Swing shift from 2:30 p.m. to 10:30 p.m.

(iii) Night shift from 10:30 p.m. to 6:30 a.m.

(D) Option 4.

(i) Day shift from 7 a.m. to 3 p.m.

(ii) Swing Shift from 3 p.m. to 11 p.m.

(iii) Night shift from 11 p.m. to 7 a.m.

(b) Each resident shall have assigned and be informed of the nursing assistant responsible for his or her care and services on each shift. The numbers listed in this rule represent the minimum staffing requirement. The numbers do not represent sufficient nursing staff. Sufficient nursing staff is determined by the number of staff necessary to meet the needs of each resident.

(c) The number of residents per nursing assistant shall not exceed the ratios:

(A) Beginning March 1, 2008;

(i) DAY SHIFT: 1 nursing assistant per 8 residents.

(ii) SWING SHIFT: 1 nursing assistant per 12 residents.

(iii) NIGHT SHIFT: 1 nursing assistant per 20 residents.

(B) Beginning April 1, 2009;

(i) DAY SHIFT: 1 nursing assistant per 7 residents

(ii) SWING SHIFT: 1 nursing assistant per 11 residents

(iii) NIGHT SHIFT: 1 nursing assistant per 18 residents.

(d) Each facility shall submit a quarterly staffing report to SPD, using a SPD approved method and format. The report shall provide a daily account of resident census and nursing assistant staffing levels for each shift.

(A) The facility shall submit the report to SPD no later than the end of the month immediately following the end of each calendar quarter. (Example: For the calendar quarter ending March 31, the report shall be received no later than April 30.)

(B) The report shall specify the shifts in which the minimum staffing standards, as set forth in sections (5)(c)(A) and (5)(c)(B) of this rule, were not met.

(C) The facility shall have payroll records to support the staffing report available upon request of SPD.

(e) This rule does not prohibit nursing assistants from providing services to a resident to whom they are not assigned.

(f) The facility shall ensure that nursing assistants only perform those tasks for which they are competent and qualified to perform and that are permitted by ORS chapter 678.

(g) The facility shall ensure that nursing assistants not be assigned more residents than the number for which they can meet the individual service needs.

(h) The facility is required to have a minimum of two nursing staff on duty at all times. In facilities where residents are housed in two or more detached buildings, or if a building has distinct and segregated areas, designated nursing staff shall be present at all times.

(i) Nursing assistants do not include dining assistants.

(j) Effective September 1, 2008, nursing assistants serving as a restorative aide may not be counted toward the minimum staffing requirement under sections (5)(c)(A) and (5)(c)(B) of this rule.

(k) A facility shall not employ any person as a nursing assistant for longer than four months from the date of hire, without obtaining an Oregon State Board of Nursing issued CNA 1 certification.

(l) No more than 25% of the nursing assistants assigned to residents pursuant to section (5)(c) of this rule may be nursing assistants who are not yet certified.

(6) CERTIFIED MEDICATION AIDES.

(a) The facility shall ensure that all nursing assistants administering non-injectable medications are certified as nursing assistants and as medication aides. Documentation of certification shall be maintained in the facility.

(b) The certified medication aide assigned to administer medications shall not be counted toward meeting the minimum staffing requirements for direct service of residents, referenced at sections (5)(c)(A) and (5)(c)(B) of this rule.

Stat. Auth.: ORS 410.070, 410.090, 441.055, 441.073, 441.615
Stats. Implemented: ORS 410.070, 410.090, 441.055, 441.073, 441.615
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SPD 23-2004, f. 7-30-04, cert, ef, 8-1-04; SPD 1-2008(Temp), f. 2-8-08, cert. ef. 3-1-08 thru 8-28-08

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Department of Justice
Chapter 137

Rule Caption: Amends Notice of Garnishment Model Forms to respond to Legislative Changes.
Adm. Order No.: DOJ 3-2008
Filed with Sec. of State: 1-17-2008
Certified to be Effective: 1-18-08
Notice Publication Date: 11-1-2007
Rules Amended: 137-060-0100, 137-060-0110, 137-060-0130, 137-060-0140, 137-060-0150, 137-060-0160, 137-060-0200, 137-060-0210, 137-060-0230, 137-060-0240, 137-060-0250, 137-060-0260, 137-060-0300, 137-060-0310, 137-060-0330, 137-060-0340, 137-060-0350, 137-060-0360, 137-060-0400, 137-060-0410, 137-060-0430, 137-060-0440, 137-060-0450
Subject: Amends existing model garnishment forms for notices of garnishment issued by state agencies and county tax collectors.
Rules Coordinator: Carol Riches—(503) 947-4700

137-060-0100
Notice of Garnishment — County Tax

The garnishment forms set forth in OAR 137-060-0110 to 137-060-0160 are provided for use by county tax collectors issuing a notice of garnishment pursuant to ORS 18.854.

Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.850, 18.854, 18.857, OL 2007 Ch. 71, 496
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0110
County Tax — Notice of Garnishment Form

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 18.854(8))
Stats. Implemented: ORS 18.375, 18.385, 18.600 – 18.850, 18.854, 18.857
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0130
County Tax — Instructions to Garnishee Form

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.850, 18.854, 18.857, OL 2003, Ch. 496
Hist.: DOJ 6-2002, f. & cert. ef. 9-24-02; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0140
County Tax — Challenge to Garnishment Form

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.850, 18.854, 18.857
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0150
County Tax — Notice of Exempt Property Form

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.850, 18.854, 18.857, OL 2003, Ch. 71, 496
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0160
County Tax — Wage Exemption Calculation Form

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.850, 18.854, 18.857, OL 2003, Ch. 496
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0200
Notice of Garnishment — State Tax

The garnishment forms set forth in OAR 137-060-0210 to 137-060-0260 are provided for use by state agencies issuing a notice of garnishment pursuant to ORS 18.854 for the collection of a state tax.

Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600 – 18.855, OL 2007 Ch. 71, 496
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0210
State Tax — Notice of Garnishment Form

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.855
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0230
State Tax — Instructions to Garnishee Form

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.855, OL 2003, Ch. 496
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0240
State Tax — Challenge to Garnishment Form

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.855
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0250
State Tax — Notice of Exempt Property Form

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.855, OL 2003, Ch. 71, 496
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0260
State Tax — Wage Exemption Calculation Form

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.850, 18.854, 18.857, OL 2003, Ch. 496
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0300
Notice of Garnishment — Debts Other than State Tax

The garnishment forms set forth in OAR 137-060-0310 to 137-060-0360 are provided for use by state agencies issuing a notice of garnishment pursuant to ORS 18.854 for collection of debts other than state tax.

Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.855, OL 2007 Ch. 71, 496
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0310
Debts other than State Tax — Notice of Garnishment Form

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.855
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0330
Debts other than State Tax — Instructions to Garnishee Form

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.855, OL 2003, Ch. 496
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0340
Debts other than State Tax — Challenge to Garnishment Form

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.855
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0350
Debts other than State Tax — Notice of Exempt of Property Form

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.855, OL 2003, Ch. 71, 496
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0360
Debts other than State Tax — Wage Exemption Calculation Form

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.855, OL 2003, Ch. 496
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0400
Notice of Garnishment — Special Notice

The garnishment forms set forth in OAR 137-060-0450 to 137-060-0450 are provided for use by state agencies issuing a special notice of garnishment pursuant to ORS 18.854 and as provided by ORS 18.855(6).

Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.855, OL 2007 Ch. 71, 496
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0410
Special Notice of Garnishment — Notice of Garnishment Form

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.855
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0430
Special Notice of Garnishment — Instructions to Garnishee Form

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.855, OL 2003, Ch. 496
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0440
Special Notice of Garnishment — Challenge to Garnishment Form

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.855
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

137-060-0450
Special Notice of Garnishment — Notice of Exempt Property Form

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 18.854(8)
Stats. Implemented: ORS 18.375, 18.385, 18.600–18.855, OL 2003, Ch. 71
Hist.: DOJ 5-2004, f. & cert. ef. 2-11-04; DOJ 3-2008, f. 1-17-08, cert. ef. 1-18-08

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Rule Caption: Amends the administrative rules relating to the screening and selection procedures for legal services.
Adm. Order No.: DOJ 4-2008
Filed with Sec. of State: 1-29-2008
Certified to be Effective: 2-1-08
Notice Publication Date: 1-1-2008
Rules Adopted: 137-009-0147
Rules Amended: 137-009-0130, 137-009-0140, 137-009-0145, 137-009-0150, 137-009-0155
Subject: The Department may contract for the services of special legal assistants or private counsel to provide legal services otherwise required by law to be performed by the Attorney General. These rules specify the screening and selection procedures the Department will use to select individuals or entities to perform such services. The rules are being amended to align them with ORS 200.035 notice to the Advocate for Minority, Women and Emerging Small Businesses, and to describe the solicitation of terms, including "advocate," "ORPIN" and "self search" are also being added.
Rules Coordinator: Carol Riches—(503) 947-4700

137-009-0130
Definitions

For purposes of OAR chapter 137, division 009, these terms have the following meanings:

(1) "Advocate" means the Advocate for Minority, Women and Emerging Small Businesses as defined in OAR Chapter 125.

(2) "Attorney General" means the Attorney General of the State of Oregon.

(3) "Contractor" means an individual or entity that is obligated under a contract with the Department to provide legal services required by law to be performed by the Attorney General.

(4) "Department" means the Department of Justice of the State of Oregon.

(5) "Deputy" means the Deputy Attorney General, appointed by the Attorney General to that position pursuant to ORS 180.130.

(6) "Designated Practice Areas" means subject matter areas generally recognized within the legal profession as requiring specialized knowledge of a particular field of law.

(7) "Lowest Overall Cost" means the lowest cost to the state taken as a whole including the prospective Contractor's hourly rates (or other billing methods), available resources, expertise, and ability to accomplish an optimal, timely outcome to a particular matter.

(8) "Master Agreement" means a document that contains contractual provisions that will be included in certain future contracts between the parties. Each future contract will provide detail on scope of services, delivery terms, not-to-exceed amounts and other items necessary to establish a definite contract. A Master Agreement is not a contract, but is a document of understanding between the Department and an individual or entity.

(9) "ORPIN" means the on-line electronic Oregon Procurement Information Network administered by the State Procurement Office, as further defined on OAR 125-246-0500, or its successor.

(10) "Self Search" means a search of the Advocate's list of certified firms for firms that meet the Solicitation requirements, using the Advocate's Self Search tool which is available at: http://www4.cbs.state.or.us/ex/dir/omwesb/.

(11) "Solicitation" means a written or oral request for offers, proposals, statements of qualifications, or other information from individuals or entities.

Stat. Auth.: ORS 180.140(5), 183.310(9) & 279A.025(2)(j)
Stats. Implemented: ORS 180.140(5) & 279A.025(2)(j)
Hist.: DOJ 3-2005(Temp), f. & cert. ef. 3-18-05 thru 9-2-05; DOJ 7-2005, f. 8-16-05, cert. ef. 9-2-05; DOJ 4-2008, f. 1-29-08, cert. ef. 2-1-08

137-009-0140
Methods for Selecting Contractors

(1) The Department will use one of the following methods to select a Contractor:

(a) The Department may select a Contractor from a list of individuals or entities established for a Designated Practice Area as set forth in OAR 137-009-0145.

(b) The Department may select a Contractor from a group of proposers within a Designated Practice Area as set forth in OAR 137-009-0147.

(c) The Department may select a Contractor from a group of proposers to a specific matter Solicitation as set forth in OAR 137-009-0150.

(d) The Department may select a Contractor through direct negotiation as set forth in OAR 137-009-0160.

(2) Nothing in this section shall prevent the Department from entering into an amendment to a contract for legal services according to its terms.

Stat. Auth.: ORS 180.140(5), 183.310(9) & 279A.025(2)(j)
Stats. Implemented: ORS 180.140(5) & 279A.025(2)(j)
Hist.: DOJ 3-2005(Temp), f. & cert. ef. 3-18-05 thru 9-2-05; DOJ 7-2005, f. 8-16-05, cert. ef. 9-2-05; DOJ 4-2008, f. 1-29-08, cert. ef. 2-1-08

137-009-0145
Procedure to Develop Lists of Individuals or Entities under Master Agreements

(1) The Department may use a Solicitation to request proposals or information that describes general or specific legal services to be performed within a defined period of time. The purpose of such a Solicitation is to establish a list of individuals or entities under Master Agreements for a specified period of time to provide legal services within Designated Practice Areas as requested by the Department and agreed to by the individual or entity.

(a) The Department shall provide notice of the Solicitation on ORPIN or in any other manner the Department deems appropriate to provide notice to a sufficient number of individuals or entities to develop adequate lists of available individuals or entities.

(b) The Department shall provide notice of the Solicitation to the Advocate in accordance with ORS 200.035 and this subsection. The Department may satisfy the requirement for notice to the Advocate by posting the notice on ORPIN for at least five calendar days prior to selection. The Department may also provide notice to the Advocate by any of the following Advocate approved methods:

(A) Faxing notice of Solicitation to the Advocate; or

(B) E-mailing notice of Solicitation to the Advocate; or

(C) Performing a Self Search with notice of results to the Advocate.

The notice form is available at: http://www.governor.oregon.gov/Gov/MWESB/index.shtml

No waiting period is imposed, prior to selection, when using the fax or e-mail method.

(2) The evaluation criteria in the Solicitation may include, without limitation, consideration of the following factors:

(a) Availability and capability to perform the work;

(b) Fees or costs, including proposed discounts from rates generally charged other clients;

(c) Geographic proximity to the location where the legal services will primarily be performed;

(d) Ethical considerations, such as the existence of conflicts of interest;

(e) Recommendations of subject matter experts, such as client agency representatives with special knowledge or insights into necessary or desirable non-legal knowledge or background;

(f) Any other criteria the Department determines relevant to the provision of legal services.

(3) In weighing the factors set forth above, no single factor shall be determinative. But if one factor strongly suggests the Department should enter into a Master Agreement with a proposer with respect to a Designated Practice Area, it may outweigh one or more other factors that favor other proposers.

(4) The Department may either sign a Master Agreement with qualified individuals or entities in particular Designated Practice Areas or cancel the Solicitation.

Stat. Auth.: ORS 180.140(5), 183.310(9) & 279A.025(2)(j)
Stats. Implemented: ORS 180.140(5), 200.035 & 279A.025(2)(j)
Hist.: DOJ 3-2005(Temp), f. & cert. ef. 3-18-05 thru 9-2-05; DOJ 7-2005, f. 8-16-05, cert. ef. 9-2-05; DOJ 4-2008, f. 1-29-08, cert. ef. 2-1-08

137-009-0147
Solicitation to Engage a Contractor to Provide Legal Services within a Designated Practice Area

The Department may use a Solicitation to request proposals to provide legal services within a Designated Practice Area:

(1) The Department may provide notice of the Solicitation in any manner the Department deems appropriate to provide notice to a sufficient number of individuals or entities, but in no event shall notice of a Solicitation under this section be provided to fewer than three prospective proposers.

(2) The Department shall provide notice of the Solicitation to the Advocate in accordance with ORS 200.035 and subsection (1)(b) of OAR 137-009-0145.

Stat. Auth.: ORS 180.140(5), 183.310(9) & 279A.025(2)(j)
Stats. Implemented: ORS 180.140(5), 200.035 & 279A.025(2)(j)
Hist.: DOJ 4-2008, f. 1-29-08, cert. ef. 2-1-08

137-009-0150
Solicitation to Engage a Contractor to Provide Legal Services for a Specific Matter

The Department may use a Solicitation to request proposals to provide legal services on a specific matter:

(1) The Department may provide notice of the Solicitation in any manner the Department deems appropriate to provide notice to a sufficient number of individuals or entities, but in no event shall notice of a Solicitation under this section be provided to fewer than three prospective proposers.

(2) The Department shall provide notice of the Solicitation to the Advocate in accordance with ORS 200.035 and subsection (1)(b) of OAR 137-009-0145.

Stat. Auth.: ORS 180.140(5), 183.310(9) & 279A.025(2)(j)
Stats. Implemented: ORS 180.140(5), 200.035 & 279A.025(2)(j)
Hist.: DOJ 3-2005(Temp), f. & cert. ef. 3-18-05 thru 9-2-05; DOJ 7-2005, f. 8-16-05, cert. ef. 9-2-05; DOJ 4-2008, f. 1-29-08, cert. ef. 2-1-08

137-009-0155
Criteria for Selection of Contractor under OAR 137-009-0145, 137-009-0147, and 137-009-0150

(1) If the Department decides to select a Contractor from a list of individuals or entities developed pursuant to OAR 137-009-0145, or from among the proposers to a Solicitation under OAR 137-009-0147 or 137-009-0150, the Department will use the evaluation process described in this section.

(2) The Department will make its selection decision based on an evaluation of factors that the Department determines appropriate in any particular instance, which may include, without limitation:

(a) The experience and level of expertise of Contractor and Contractor's available personnel, as determined by the Department, in the Designated Practice Area and for the type of legal services the Department requires;

(b) Whether the Contractor's available personnel possess any required licenses or certifications required to perform the legal services for the specific matter, such as licenses to practice law in the appropriate jurisdiction, or licenses to appear in a certain forum;

(c) The legal and business constraints or requirements, if any, imposed by particular characteristics of the matter for which the Department seeks legal services;

(d) The extent and nature of any likely conflicts of interest that exist or could arise if Contractor provided legal services with respect to a particular matter;

(e) The training, expertise, temperament, style and experience of the particular Contractor personnel available to perform work on the specific matter and the training, expertise, temperament, style and experience of the particular State of Oregon agency personnel that will be working on the matter with the Contractor's personnel;

(f) Recommendations of subject matter experts, such as client agency representatives with special knowledge or insights into necessary or desirable non-legal knowledge or background.

(g) Lowest Overall Cost; or

(h) Other factors the Department considers relevant to the selection of a Contractor to provide particular legal services.

(3) In weighing the evaluation factors, no single factor shall be determinative, but Lowest Overall Cost always will be considered.

(4) To reduce the Lowest Overall Cost to the state, the Department should select a Contractor from the list of firms established under OAR 137-009-0145 when the work is within an individual's or entity's Designated Practice Area under a Master Agreement and the Department determines:

(a) The administrative cost of selecting a Contractor under OAR 137-009-0150 outweighs potential cost savings under that process;

(b) The services are likely to be integrally related to other services provided by the Contractor under a Master Agreement, resulting in greater economy and efficiency; or

(c) The Department's need for services is of such urgency that selecting a Contractor under OAR 137-009-0147 or 137-009-0150 would result in unacceptable delay.

Stat. Auth.: ORS 180.140(5), 183.310(9) & 279A.025(2)(j)
Stats. Implemented: ORS 180.140(5) & 279A.025(2)(j)
Hist.: DOJ 3-2005(Temp), f. & cert. ef. 3-18-05 thru 9-2-05; DOJ 7-2005, f. 8-16-05, cert. ef. 9-2-05; DOJ 4-2008, f. 1-29-08, cert. ef. 2-1-08

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Department of Oregon State Police, Office of State Fire Marshal
Chapter 837

Rule Caption: Change the permit application postmark date from December 1 to December 18.
Adm. Order No.: OSFM 1-2008(Temp)
Filed with Sec. of State: 1-25-2008
Certified to be Effective: 1-25-08 thru 7-3-08
Notice Publication Date:
Rules Amended: 837-012-0520
Subject: Amend OAR 837-012-0520, subsection (13), to amend the permit application postmark date from December 1 to December 18 of the year preceding the year for which the wholesale permit is sought.

Also a typographical error is being corrected.
Rules Coordinator: Pat Carroll—(503) 373-1540, ext. 276

837-012-0520
Wholesale Permit Applications

(1) Any In-State Wholesaler engaged in, or intending to engage in, the sale, provision, or shipment of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks, within Oregon, or from Oregon for delivery into another state, shall first apply for and obtain a Wholesale Permit issued by the Office of State Fire Marshal.

(2) Any Out-of-State Wholesaler engaged in, or intending to engage in, the sale, provision, or shipment of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks, in or into Oregon shall first apply for and obtain a Wholesale Permit issued by the Office of State Fire Marshal.

(3) A separate Wholesale Permit shall be applied for and obtained for each Wholesale Site that may conduct Wholesale Operations within, from, or into Oregon.

(4) The application for a Wholesale Permit shall be made on a form provided by the Office of State Fire Marshal.

(5) All information provided by the applicant on the Permit Application shall be true and correct to the applicant's knowledge.

(6) In addition to completion of the Wholesale Permit application forms, applicants shall submit:

(a) A copy of a current photographic identification card of the applicant(s). The Office of State Fire Marshal shall accept only photo identification issued by the Department of Motor Vehicles in the applicant's state of residency. For purposes of this rule, if the applicant is a corporation, the applicant shall submit copies of photographic identification of all the corporate officers. If the applicant is a partnership, the applicant shall submit copies of the photographic identification of all partners.

(b) A description of the types, pursuant to United States Department of Transportation classification, and the maximum quantities, by total gross weight, of Fireworks, Retail Fireworks, Public Display Fireworks, or Agricultural Fireworks to be stored at the Wholesale Site for which a Wholesale Permit has been applied.

(7) As part of the Permit Application process, the applicant shall obtain the approval of the Local Fire Authority and the local building official prior to submitting their application to the Office of State Fire Marshal.

(8) Exception to 837-012-0520(7). If the applicant's Wholesale Site address was continuous during the year preceding the year for which the Wholesale Permit renewal is sought, the applicant is required only to resubmit to the Office of State Fire Marshal, as part of the Wholesale Permit renewal application, the approval of the Local Fire Authority.

(9) As part of the Permit Application, Wholesale Permit applicants who intend to Sell or provide 1.3G Fireworks shall submit to the Office of State Fire Marshal a copy of their appropriate license issued by BATFE.

(10) Applicants shall submit the completed Permit Application to the Local Fire Authority for review and signature approving the Wholesale Site prior to submission of the Permit Application to the Office of State Fire Marshal.

(11) Permit Applications shall be signed by the applicant(s).

(a) If the applicant is a partnership, the application shall be signed by every partner.

(b) If the applicant is a corporation, the application shall be signed by an officer of the corporation.

(c) If the applicant is an Out-of-State Wholesaler, the application shall be signed by the applicant and the Manager.

(12) Permit Applications shall not be submitted to the Office of State Fire Marshal prior to October 1 of the year preceding the year for which the Wholesale Permit is sought.

(13) Permit Applications shall be postmarked by a United States Postmark, or received at the Office of State Fire Marshal, no later than December 18 of the year preceding the year for which the Wholesale Permit is sought. If December 18 falls on a day when a postmark cannot be obtained, applications shall be postmarked on the preceding business day when a postmark can be obtained. If December 18 falls on a day when the Office of State Fire Marshal is closed, and the applicant wishes to hand deliver their application, it shall be delivered to the Office of State Fire Marshal at the Salem office on the preceding business day. However, due to limited resources in the fireworks program, it is recommended that wholesale fireworks permit applications be postmarked or submitted to the OSFM by December 1 of the year preceding the year for which the permit is sought.

(14) Relocation of the Wholesale Site shall require submission of a new Permit Application and Wholesale Permit fee.

(15) Only one Wholesale Permit shall be applied for or issued for each Wholesale Site.

Stat. Auth.: ORS 476, 478 & 480
Stats. Implemented: ORS 480.110–480.165
Hist.: FM 2-1982(Temp), f. & ef. 3-5-82; FM 3-1982(Temp), f. & ef. 4-16-82; FM 3-1985, f. & ef. 4-17-85, FM 1-1986, f. & ef. 1-9-86; FM 6-1986(Temp), f. & ef. 6-10-86; FM 9-1986, f. & ef. 12-10-86; Suspended by FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; Renumbered from 837-012-0120; OSFM 6-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 15-2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02; OSFM 8-2002, f. & cert. ef. 10-4-02; OSFM 7-2004(Temp), f. & cert. ef. 12-13-04 thru 6-10-05; OSFM 8-2005, f. 5-24-05, cert. ef. 6-7-05; OSFM 1-2008(Temp), f. & cert. ef. 1-25-08 thru 7-3-08

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Department of Oregon State Police, State Athletic Commission
Chapter 230

Rule Caption: Adopting Rules Governing Mixed Martial Arts Events and Competitions.
Adm. Order No.: SAC 1-2008(Temp)
Filed with Sec. of State: 1-29-2008
Certified to be Effective: 1-29-08 thru 6-30-08
Notice Publication Date:
Rules Adopted: 230-140-0000, 230-140-0010, 230-140-0020, 230-140-0030, 230-140-0040
Subject: These rules define mixed martial arts, provide for the regulation of mixed martial arts competitions, establish health and safety standards for mixed martial arts, and establish requirements for promoters, amateur and professional competitions, and officials.
Rules Coordinator: Loree Fogleman—(503) 934-0273

230-140-0000
Mixed Martial Arts

(1) All contests, matches, and exhibitions of mixed martial arts held in the State of Oregon must be conducted in accordance with ORS Chapter 463 and the rules set forth in this division.

(2) The provisions of this section do not apply to contests, matches, or exhibitions held on land controlled by an Oregon Indian Tribe unless governed by an intergovernmental agreement between the Oregon State Athletic Commission and an Oregon Indian Tribe.

(3) The Oregon State Athletic Commission shall apply the generally accepted Unified Rules for the control of mixed martial arts.

Stat. Auth. ORS 463.113
Stat. Implemented SB 492 (2007)
Hist.: SAC 1-2008(Temp), f. & cert. ef. 1-29-08 thru 6-30-08

230-140-0010
Definitions

(1) "Amateur Mixed Martial Arts Competitor" means a mixed martial arts competitor that is not a professional and is licensed by the Oregon State Athletic Commission.

(2) "Professional Mixed Martial Arts Competitor" means a person licensed by the superintendent who competes, or has competed for a money prize, purse or compensation in a mixed martial arts contest, professional boxing, or other professional unarmed combat exhibition, whether licensed or not. All competitors that have been previously licensed in another jurisdiction as a professional fighter shall be required to be licensed as a professional to compete in Oregon.

(3) "Mixed martial arts" means a combative sporting contest, the rules of which allow two mixed martial arts competitors to attempt to achieve dominance over one another by utilizing a variety of techniques including, but not limited to, striking, grappling and the application of submission holds. "Mixed martial arts" does not include martial arts such as tae kwon do, karate, kempo karate, kenpo karate, judo, sumo, jujitsu, Brazilian jujitsu, submission wrestling and kung fu.

(4) "Commission" means the Oregon State Athletic Commission as defined in ORS 463.113.

Stat. Auth. ORS 463.113
Stat. Implemented SB 492 (2007)
Hist.: SAC 1-2008(Temp), f. & cert. ef. 1-29-08 thru 6-30-08

230-140-0020
Mixed Martial Arts Promoter Requirements

(1) Licensure. Promoters of Mixed Martial Arts contests or exhibitions shall comply with the requirements for licensure as found in these rules, OAR chapter 204, division 140.

(2) Insurance for Professional Competitors. The promoter of a professional Mixed Martial Arts contest or exhibition shall provide primary insurance coverage for each contestant to provide medical, surgical and hospital care for contestants who are injured while engaged in a contest or exhibition.

(a) The insurance program shall provide a minimum limit of $20,000 for injuries sustained while participating in a mixed martial arts contest and which provides for a $50,000 minimum death or dismemberment benefit payable to the estate of any competitor should death occur from injuries received while participating in a mixed martial arts contest.

(b) The terms of the insurance coverage must not require the contestant to pay a deductible for the medical, surgical or hospital care for injuries the contestant sustains while engaged in a contest or exhibition.

(c) If a contestant pays for the medical, surgical or hospital care, the insurance proceeds must be paid to the contestant or the contestant's beneficiaries as reimbursement for the payment.

(3) Insurance for Amateur Competitors. The promoter of an amateur Mixed Martial Arts contest or exhibition shall provide primary insurance coverage for each contestant to provide medical, surgical and hospital care for contestants who are injured while engaged in a contest or exhibition.

(a) The insurance program shall provide a minimum limit of $10,000 for injuries sustained while participating in a mixed martial arts contest.

(b) The terms of the insurance coverage must not require the contestant to pay a deductible for the medical, surgical or hospital care for injuries the contestant sustains while engaged in a contest or exhibition.

(c) If a contestant pays for the medical, surgical or hospital care, the insurance proceeds must be paid to the contestant or the contestant's beneficiaries as reimbursement for the payment.

(4) Medical Personnel. An approved Ringside Physician shall be assigned by the Commission to each professional Mixed Martial Arts event.

(a) The Medical Advisory Board shall identify a list of ringside and examining physicians and a physician not on such list shall not be employed as a ringside or examining physician unless special permission is first obtained from the Medical Advisory Board. The list of certified physicians shall be available at the Director's office.

(b) It shall be the responsibility of the promoter to compensate the ringside physician or physicians appointed by the Director.

(c) The Promoter shall provide approved Medical personnel at amateur Mixed Martial Arts events.

Stat. Auth. ORS 463.113
Stat. Implemented SB 492 (2007)
Hist.: SAC 1-2008(Temp), f. & cert. ef. 1-29-08 thru 6-30-08

230-140-0030
Competitor Requirements

Professional Mixed Martial Arts competitors shall be required to meet the following standards:

(1) Age Requirement. Mixed Martial Arts competitors must be at least 18 years of age.

(2) Application for License; Contents, Falsification. Applications for licenses shall be in writing on a form supplied by the Executive Director.

(a) Every license issued shall be subject to the conditions and agreements set forth in the application therefore, the statutes and laws relating to mixed martial arts and the rules and regulations of the Commission.

(b) Applications for Mixed Martial Arts Competitor shall include a photo of the applicant and a fee of $15.

(c) Falsification in whole or in part of a material fact or representation on any application for a license shall result in the application being denied, and if the application has been previously granted, the license shall be revoked unless otherwise ordered by the Superintendent. The Executive Director may require additional information to determine license suitability.

(3) Medical Examination of Mixed Martial Arts Competitor Applicants. Professional mixed martial arts competitor license applicants shall be examined by an approved physician in accordance with Oregon State Athletic Commission Medical Advisory Board's instructions, including the completion of applicable forms provided by the Commission Executive Director.

(a) Results of the examination and laboratory analysis of the specimens attached to the examination form must be submitted directly to the Oregon State Athletic Commission as required by the Executive Director.

(b) Mixed martial arts competitor license applicants for initial or renewal licensing must submit evidence that the applicant has been administered an HIV test for the presence of AIDS antibodies and that the results of such test were negative. Tests for HIV/AIDS shall be submitted annually. Mixed martial arts competitor license applicants for initial or renewal licensing must submit evidence that the applicant has been administered a Hepatitis B/C test and that the results of such test were negative. Tests for Hepatitis shall be submitted annually.

(4) Minimum Physical Requirements for Issuance of Professional Mixed Martial Arts Competitor Licenses. An applicant for a Professional Mixed Martial Arts Competitor License must meet the following physical requirements:

(1) Blood pressure no higher than 150/90, prior to competition.

(2) Temperature below 100 degrees F. or 37 degrees C.

(3) Distant vision 20/100 either eye; near vision of 20/40 by near vision chart either eye. Permanent medical suspension if both eyes are below these standards.

(4) Abdomen - No visceralmegaly.

(5) No hernias containing abdominal contents on coughing or straining.

(6) Normal Rhomberg and finger-to-nose tests.

(7) No suppurative lesions on skin.

(8) No indications of active renal disease or loss of one kidney.

(9) No perforated ear drum.

(10) No electroencephalographic or CAT scan changes or abnormalities.

(11) No body deformity that would tend to promote injury.

(12) No history of epilepsy or seizure disorder.

(13) No active venereal disease.

(14) No alcohol or drug addiction or evidence of drug usage.

(15) No mononucleosis.

(16) No hepatitis. (Test required for licensure.)

(17) No AIDS or AIDS-related complex. (Test required for licensure.)

(18)No diabetes unless under control.

(19) Weigh-In. Mixed martial arts contestants shall undergo a pre-fight physical examination and shall be officially weighed within 24 hours of the commencement of the card, at a time and place designated by the Executive Director, in the presence of a representative of the Superintendent.

(a) Scales approved by the Executive Director shall be utilized for the official weigh-in.

(b) No mixed martial arts competitor shall be weighed-in or be administered a pre-fight physical examination unless the mixed martial arts competitor is properly licensed by the Superintendent.

(c) Any mixed martial arts competitor who has been signed to a contract to compete at any club may be ordered by the Executive Director to appear at any time to be weighed by a representative of the Executive Director.

(d) If a mixed martial arts competitor is late to the weigh-in or physical exam, disciplinary action may result to both the mixed martial arts competitor and manager.

(e) The promoter shall provide the Commission physician with a suitable room in which to conduct these examinations.

(f) If a mixed martial arts competitor appears at the weigh-in, and the mixed martial arts competitor's body weight is 5% or more over the contracted weight, if applicable, the mixed martial arts competitor will be disqualified for the bout, and the mixed martial arts competitor and the mixed martial arts competitor's manager may receive disciplinary action by the Superintendent.

(g) If, in an attempt to make weight, the mixed martial arts competitor shows evidence of extreme dehydration, of having taken diuretics or other drugs, or of having used any other harsh modality, the examining physician may disqualify the mixed martial arts competitor and recommend disciplinary action by the Superintendent.

(h) Forfeiture for failure to make weight:

(A) A professional mixed martial arts competitor who fails to make the weight agreed upon in his/her bout agreement forfeits twenty percent of his/her purse to his/her opponent, if the fight takes place.

(B) If, during the 2 hours following the time of weighing in, a mixed martial arts competitor is able to make the weight or weighs less than 1 pound outside the agreed limits, no forfeit may be imposed or fine assessed upon him.

(C) A mixed martial arts competitor must agree to fight an opponent who has failed to make weight for the fight to take place. The requirements of the bout agreement shall be revised to reflect the agreed upon weight.

(20) Pre/Post Fight Medical Exams. Prior to the Commission weigh in, participants shall be subject to a pre-fight medical exam in accordance with standards approved by the Medical Advisory Board of the Commission.

(a) The medical personnel conducting the pre-fight medical exam shall determine the fitness of the participant to compete in the contest based on standards approved by the Medical Advisory Board.

(b) Upon completion of the contest, participants shall be subject to a post-fight medical exam by the medical personnel assigned to the event. The medical personnel conducting the exam shall submit to the Executive Director a report documenting participant injuries and indicating recommended suspensions, if applicable. Suspensions shall include limits on contact as well as participation in future competition. Suspensions shall also include any required tests or follow up treatment recommended by the examining physician.

(21) Administration or Use of Drugs. The administration or use of any of the drugs specified in this rule, as well as alcohol or stimulants of any type, or injections in any part of the body of such prohibited substances to or by any mixed martial arts competitor, or referee is prohibited.

(a) A test for the presence of such prohibited substances may be ordered by the Executive Director or Commission Medical Advisory Board immediately prior to or after a mixed martial arts match. If the test results indicate the presence of any prohibited substances, the Superintendent may revoke or suspend the license or impose a civil penalty. At any other time the Director or the Commission Medical Advisory Board may require a mixed martial arts competitor, or referee to submit to a test for the presence of prohibited substances. If prohibited substances are found to be present,

the Superintendent may revoke or suspend the license or impose a civil penalty.

(b) An applicant or renewal applicant for a mixed martial arts competitor license whose medical test results indicate the presence of prohibited substances shall have such application denied. The Superintendent will not consider a reapplication for a period of 30 days from the date of original license denial. If a second test reveals the presence of prohibited substance, the Superintendent will not consider a reapplication for a period of 180 days from the date of original license denial.

(c) If the winner of a mixed martial arts competition is found to have utilized a prohibited substance, the results of the contest shall be declared a 'no contest'.

(d) Refusal to submit to any test for prohibited substances at the time such test is ordered shall be grounds for immediate suspension of the mixed martial arts competitor's license. Such license shall not be reinstated for a period of at least 180 days and only then, upon submission to the Executive Director of test results showing an absence of prohibited substances.

(e) The prohibited substances referred to in this rule include but are not limited to:

(A) All controlled substances;

(B) Steroids;

(C) Alcohol.

(f) All licenses granted or reinstated under circumstances where test results at one time indicated the presence of prohibited substances may contain conditions calling for further testing on a scheduled or random basis as ordered by the Executive Director.

(22) Time Between Bouts. Unless approval is obtained from the Executive Director, a licensed mixed martial arts competitor who has competed anywhere in a bout shall not be allowed to compete in this state until seven days have elapsed.

(a) The ringside medical personnel, notwithstanding the mandatory rest period prescribed in this section, may recommend, at the time of the exam a longer rest period if, in the medical opinion of the ringside physician, a contestant has fought a hard contest and a longer rest period is necessary.

(b) If a licensed mixed martial arts competitor exhibits any neurological symptoms as a result of a blow during any contest, the ringside physician can request neurological testing and consultation before that mixed martial arts competitor is allowed to spar or compete in any further contest.

(c) If a regulatory body of competent jurisdiction has issued a suspension of a mixed martial arts competitor, the Oregon State Athletic Commission shall concurrently recognize that suspension.

(23) Seconds. All seconds working in the corner of a professional mixed martial arts competitor must be licensed.

(a) The conduct and activities of licensed seconds shall be in accordance with standards issued by the Commission. All materials utilized in a corner of a mixed martial arts competition shall be inspected and approved by the Commission. Three seconds per fighter will be allowed in a non-championship bout. Four seconds will be allowed in a championship bout. No more than two seconds are allowed between rounds in a fenced area. One second is allowed between rounds in a ring.

(b) A license issued to a second can be immediately suspended by the Executive Director or his/her designee.

(c) Licensed seconds shall comply with the direction of the Executive Director and other Commission appointed officials.

(d) If, during a round, a second decides to stop a competition by corner submission, the second shall do so by stepping onto the apron of the ring or fenced area. A second shall not throw a towel or any other object into the ring or fenced area.

Stat. Auth. ORS 463.113
Stat. Implemented SB 492 (2007)
Hist.: SAC 1-2008(Temp), f. & cert. ef. 1-29-08 thru 6-30-08

230-140-0040
Conduct of Bouts

(1) Venue. The proposed venue for a Mixed Martial Arts competition shall be approved by the Executive Director. The venue shall meet applicable standards (to be referenced) for health and safety.

(2) Rules Meeting. The Executive Director shall conduct a rules meeting before any mixed martial arts promotional event. The Executive Director or the Executive Director's designee shall preside.

(3) Promoter's Safety Responsibility. It shall be the promoter's responsibility to insure safety for the competitors, officials and spectators. This includes the responsibility to provide adequate licensed, qualified and trained security personnel to maintain order. This also includes the responsibility to provide an onsite ambulance, or an adequate alternative permitted by the Executive Director if an ambulance is unavailable.

(4) Mixed Contests. Mixed martial arts contests must be between participants of the same sex.

(5) Participant Contracts (Professional MMA Contestants). The Promoter shall provide copies of the bout agreements to the Executive Director or the Executive Director's designee within 24 hours of the contest. The contracts with the participants shall contain at least the following components:

(a) Total Purse Amount;

(b) The scheduled date, location, and time of the contest;

(c) A 20% penalty for failure to make the agreed upon weight limit at the official weigh in conducted by the Commission; and

(d) Any deductions from the fighter's purse must be stipulated in the contract, or will not be allowed. (e.g.: travel expenses, licensing fees, medical testing expenses, etc.)

(6) Payment of Contestants. All professional contestants shall be paid in full according to their contracts, if applicable, and no part or percentage of their remuneration may be withheld except by order of the Executive Director or the Superintendent, nor shall any part thereof be returned through arrangement with the contestant's manager to any matchmaker, assistant matchmaker, or club official. The contestant or manager may not assign their respective share of the purse, if applicable, or any portion thereof, without the approval of the Executive Director or the Superintendent. A written request for such assignment must be filed with the Executive Director at least 72 hours before the contest.

(7) Time and Manner of Payment. All purse money must be furnished by check to the Executive Director at least 24 hours before the commencement of a card.

(a) Immediately following a card, the Executive Director shall deliver such checks, if applicable, to the payees thereof and reflect such delivery on the payoff sheet. In the case of a percentage contract, payment of purses shall be made immediately after the percentage is determined by the Executive Director.

(b) In the event the referee fails to render a decision at the termination of any bout, the Executive Director shall retain the payment check, if applicable, for each contestant pending a final determination by the Superintendent.

(8) Requirements for ring or fenced area. Mixed martial arts contests and exhibitions may be held in a ring or in a fenced area that has been approved by the Executive Director.

(a) A ring used for a contest or exhibition of mixed martial arts must meet the following requirements:

(A) The ring must be no smaller than 16 feet square and no larger than 32 feet square within the ropes.

(B) The ring floor must extend at least 18 inches beyond the ropes. The ring floor must be padded with ensolite or another similar closed-cell foam, with at least a 1-inch layer of foam padding. Padding must extend beyond the ring ropes and over the edge of the platform, with a top covering of canvas, duck or similar material tightly stretched and laced to the ring platform. Material that tends to gather in lumps or ridges must not be used.

(C) The ring platform must not be more than 4 feet above the floor of the building and must have suitable steps for the use of the participants and officials.

(D) Ring posts must be made of metal, extending from the floor of the building and must be properly padded in a manner approved by the Commission. Ring posts must be at least 18 inches away from the ring ropes.

(E) There must not be any obstruction or object, including, regardless of size, a triangular border on any part of the ring floor.

(b) A fenced area used in a contest or exhibition of mixed martial arts must meet the following requirements:

(A) The fenced area must be of a shape and dimensions approved by the Commission Executive Director and must be no smaller than 18 feet wide at its widest point where it touches the mat.

(B) The floor of the fenced area must be padded with ensolite or another similar closed-cell foam, with at least a 1-inch layer of foam padding, with a top covering of canvas, duck or similar material tightly stretched and laced to the platform of the fenced area. Material that tends to gather in lumps or ridges must not be used.

(C) The platform of the fenced area must not be more than 4 feet above the floor of the building and must have suitable steps for the use of the participants and officials.

(D) Fence posts must be made of metal, above the floor of the fenced area, and must be properly padded in a manner approved by the Commission.

(E) The fencing used to enclose the fenced area must be made of a material that will prevent a mixed martial arts competitor from falling out of the fenced area or breaking through the fenced area onto the floor of the building or onto the spectators.

(F) Any metal portion of the fenced area must be covered and padded in a manner approved by the Commission and must not be abrasive to the participants.

(G) The fenced area must have two entrances unless otherwise approved by the Executive Director.

(H) There must not be any obstruction on any part of the fence surrounding the area in which the participants are to be competing.

(I) There must be a secure barrier of at least four feet between a fenced area and the first row of public seating that allows freedom of movement of Commission officials and representatives.

(J) The area immediately surrounding a ring or a fenced area is subject to the control of the Commission. Access must be effectively controlled by event security staff. The seating around the apron of the ring or fenced area cannot be sold. An area for credentialed media personnel may be allowed with approval by the Executive Director.

(K) Cameras are allowed on the apron during a round with Executive Director approval as long as their presence does not compromise the safety of the competitors or the ability of the Commission staff to perform their functions.

(L) There must be adequate space provided in each competitor's 'corner' for licensed Seconds to sit during a round.

(9) Selection and approval of ring officials. The ring officials of contests or exhibitions are the referee, judges, timekeeper, physician, inspectors, and Commission's representative. The Commission Executive Director shall select and appoint all officials.

(10) Bandages for hands of mixed martial arts participants. Bandages for the hands of contestants in mixed marshal arts contests or exhibitions must comply with this subsection.

(a) Bandages on the hand of a mixed martial arts competitor may not exceed one winding of surgeon's adhesive tape, not over 1 1/2 inches wide, placed directly on the hand to protect the part of the hand near the wrist. The tape may cross the back of the hand twice, but may not extend within three-fourths of an inch of the knuckles when the hand is clenched to make a fist.

(b) Each mixed martial arts competitor shall use soft surgical bandage or gauze not over 2 inches wide, held in place by not more than 6 feet of surgeon's adhesive tape for each hand. Up to one 15-yard roll of bandage may be used to complete the wrappings for each hand. Strips of tape may be used between the fingers to hold down the bandages.

(c) Bandages must be adjusted in the dressing room in the presence of a representative of the Commission and both mixed martial arts competitors. Either competitor may waive his/her privilege of witnessing the bandaging of his/her opponent's hands.

(11) Gloves: Requirements; replacement during contest or exhibition. The gloves used in a contest or exhibition must meet the following requirements:

(a) The gloves must be examined by the representative of the Commission and the referee. If padding in any glove is found to be misplaced or lumpy or if any glove is found to be unfit, the glove must be changed before the contest or exhibition starts. No breaking, roughing or twisting of gloves is permitted.

(b) The gloves for every contest or exhibition that is designated as a main event must be new, furnished by the promoter and made to fit the hands of the competitor.

(c) If gloves to be used in preliminary contests or exhibitions have been used before, they must be whole, clean and in sanitary condition. The gloves are subject to inspection by the referee or representative of the Commission. If a glove is found to be unfit, it must be replaced with a glove that meets the requirements of this section. Gloves may not be used for more than one contest during an event.

(d) Each promoter must have an extra set of gloves of the appropriate weight available to be used in case a glove is broken or otherwise damaged during the course of a contest or exhibition.

(e) For contests or exhibitions of mixed martial arts, each competitor must wear gloves that weigh not less than 4 ounces.

(f) Both competitors shall use the same brand and model of gloves for their contest or exhibition, unless approved by the Executive Director, or designee.

(12) Duration. Except with the approval of the Commission Executive Director:

(a) A non-championship contest or exhibition of mixed martial arts must not exceed three rounds in duration.

(b) A championship contest of mixed martial arts must be five rounds in duration.

(c) A round in a contest or exhibition of professional mixed martial arts must be five minutes in duration. A period of rest following a round of mixed martial arts must be one minute in duration.

(d) A round in an amateur mixed martial arts contest must be three minutes in duration.

(13) Method of judging.

(a) Each judge of a contest or exhibition of mixed martial arts that is being judged shall score the contest or exhibition and determine the winner through the use of the following system:

(A) The better competitor of a round receives 10 points and his/her opponent proportionately less.

(B) If the round is even, each competitor receives 10 points.

(C) No fraction of points may be given.

(D) Points for each round must be awarded immediately after the end of the round. A record of those points is given to a Commission representative before the next round begins.

(b) After the end of the contest or exhibition, the announcer shall pick up the scores of the judges from the Commission's desk.

(c) The majority opinion is conclusive and, if there is no majority, the decision is a draw.

(d) When the Commission's representative has checked the scores, the Commission's representative shall inform the announcer of the decision. The announcer shall inform the audience of the decision over the speaker system.

(14) Acts constituting fouls. The following acts constitute fouls in a contest or exhibition of mixed martial arts:

(a) Butting with the head.

(b) Eye gouging of any kind.

(c) Biting.

(d) Hair pulling.

(e) Fishhooking.

(f) Groin attacks of any kind.

(g) Putting a finger into any orifice or into any cut or laceration on an opponent.

(h) Small joint manipulation.

(i) Striking to the spine or the back of the head.

(j) Striking downward using the point of the elbow. (Commonly referred to as a "12 to 6" motion.)

(k) Throat strikes of any kind, including, without limitation, grabbing the trachea.

(L) Clawing, pinching or twisting the flesh.

(m) Grabbing the clavicle.

(n) Kicking the head of a grounded opponent.

(o) Kneeing the head of a grounded opponent.

(p) Stomping a grounded opponent.

(q) Kicking to the kidney with the heel.

(r) Spiking an opponent to the canvas on his/her head or neck.

(s) Throwing an opponent out of the ring or fenced area.

(t) Holding the shorts or gloves of an opponent.

(u) Spitting at an opponent.

(v) Engaging in any unsportsmanlike conduct that causes an injury to an opponent.

(w) Holding the ropes or the fence.

(x) Using abusive language in the ring or fenced area.

(y) Attacking an opponent on or during the break.

(z) Attacking an opponent who is under the care of the referee.

(aa) Attacking an opponent after the bell has sounded the end of the round.

(bb) Failing to comply with the instructions of the referee.

(cc) Timidity, including, without limitation, avoiding contact with an opponent, intentionally or consistently dropping the mouthpiece or faking an injury.

(dd) Interference by the corner.

(ee) Throwing in the towel during competition.

(ff) Elbow strikes to any part of the body (unless approved by the Executive Director prior to the match).

(gg) Twisting Leg Locks (Amateurs Only).

(15) Fouls: Deduction of points. If a mixed martial arts competitor fouls his/her opponent during a contest or exhibition of mixed martial arts,

the referee may penalize the competitor by deducting points from the competitor's score, whether or not the foul was intentional.

(a) The referee may determine the number of points to be deducted in each instance and shall base the determination on the severity of the foul and its effect upon the opponent.

(b) When the referee determines that it is necessary to deduct a point or points because of a foul, the referee shall warn the offender of the penalty to be assessed.

(c) The referee shall, as soon as is practical after the foul, notify the judges and both competitors of the number of points, if any, to be deducted from the score of the offender.

(d) Any point or points to be deducted for any foul must be deducted in the round in which the foul occurred and may not be deducted from the score of any subsequent round.

(16) Fouls: Intentional. If a foul is determined by the referee to be intentional and causes the opponent to be unable to continue, the offending competitor is disqualified.

(17) Fouls: Accidental.

(a) If a contest or exhibition of mixed martial arts is stopped because of an accidental foul, the referee shall determine whether the competitor who has been fouled can continue or not. If the competitor's chance of winning has not been seriously jeopardized as a result of the foul the referee may order the contest or exhibition continued after a recuperative interval of not more than five minutes. The length of the recuperative time is determined by the referee. Immediately after separating the competitors, the referee shall inform the Commission's representative of his/her determination that the foul was accidental.

(b) If the referee determines that a contest or exhibition of mixed martial arts may not continue because of an injury suffered as the result of an accidental foul, the contest or exhibition must be declared a no contest if the foul occurs during:

(A) The first two rounds of a contest or exhibition that is scheduled for three rounds or less; or

(B) The first three rounds of a contest or exhibition that is scheduled for more than three rounds.

(c) If an accidental foul renders a competitor unable to continue the contest or exhibition after:

(A) The completed second round of a contest or exhibition that is scheduled for three rounds or less; or

(B) The completed third round of a contest or exhibition that is scheduled for more than three rounds, the outcome must be determined by scoring the completed rounds and the round during which the referee stops the contest or exhibition.

(d) If an injury inflicted by an accidental foul later becomes aggravated by fair blows and the referee orders the contest or exhibition stopped because of the injury, the outcome must be determined by scoring the completed rounds and the round during which the referee stops the contest or exhibition.

(18) Results of contests. A contest of mixed martial arts may end with the following results:

(a) Submission by:

(A) Physical tap out.

(B) Verbal tap out.

(C) Corner stoppage.

(b) Technical knockout by the referee stopping the contest.

(c) Decision via the scorecards, including:

(A) Unanimous decision.

(B) Split decision.

(C) Majority decision.

(D) Draw, including:

(i) Unanimous draw.

(ii) Majority draw.

(iii) Split draw.

(d) Technical decision.

(e) Technical draw.

(f) Disqualification.

(g) Forfeit.

(h) No contest.

(19) Professional mixed martial arts; Weight classes. Except with the approval of the Commission or its Executive Director, the weight classes for contests, matches, or exhibitions of professional mixed martial arts are as follows:

(a) Flyweight, up to and including 125 lbs.

(b) Bantamweight, over 125 to and including 135 lbs.

(c) Featherweight, over 135 to and including 145 lbs.

(d) Lightweight, over 145 to and including 155 lbs.

(e) Welterweight, over 155 to and including 170 lbs.

(f) Middleweight, over 170 to and including 185 lbs.

(g) Light Heavyweight, over 185 to and including 205 lbs.

(h) Heavyweight, over 205 to and including 265 lbs.

(i) Super Heavyweight, over 265 lbs.

Stat. Auth. ORS 463.113

Stat. Implemented SB 492 (2007)

Hist.: SAC 1-2008(Temp), f. & cert. ef. 1-29-08 thru 6-30-08

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Department of Revenue
Chapter 150

Rule Caption: Refunding Value of Stamps on Packages of Non-Reduced Ignition Propensity Cigarettes.
Adm. Order No.: REV 1-2008(Temp)
Filed with Sec. of State: 2-4-2008
Certified to be Effective: 2-4-08 thru 4-30-08
Notice Publication Date:
Rules Adopted: 150-323.320(1)(b)
Subject: The rule establishes a process for refunding the value of stamps that distributors have affixed to packages of cigarettes that cannot be legally sold in Oregon because the cigarettes are not of "ignition-reduced propensity" (sometimes referred to as "fire-safe"). The process described in the rule allows distributors to request that the department void the Oregon stamp and refund it's value in order that the product may legally be sold in another state.
Rules Coordinator: Debra L. Buchanan—(503) 945-8653

150-323.320(1)(b)
Refund of Value of Stamps on Packages of Non-Reduced Ignition Propensity Cigarettes.

A refund equal to the face value, less the discount allowed, on identifiable stamps affixed to unsalable packages of non-reduced ignition propensity cigarettes may be obtained upon certification by a representative of the Department. An appointment for refund certification must be made with the Department. A Department representative will cancel the Oregon indicia in such a manner as to permanently identify the packages. Indicia from the state into which those packages will be sold must be affixed to the packages during the certification appointment. Refund provisions of the cigarette tax act apply only to duly licensed Oregon cigarette distributors. Cigarette stamp refunds outside of Oregon must be certified by a representative of the Department. This rule is effective on filing, and through April 30, 2008.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 323.320

Hist.: REV 1-2008(Temp), f. & cert. ef. 2-4-08 thru 4-30-08

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Rule Caption: Describing what accounts are permitted for collection by the Collection Unit under ORS 293.250.
Adm. Order No.: REV 2-2008
Filed with Sec. of State: 2-15-2008
Certified to be Effective: 2-15-08
Notice Publication Date: 11-1-2007
Rules Amended: 150-293.250(2)
Subject: To amend the rule to better describe the accounts that other agencies may assign to the Department of Revenue for collection by the Other Agency Accounts Unit under ORS 293.250.
Rules Coordinator: Debra L. Buchanan—(503) 945-8653

150-293.250(2)
Assigning Delinquent Accounts

(1) Assigning an account to the Collections Unit's restricted program for refund offset only while an account is also assigned to a private collection firm is permitted. However, assigning an account to both the Collection Unit's unrestricted program for full collection activity and a private collection firm is prohibited.

(2) The general purpose of the Collections Unit is to render assistance to state agencies as defined in ORS 293.235 in collecting delinquent debt owed, or by law considered owed, to the assigning state agency. The Collections Unit may also accept certain debts owed the county parole boards under contracts with the Department of Corrections; debts owed the State Accident Insurance Fund; Oregon Health and Science University; and Oregon community colleges. With three exceptions shown in section (3)

below, the department will not accept delinquent debt owed to any other person or entity.

(3) The department may accept, from another state agency, or the state court system, delinquent debt owed for:

(a) Child or spousal support;

(b) Criminal judgments that impose monetary obligations; or

(c) Judgment debts obtained under ORS 169.151 owed counties for expenses for keeping prisoners.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 293.250
Hist.: RD 13-1987, f. 12-18-87, cert. ef. 12-31-87; RD 7-1992, f. & cert. ef. 12-29-92; RD 5-1995, f. 12-29-95, cert. ef. 12-31-95; REV 8-2001, f. & cert. ef. 12-31-01; REV 8-2007(Temp), f. & cert. ef. 10-5-07 thru 12-31-07; Administrative correction 1-25-08; REV 2-2008, f. & cert. ef. 2-15-08

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Department of Transportation
Chapter 731

Rule Caption: Prequalification of Offeror.
Adm. Order No.: DOT 1-2008(Temp)
Filed with Sec. of State: 1-24-2008
Certified to be Effective: 1-24-08 thru 7-22-08
Notice Publication Date:
Rules Amended: 731-005-0450
Subject: This rule change relates to the Prequalification requirements for bidding on ODOT Highway and Bridge public improvement projects. ODOT will soon be rolling out the Small Contracting Program for Construction. This new program is targeting the small contractor to enable them to competitively bid as a prime contractor on construction projects under $100,000. ODOT's present prequalification system requires mandatory annual prequalification and a payment of $100 a year to become prequalified to bid on a highway construction project. Under the Small Contracting Program, ODOT will not require the mandatory general prequalification and the mandatory $100 filing fee for this program, but instead will implement a less stringent qualification process. This rule change will accomplish that objective.
Rules Coordinator: Lauri Salsbury—(503) 986-3171

731-005-0450
Prequalification of Offeror

(1) Prequalification.

(a) Mandatory Prequalification. ODOT requires mandatory general prequalification of Offerors on forms prescribed by ODOT. Annual prequalification with ODOT is required to bid on any Public Improvement project ODOT may advertise. Prequalification applications must be received by ODOT on the ODOT "Contractor's Prequalification Application" form ten Days prior to Bid Opening. The application must be completed in its entirety or a Bidder's Offer will be rejected. See OAR 734-010-0220 through 734-010-0280.

(b) Special Prequalification. ODOT must indicate in the Solicitation Document if it will require a special mandatory prequalification in addition to the general prequalification. Special prequalifications may be used for projects of a particularly complex nature, using products requiring highly specialized skills, or when a mandatory general prequalification is not required. The solicitation documents shall indicate the requirements and time frame for special prequalifications.

(2) Standards for Prequalification. Standards for prequalification are identified in OAR chapter 734 division 10.

(3) Subsection (1) (a) of this rule does not apply to public improvement contracts with a value, estimated by ODOT, of less than $100,000; however, ODOT may require a special contractor prequalification under subsection (1) (b) even when there is no mandatory prequalification.

Stat. Auth.: ORS 184.616, 184.619, 279A.050, 279A.065 & 279C.430
Stats. Implemented: ORS 279C.430 & 279C.435
Hist.: DOT 2-2005, f. 2-16-05, cert. ef. 3-1-05; DOT 1-2007, f. & cert. ef. 1-24-07; DOT 1-2008(Temp), f. & cert. ef. 1-24-08 thru 7-22-08

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Department of Transportation,
Driver and Motor Vehicle Services Division
Chapter 735

Rule Caption: Documents Accepted as Proof of Identity and Date of Birth in Transactions with DMV.
Adm. Order No.: DMV 1-2008(Temp)
Filed with Sec. of State: 1-18-2008
Certified to be Effective: 2-4-08 thru 8-1-08
Notice Publication Date:
Rules Amended: 735-010-0130, 735-062-0000, 735-062-0010, 735-062-0030, 735-062-0090, 735-062-0110, 735-070-0010
Subject: On November 16, 2007, Governor Ted Kulongoski signed Executive Order No. 07-22 which orders DMV to, as soon as practical, revise and tighten the requirements for issuance of driver licenses, driver permits and identification cards, including verification of an applicant's Social Security Number (SSN) with the Social Security Administration.

The rules that DMV proposes to amend in this rulemaking all refer to age and identity documents listed in OAR 735-062-0020. The rule reference needs to be expanded, as there will be two rules that list acceptable documents depending on the circumstances of the applicant. These rules must be amended to specify which documents DMV will accept in various situations, depending on whether the applicant has a verifiable SSN or signs a Statement of No Social Security Number. DMV also proposes to amend these rules to be consistent in the terms used– identity and date of birth, rather than age and identity.
Rules Coordinator: Lauri Salsbury—(503) 986-3171

735-010-0130
Establishment and Use of True Name by an Individual

All of the following apply to establishment and use of a true name by an individual:

(1) An applicant for an Oregon driver license, driver permit or identification card, shall establish his or her true name as supported by a document proving identity and date of birth required under OAR 735-062-0020 or 735-062-0021.

(2) When conducting any business with DMV, including but not limited to obtaining driving privileges, an identification card, vehicle title and vehicle registration, an individual shall use only his/her true name.

(3) If an individual has not established a true name as provided in section (1) of this rule, DMV will use the name on his or her customer record as his or her name for vehicle title and registration purposes. An individual who is shown on any application for title as provided in ORS 803.050, any application for salvage title as provided under ORS 803.140 or any transitional ownership record as defined in ORS 801.562, shall use his/her true name.

(4) An individual shall use the same name in conducting all business with DMV. The individual must also provide the DMV-assigned customer number shown on the driver license, driver permit or identification card, if known.

(5) An individual's true name shall not include a title or honorific such as, but not limited to, Mr., Mrs., Reverend or Doctor.

Stat. Auth.: ORS 184.616 & 184.619
Stats. Implemented: ORS 801.562, 803.015, 803.050, 803.140, 803.220, 803.370, 807.050, 807.420, 807.560, 809.060 & 821.080
Hist.: DMV 6-1999, f. & cert. ef. 12-17-99; DMV 1-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08

735-062-0000
Driver Permits or Driver Licenses

(1) Before the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will issue a driver permit or driver license, the person applying for the driver permit or driver license must:

(a) Satisfy all requirements set forth in ORS 807.040 and 807.060(2)(a) if under the age of 18. For purposes of ORS 807.060 and this subsection:

(A) Mother means the biological or adoptive mother of the applicant;

(B) Father means the biological or adoptive father of the applicant; and

(C) Legal guardian means an individual, or the authorized representative of an entity, private or public institution or agency appointed as guardian of the applicant by a court having jurisdiction.

(b) Satisfy all requirements set forth in ORS 807.065 and 807.066 to receive a driver license (provisional) if under 18 years of age;

(c) Provide DMV a verifiable SSN or Statement of No Social Security Number as described in OAR 735-062-0005;

(d) Present to DMV documentary proof of the person's identity and date of birth as described in OAR 735-062-0020 or 735-062-0021;

(e) Present to DMV documentary proof of the person's residence address as described in OAR 735-062-0030;

(f) Present to DMV proof, as described in OAR 735-016-0070, that the person is domiciled in or a resident of Oregon;

(g) Surrender to DMV all driver permits and driver licenses in the person's possession that have been issued by:

(A) Another state;

(B) A Canadian province or territory; or

(C) A U.S. territory.

(g) In addition to all requirements in subsections (a) through (f) of this section, a person who holds a commercial driver license from another jurisdiction must satisfy all requirements set forth in ORS 807.045 and OAR 735-062-0200.

(2) A person is not eligible for driving privileges under ORS 807.060(4) or (5) and DMV will not issue or renew driving privileges or replace a driver license or driver permit if on an application for driving privileges or a replacement license or permit a person:

(a) Answers yes to the question "Do you have a vision condition or impairment that has not been corrected by glasses, contacts or surgery that affects your ability to drive safely?" and the person is unable to pass a DMV vision screening;

(b) Answers yes to the question "Do you have any physical or mental conditions or impairments that affect your ability to drive safely?";

(c) Answers yes to the question "Do you use alcohol, inhalants, or controlled substances to a degree that affects your ability to drive safely?"

(3) A person who is denied issuance or renewal of driving privileges or replacement of a driver license or driver permit under section (2) of this rule will be allowed to establish or reestablish eligibility by passing DMV examinations under ORS 807.070, by getting a certificate of eligibility from the State Health Officer under ORS 807.090 or both, as determined by DMV. The requirement may be waived if DMV determines the application was completed in error and the person is eligible for driving privileges.

(4) Upon receipt of an application for a driver license or driver permit, DMV will make an inquiry to the National Driver Register/Problem Driver Pointer System (NDR/PDPS) or the Commercial Driver License Information System (CDLIS) or both to determine if the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction. For issuance of a commercial driver license (CDL), DMV will also make an inquiry to CDLIS to determine if the applicant has been issued a CDL in another jurisdiction.

(5) DMV may require the applicant to provide a clearance letter in compliance with OAR 735-062-0160, indicating the applicant has valid driving privileges from any jurisdiction in which an inquiry with the National Driver Register/Problem Driver Pointer System (NDR/PDPS) or the Commercial Driver License Information System (CDLIS) or both indicates the applicant's driving privilege is not fully valid.

(6) DMV will not issue driving privileges to a person until his or her driving privilege is reinstated in all jurisdictions, unless the only remaining reinstatement requirement in the other jurisdiction is proof of financial responsibility. Nothing in this section prohibits DMV from issuing a regular Class C driver license to a person whose CDL driving privileges are not valid as long as the person's regular Class C or equivalent driving privileges are valid.

(7) DMV will not issue a driver license or permit to a person with a current, valid Oregon identification card (ID card). To become eligible, the person must surrender the ID card before DMV may issue the Oregon driver license or permit. If the person's ID card is lost or destroyed, the person must make a statement that the card is lost or destroyed and that it will be returned to DMV if found.

(8) A driver license of an applicant with a February 29 birth date expires:

(a) On February 29 if the expiration year is a leap year; or

(b) On March 1 if the expiration year is not a leap year.

(9) After determining that an applicant has met all requirements under this rule, DMV will issue the license or permit and mail it to the address provided by the applicant at the time of the application.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.040, 807.050, 807.060, 807.120, 809.310
Stats. Implemented: ORS 807.040, 807.060 & 807.066
Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0000; MV 6-1990, f. & cert. ef. 4-2-90; MV 14-1992, f. & cert. ef. 10-16-92; MV 16-1992, f. & cert. ef. 12-16-92; DMV 12-2000, f. & cert. ef. 9-21-00; DMV 3-2003, f. & cert. ef. 4-21-03; DMV 2-2005, f. 1-20-05, cert. ef. 1-31-05; DMV 27-2005, f. 12-14-05 cert. ef. 1-1-06; DMV 5-2007, f. 5-24-07, cert. ef. 8-1-07; DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 1-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08

735-062-0010
Identification Cards

(1) Pursuant to ORS 807.400, the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will issue an identification card to any person who does not have a valid driver license.

(2) Before DMV will issue an identification card, the person applying for the identification card must:

(a) Satisfy all identification card requirements set forth in ORS 807.400 and 807.410, except as described under section (7) of this rule;

(b) Provide DMV a verifiable SSN or Statement of No Social Security Number as described in OAR 735-062-0005;

(c) Present to DMV documentary proof of the person's identity and date of birth as described in OAR 735-062-0020 or 735-062-0021; and

(d) Present to DMV documentary proof of the person's residence address as described in OAR 735-016-0070 and 735-062-0030.

(3) Identification cards issued to persons for whom DMV has created an Oregon driving record will reflect the same number as that on the existing record.

(4) An applicant in possession of a driver license issued by another jurisdiction must surrender that license to DMV before an identification card will be issued. The person must provide a statement to DMV if the person's license is lost, destroyed or the person no longer has the license in his or her possession, and must agree that the license will be surrendered to DMV if found.

(5) Applicants for an identification card must personally apply at a DMV office to receive an identification card.

(6) All identification cards must include a photograph of the cardholder.

(7) DMV will waive the fee requirements set forth in ORS 807.410 for those persons applying for an identification card when:

(a) The person voluntarily surrenders an Oregon license or driver permit to DMV based upon the person's recognition that the person is no longer competent to drive; or

(b) The person's driving privileges are suspended under ORS 809.419(1) and the person voluntarily surrenders the person's license or driver permit to DMV.

(8) An identification card of an applicant with a February 29 birth date expires:

(a) On February 29 if the expiration year is a leap year; or

(b) On March 1 if the expiration year is not a leap year.

(9) The issuance of an identification card does not constitute proof of legal presence in the United States.

(10) After determining that an applicant has met all requirements under this rule, DMV will issue the identification card and mail it to the address provided by the applicant at the time of application.

Stat. Auth.: ORS 184.616, 184.619, 807.040, 807.050 & 807.400
Stats. Implemented: ORS 807.400
Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0003; MV 19-1990, f. 12-17-90, cert. ef. 1-1-91; DMV 12-2000, f. & cert. ef. 9-21-00; DMV 24-2001, f. 12-14-01, cert. ef. 1-1-02; DMV 5-2007, f. 5-24-07, cert. ef. 8-1-07; DMV 1-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08

735-062-0030
Proof of Residence Address

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) requires all applicants for an original driver permit, driver license, or identification card to present to DMV at least one document showing the applicant's name and current residence address. Current residence address is the address where the applicant actually lives, and DMV will include this address on the permit, license, or identification card. Acceptable documents include any of the items listed in section (3) of this rule.

(2) DMV requires all applicants who apply for a renewal or replacement driver permit, driver license, or identification card at a DMV field office to present to DMV at least one document showing the applicant's current residence address if the applicant's address has changed since the last time the driver permit, driver license or identification card was issued or renewed. Acceptable documents include any of the items listed in section (3) of this rule.

(3) Proof of residence address includes any of the following documents that show the applicant's current residence address:

(a) Any proof of identity and date of birth document listed in OAR 735-062-0020 or 735-062-0021 containing the applicant's current residence address.

(b) Mortgage documents.

(c) A verbal statement from the parent, step-parent or legal guardian of an applicant attesting to the applicant's residence address. The parent,

step-parent or legal guardian must reside at the same residence address as the applicant, be present with the applicant at the time of application and present one acceptable proof of residence address document as set forth in this rule that shows the current residence address of the applicant.

(d) A verbal statement from the applicant's spouse. The spouse must reside at the same residence address as the applicant, be present with the applicant at the time of application and present one acceptable proof of residence address document as set forth in this rule that shows the current residence address of the applicant.

(e) Utility hook-up order.

(f) Payment booklet.

(g) Mail that is dated within 60 days of the application for the license, permit or identification card. DMV will accept mail from the following sources:

(A) Credit card companies;

(B) U.S. Treasury;

(C) Social Security Administration;

(D) State or Federal Revenue Department;

(E) Government agencies;

(F) Utility companies;

(G) Insurance companies; and

(H) Originators of out-of-state clearance letter.

(h) Oregon vehicle title or registration documents containing residence address only.

(i) Oregon manufactured structure ownership documents.

(j) Oregon voter registration card.

(k) Selective Service card.

(L) Medical or health benefits card.

(m) Educational institution transcript forms or other school documents showing enrollment for the current school year.

(n) An unexpired professional license issued by an agency in the United States.

(o) Form DS2019, Certificate of Eligibility for Exchange Visitor (J-1) Status.

(p) Letter from a caseworker at a homeless shelter verifying that the applicant resides at the shelter address.

(4) If the applicant does not have a residence address, DMV may accept a descriptive address with a mailing address. DMV may require the applicant to provide proof that no residence address has been assigned or that there is no mail delivery to the property. Such proof may include, but is not limited to, a statement from the U.S. Postal Service or from the Assessor's office in the county in which the property is located.

(5) An applicant who is homeless may use a descriptive address of the location where he/she actually resides, e.g., "under the west end of Burnside Bridge." The applicant must prove that he or she is a resident or domiciled in Oregon pursuant to OAR 735-016-0040. In addition to the descriptive address, the applicant also must provide a mailing address.

(6) An applicant who travels continuously may use a descriptive address of "continuous traveler." The applicant must prove that he or she is a resident or domiciled in Oregon pursuant to OAR 735-016-0040. In addition to the descriptive address, the applicant also must provide a mailing address.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.050, 807.150 & 807.400
Stats. Implemented: ORS 807.110, 807.160 & 807.400
Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; March 1988, Renumbered from 735-031-0017; DMV 2-1995, f. & cert. ef. 2-10-95; DMV 12-1997, f. & cert. ef. 11-17-97; DMV 34-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 5-2004, f. & cert. ef. 3-25-04; DMV 21-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; DMV 8-2005, f. & cert. ef. 2-16-05; DMV 16-2005(Temp), f. & cert. ef. 6-17-05 thru 12-13-05; DMV 23-2005, f. & cert. ef. 11-18-05; DMV 9-2006, f. & cert. ef. 8-25-06; DMV 5-2007, f. 5-24-07, cert. ef. 8-1-07; DMV 1-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08

735-062-0090
Renewal Driver Licenses and Identification Cards

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will renew the driver license of a person satisfying the requirements set forth in ORS 807.150.

(2) An applicant for the renewal of a driver license or identification card must provide DMV a verifiable SSN or Statement of No Social Security Number as described in OAR 735-062-0005.

(3) An applicant for the renewal of a driver license or identification card must present to DMV proof of identity and date of birth as set forth in OAR 735-062-0020 or 735-062-0021.

(4) An applicant for the renewal of a driver license or identification card that includes a change of residence address must present to DMV one of the proofs of residence address listed in OAR 735-062-0030 that shows the person's current residence address. (Current residence address is the residence address to be included on the license or identification card to be issued.)

(5) DMV may renew an unexpired driver license or identification card up to four months prior to the expiration date.

(6) If a driver license has been expired more than one year, the applicant must re-apply for an original driver license and meet the requirements set forth in OAR 735-062-0000.

(7) An applicant for a renewal of a commercial driver license with a hazardous materials endorsement must retake and pass the hazardous materials knowledge test and meet the requirements set forth in OAR 735-062-0190 to retain the hazardous materials endorsement on the commercial driver license.

(8) An applicant for a renewal of a commercial driver license must meet the requirements set forth in OAR 735-074-0290.

(9) Before processing a driver license renewal, DMV will make an inquiry to the National Driver Register/Problem Driver Pointer System (NDR/PDPS) or the Commercial Driver License Information System (CDLIS), or both, to determine if the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction. Before processing a commercial driver license (CDL) renewal, DMV will make an inquiry to CDLIS to determine if the applicant has been issued a CDL in any other jurisdiction.

(10) If the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction, the applicant may not renew an Oregon driver license until the applicant submits a clearance letter that complies with OAR 735-062-0160 and shows the applicant's driving privileges are reinstated or otherwise valid in the other jurisdiction.

(11) Notwithstanding section (10) of this rule, DMV will renew the driving privileges of an applicant whose driving privileges are suspended, revoked, canceled or otherwise not valid in another jurisdiction if the only remaining reinstatement requirement in the other jurisdiction is proof of future financial responsibility.

(12) DMV will not renew an Oregon driver license or permit if the applicant has a current, valid Oregon identification card. To become eligible, the person must surrender the Oregon identification card before DMV will renew the Oregon driver license or permit. If the person's identification card is lost or the person no longer has the identification card in his or her possession, the person must provide a statement attesting to this fact.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.012 & 807.040
Stats. Implemented: ORS 802.012, 802.540, 807.040 - 807.060, 807.100, 807.15, 807.400
Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0009; MV 14-1992, f. & cert. ef. 10-16-92; MV 16-1992, f. & cert. ef. 12-16-92; DMV 11-1998, f. & cert. ef. 9-14-98; DMV 21-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; DMV 2-2005, f. 1-20-05, cert. ef. 1-31-05; DMV 4-2007, f. 5-24-07, cert. ef. 6-5-07; DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 1-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08

735-062-0110
Replacement Driver Permits, Driver Licenses, and Identification Cards

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will issue a replacement driver permit, driver license or identification card for one of the reasons listed in section (2) of this rule if a person meets the requirements set forth in ORS 807.160, provides to DMV a verifiable SSN or Statement of No Social Security Number as described in OAR 735-062-0005 and the person is eligible for the driver license, driver permit or identification card.

(2) DMV may issue a replacement driver license, driver permit or identification card when a person:

(a) Furnishes proof satisfactory to the department of the loss, destruction or mutilation of the person's driver license, driver permit or identification card.

(b) Changes residence address from the address noted on the person's driver license, driver permit or identification card.

(c) Is an officer or eligible employee who has requested, in accordance with ORS 802.250, that department records show the address of the person's employer.

(d) Changes names from the name noted on the person's driver license, driver permit or identification card.

(e) Is applying for or is required to add or remove a restriction on the person's driver license or driver permit.

(f) Is applying for or is required to add or remove an endorsement other than a motorcycle or farm endorsement on the person's driver license or driver permit.

(g) Furnishes proof satisfactory to the department or the department determines that the department made an error when issuing the person's driver license, driver permit or identification card.

(h) Surrenders the person's driver license that was issued without a photograph under OAR 735-062-0120 and requests a driver license with a photograph.

(i) Surrenders a driver license, driver permit or identification card to the department following a suspension and the person becomes eligible for driving privileges or an identification card.

(j) Has a driver license, driver permit or identification card that was confiscated by a police officer, a court or other agency and the person is eligible for a driver license, driver permit or an identification card.

(k) Requests to change any physical description, notation, photograph or signature on the driver license, driver permit, or identification card or to add or delete an anatomical donor designation.

(l) Surrendered an Oregon driver license or driver permit to the driver licensing agency of another state or jurisdiction and the person again becomes domiciled in or a resident of Oregon, as long as the person remains eligible for driving privileges and the driver license or permit has not been expired for longer than one year. This subsection does not apply if the person is requesting a commercial driver license.

(m) Has a reason satisfactory to DMV to be issued a driver license, driver permit or identification card with a different distinguishing number than the one being replaced.

(n) Requests a downgrade from one license class to another (e.g., a Commercial Driver License to a non-commercial Class C driver license).

(o) Requests restoration of a Commercial Driver License following a suspension of the Commercial Driver License or a downgrade to non-commercial driving privileges and the person is eligible for commercial driving privileges.

(p) Requests to correct information on the driver license, driver permit or identification card that was provided to DMV in error.

(3) An applicant for a replacement driver license, driver permit, or identification card must present to DMV proof of identity and date of birth as set forth in OAR 735-062-0020 or 735-062-0021.

(4) An applicant at a DMV field office for a replacement driver license, driver permit, or identification card that includes a change of residence address must also present to DMV one of the proofs of residence address listed in OAR 735-062-0030 that shows the person's current residence address. Current residence address is the address where the person actually lives and DMV will include that address on the license, permit, or identification card issued.

(5) An applicant for a replacement driver license, driver permit, or identification card must surrender the license, driver permit or identification card replaced to DMV, if possible.

(6) Before issuing a replacement driver license or driver permit, DMV will make an inquiry to the National Driver Register/Problem Driver Pointer System (NDR/PDPS) or the Commercial Driver License Information System (CDLIS), or both, to determine if the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction. Before processing a replacement commercial driver license or commercial driver permit, DMV will make an inquiry to CDLIS to determine if the applicant has been issued a CDL in another jurisdiction.

(7) If the applicant's driving privileges are suspended, revoked, canceled or otherwise invalid in any other jurisdiction, DMV will not issue a replacement driver license or driver permit until the applicant submits a clearance letter that complies with OAR 735-062-0160 or a DMV inquiry to the NDR/PDPS or CDLIS, or both, shows that the applicant's driving privileges are reinstated or otherwise valid in the other jurisdiction.

(8) Notwithstanding section (7) of this rule, DMV will issue a replacement license or driver permit to an applicant whose driving privileges are suspended, revoked, canceled or otherwise invalid if the only remaining reinstatement requirement in the other jurisdiction is proof of future financial responsibility.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.160

Stats. Implemented: ORS 807.160, 807.220, 807.230, 807.280 & 807.400

Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0013; DMV 24-2003, f. 12-15-03 cert. ef. 1-1-04; DMV 2-2005, f. 1-20-05, cert. ef. 1-31-05; DMV 16-2005(Temp), f. & cert. ef. 6-17-05 thru 12-13-05; DMV 23-2005, f. & cert. ef. 11-18-05; DMV 1-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08

735-070-0010

Reinstatement Following Cancellation or Suspension Under ORS 807.220, 807.230, 807.350, 809.310 and 809.320

(1) DMV will reissue a driver permit, driver license or identification card to a person whose driving privileges or identification card is canceled under ORS 809.310(1) because the person is not entitled only if the person corrects the condition that caused the cancellation and otherwise meets all requirements for driving privileges or an identification card.

(2) DMV will reissue a driver permit, driver license or identification card canceled under ORS 809.310(2) because there is an error, i.e. wrong class of license or permit, incorrect endorsement; incorrect date of birth, name, expiration date or issue date once the person surrenders the driver permit, driver license or identification card with the error. If the information on the driver permit, driver license or identification card is wrong because of a DMV error, a no fee replacement will be issued.

(3) DMV will reissue a driver permit, driver license or identification card canceled under ORS 809.310(2) because the address is not the person's residence address as required by law once the person surrenders the driver permit, driver license or identification card with the incorrect information and the person provides DMV with acceptable documentary proof of residence address as described in OAR 735-062-0030(1) and pays all applicable fees.

(4) Notwithstanding sections (1), (2) and (3) of this rule, when a person whose driving privileges or identification card are canceled under ORS 809.310(1) or 809.310(2) is not a resident of Oregon, DMV will rescind the cancellation to allow the person to obtain driving privileges or an identification card in another jurisdiction but will not reissue an Oregon driver license, driver permit, or identification card. The person must:

(a) Request that DMV rescind the cancellation;

(b) Have corrected all applicable conditions that caused the cancellation except for the domicile or residency requirements under ORS 807.062; and

(c) Provide verification from another jurisdiction that:

(A) The person has applied and meets the requirements for driving privileges or an identification card in that jurisdiction;

(B) The person has surrendered his or her Oregon driver license or identification card to the jurisdiction, or has stated that the card was surrendered to DMV or that it was lost, destroyed or mutilated; and

(C) The cancellation must be rescinded in order for the person to qualify for driving privileges or an identification card in the other jurisdiction.

(5) DMV will issue a driver license, driver permit or identification card when a person described in section (4) of this rule returns to Oregon and the person corrects the condition that caused the cancellation and meets all eligibility requirements for driving privileges or an identification card and pays all applicable fees.

(6) DMV will reinstate the person's driving privileges or identification card, including his or her right to apply suspended under ORS 809.310(3)(b)-(h) when:

(a) One year has elapsed since the effective date of the suspension; and

(b) The person pays the reinstatement fee.

(7) When a person's driving privileges or identification card, including the right to apply, is suspended under ORS 809.310(3)(a), DMV will reinstate the driving privileges or identification card one year from the effective date of the suspension if the person:

(a) Provides to DMV a verifiable SSN or Statement of No Social Security Number as described in OAR 735-062-0005;

(b) Submits proof of identity and date of birth as described in OAR 735-062-0020 or 735-062-0021. For purposes of this rule, proof of identity and date of birth does not include a driver license, instruction permit, identification card or a duplicate photograph on file with Oregon DMV;

(c) Submits proof of residence address as described in OAR 735-062-0030(1); and

(d) Pays the reinstatement fee.

(8) Notwithstanding section (7) of this rule, when a person's driving privileges or identification card are suspended under ORS 809.310(3)(a) and is no longer a resident of Oregon, he or she may request to have his or her driving privileges, identification card or right to apply be reinstated in order to be issued in another jurisdiction. DMV will not issue an Oregon driver license, driver permit or identification card, but will reinstate the driving privileges, identification card or right to apply when:

(a) One year has elapsed since the effective date of the suspension;

(b) The person provides verification from another jurisdiction that:

(A) The person has applied and meets the requirements for driving privileges or an identification card in that jurisdiction; and

(B) The person has surrendered his or her Oregon driver license or identification card to that jurisdiction, or has stated that the card was surrendered to DMV or that it was lost, destroyed or mutilated; and

(c) The person pays the reinstatement fee.

(9) A person described in section (8) of this rule, who returns to Oregon, may be eligible for a driver license, driver permit or identification card. DMV will issue a driver license, driver permit or identification card when:

(a) Provides to DMV a verifiable SSN or Statement of No Social Security Number as described in OAR 735-062-0005;

(b) The person submits proof of identity and date of birth as described in OAR 735-062-0020 or 735-062-0021. For purposes of this rule, proof of identity and date of birth does not include a driver license, instruction permit, identification card or a duplicate photograph on file with Oregon DMV;

(c) The person submits proof of residence address as described in OAR 735-062-0030(1); and

(d) The person meets all eligibility requirements for driving privileges or an identification card and pays all applicable fees.

(10) When DMV cancels a person's driver permit or driver license for withdrawal of consent under ORS 809.320, DMV will reinstate driving privileges when the person:

(a) Pays a replacement driver permit or driver license fee or a renewal fee, if applicable; and

(b) Submits one of the following if the person is under 18 years of age:

(A) An application for a driver permit or driver license that is signed by the person's mother, father or legal guardian;

(B) Court papers showing that the person is declared emancipated by the court; or

(C) Evidence that the person is married.

(11) When DMV cancels a person's driving privileges because the person is not qualified or does not meet the requirements under ORS 807.350, DMV will not grant driving privileges until the person meets the requirements and demonstrates qualification for a driver license under ORS 807.040, 807.050, 807.060, 807.062, 807.065, 807.066 and 807.070.

(12) When the special student driver permit of a person under 16 years of age is canceled under ORS 807.230(7), DMV will only issue driving privileges when the person has reached 16 years of age and if the person is eligible and meets all applicable requirements in ORS 807.040, 807.065 and 807.066 and OAR 735-062-0000 to obtain a driver permit or driver license. When the special student driver permit of a person over 16 years of age is canceled, DMV will not reissue a special student driver permit however the person may apply for a driver license if eligible and if the person meets all applicable requirements in ORS 807.040, 807.065, 807.066 and OAR 735-062-0000.

(13) When an emergency driver permit is canceled under ORS 807.220(3)(g), DMV will:

(a) Reissue an emergency driver permit after one year has elapsed from the effective date of the cancellation if the person is eligible and meets the requirements in OAR 735-064-0230; or

(b) Issue a driver permit or a driver license if the person is eligible and meets all applicable requirements in ORS 807.040, 807.065 and 807.066 and OAR 735-062-0000.

Stat. Auth.: ORS 184.616, 184.619 & 802.010
Stats. Implemented: ORS 807.220, 807.230, 807.400, 809.310 & 809.320
Hist.: MV 16-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0064; MV 14-1992, f. & cert. ef. 10-16-92; MV 18-1993, f. 12-17-93, cert. ef. 1-1-94; DMV 16-1994, f. & cert. ef. 12-20-94; DMV 3-2002, f. & cert. ef. 3-14-02; DMV 16-2005(Temp), f. & cert. ef. 6-17-05 thru 12-13-05; DMV 23-2005, f. & cert. ef. 11-18-05; DMV 27-2005, f. 12-14-05 cert. ef. 1-1-06; DMV 13-2006, f. 9-22-06, cert. ef. 10-2-06; DMV 19-2006, f. & cert. ef. 12-13-06; DMV 1-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08

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Rule Caption: SSN Verification and Acceptable Identity Documents for Issuance of Driver License, Permit or Identification Card.
Adm. Order No.: DMV 2-2008(Temp)
Filed with Sec. of State: 1-18-2008
Certified to be Effective: 2-4-08 thru 8-1-08
Notice Publication Date:
Rules Adopted: 735-062-0021
Rules Amended: 735-062-0005, 735-062-0020
Subject: On November 16, 2007, Governor Ted Kulongoski signed Executive Order No. 07-22 which orders DMV to, as soon as practical, revise and tighten the requirements for issuance of driver licenses, driver permits and identification cards, including verification of an applicant's Social Security Number (SSN) with the Social Security Administration.

DMV proposes to amend OAR 735-062-0005 to require an applicant for driving privileges or an identification card to provide a verifiable SSN. DMV will not issue a commercial driver license or driver permit to an applicant who does not have a verifiable SSN. In the case of a non-commercial driver license, driver permit or identification card, DMV will allow an applicant to provide a written statement that he or she has not been issued an SSN, but the applicant must provide proof of identity and date of birth from the list of acceptable documents in proposed new rule OAR 735-062-0021. DMV proposes to amend OAR 735-062-0020 to shorten the list of acceptable documents an applicant with a verifiable SSN may use as proof of date of birth and identity. An applicant who submits a foreign-issued document such as a foreign passport must also provide valid United States Citizenship and Immigration Services documentation with the foreign document as listed in the proposed amendments to OAR 735-062-0020 and proposed rule OAR 735-062-0021. Proposed amendments to OAR 735-062-0005 further require DMV to deny issuance, renewal or replacement of a driver license, driver permit or identification card if the applicant does not meet the requirements as described above.
Rules Coordinator: Lauri Salsbury—(503) 986-3171

735-062-0005
Social Security Number Verification

(1) Except as provided in subsection (4) of this rule an applicant for driving privileges or an identification card must provide his or her Social Security Number (SSN) on the application for an original, renewal or replacement driver license, driver permit, or identification card.

(2) The Driver and Motor Vehicle Services Division of the Oregon Department of Transportation (DMV) will not issue, renew or replace a commercial driver license or driver permit unless the applicant provides a verifiable SSN.

(3) Except as provided in subsection (5) of this rule, DMV will not issue, renew or replace a non-commercial driver license or driver permit, or an identification card unless the applicant provides a verifiable SSN. An applicant with a verifiable SSN must also provide a document proving identity and date of birth as set forth in OAR 735-062-0020 or DMV will refuse to issue, renew or replace a driver license, driver permit or identification card.

(4) If an applicant for non-commercial driving privileges or an identification card has not been issued a SSN by the United States Social Security Administration (SSA), DMV will accept a written statement from the applicant to fulfill the requirements of section (1) of this rule. The applicant may submit a Statement of No Social Security Number (DMV Form 735-7255) but any written statement submitted must:

(a) Be signed by the applicant;

(b) Attest to the fact that no SSN has been issued to the applicant by the SSA; and

(c) Describe the penalties for knowingly supplying false information under this section.

(5) If an applicant for an original, renewal or replacement non-commercial driver license or driver permit, or identification card has never been issued a SSN and has submitted a statement as described in subsection (4) of this rule, the applicant must provide additional identity documents as set forth in OAR 735-062-0021. If the applicant is unable to meet the requirements of OAR 735-062-0021, DMV will refuse to issue, renew or replace a driver license, driver permit or identification card to the applicant.

(6) For purposes of this rule and OAR chapter 735, division 062, "verifiable SSN" means an applicant's SSN has been submitted by DMV to the SSA and DMV has received information that the applicant's name, date of birth and SSN matches SSA records.

(7) This rule applies to all driver licenses, driver permits and identification cards issued on or after February 4, 2008.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.050
Stats. Implemented.: ORS 25.990, 27.785, 802.200, 807.050
Hist.: MV 6-1990, f. & cert. ef. 4-2-90; DMV 11-1995, f. & cert. ef. 11-15-95; DMV 19-2003, f. 12-15-03 cert. ef. 1-1-04; DMV 2-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08

735-062-0020
Proof of Identity and Date of Birth Requirements with Verified SSN

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will require an applicant for an original, renewal or replacement driver permit, driver license, or identification card to present to DMV documentary proof of the applicant's identity and date of birth prior to the issuance of such driver permit, driver license, or identification card. An applicant who has provided DMV a verifiable SSN must also provide at least one document, as described in Section (4) of this rule, as proof of identity and date of birth.

(2) Documents must be original or certified copies.

(3) For an original, renewal or replacement driver license, driver permit or identification card, if the applicant's name is different than the name on the proof of identity and date of birth document submitted pursuant to section (1) of this rule, the applicant must provide one or more documents showing to DMV's satisfaction a legal name change including, but not limited to, a marriage certificate, divorce decree, certificate of registered domestic partnership, judgment of dissolution or annulment of marriage or domestic partnership, adoption decree, legal name change decree or court order.

(4) Documents acceptable as proof of identity and date of birth are:

(a) A U.S., Canadian or U.S. Territorial government issued birth certificate. For purposes of this subsection, DMV will not accept a hospital issued birth certificate, hospital card, birth registration or baptismal certificate.

(b) U.S. Consular Report of Birth Abroad (FS-240).

(c) Certification of Birth (DS-1350 or FS-545).

(d) U.S. Military documents including:

(A) Military or Armed Forces ID card;

(B) Military Common Access Card;

(C) U.S. Uniform Services ID and Privileges card (DD1173 and DD1173-1); and

(D) Request for Verification of Birth (DD372).

(e) United States passport, not expired more than five years from the date of expiration.

(f) Valid foreign passport with appropriate Department of Homeland Security documentation, not expired.

(g) U.S. Department of Homeland Security issued documents, not expired, including:

(A) Resident Alien card or Permanent Resident card (I-551);

(B) Temporary Resident ID card (I-688);

(C) Employment Authorization Document (I-688A, I-688B and I-766);

(D) Certificate of Citizenship (N560 and N561);

(E) Certificate of Naturalization (N550, N570 and N578);

(F) Reentry Permit Form I-327; or

(G) Refugee Travel Document Form I-571.

(h) Out-of-state, District of Columbia, U.S. Territorial government or Canadian driver license, instruction permit or identification card, that contains the applicant's photograph, not expired or expired no more than 60 days unless hole-punched or marked "Not Valid as ID."

(i) Oregon driver license, instruction permit, or identification card, not expired more than one year. For the purposes of this subsection, DMV will not accept a driver license that was issued without a photograph.

(j) Immigrant visa issued by the U.S. Department of State not expired. Must contain the stamp "UPON ENDORSEMENT SERVES AS TEMPORARY I-551 EVIDENCING PERMANENT RESIDENCE FOR 1 YEAR."

(k) U.S. Department of State driver license or Non-driver ID card not expired or expired less than 60 days.

(L) Oregon Concealed Weapon Permit/Concealed Handgun License, not expired or expired less than one year.

(m) Confederated Tribes of Oregon Tribal ID card if:

(A) DMV determines the procedures used in issuing the card are reasonably equivalent to DMV standards for verification of a person's age and identity; and

(B) The card contains sufficient security features to alleviate alteration or counterfeiting of the card.

(n) A letter verifying identity provided by an Oregon County Community Corrections agency if:

(A) DMV determines the procedures used in issuing the letter are reasonably equivalent to DMV standards for verification of a person's age and identity; and

(B) The letter contains sufficient security features to alleviate alteration or counterfeiting of the letter.

(o) A letter verifying identity provided by the U.S. Pretrial Services if:

(A) DMV determines the procedures used in issuing the letter are reasonably equivalent to DMV standards for verification of a person's age and identity; and

(B) The letter contains sufficient security features to alleviate alteration or counterfeiting of the letter.

(p) A letter verifying identity provided by the Oregon Youth Authority Agency if:

(A) DMV determines the procedures used in issuing the letter are reasonably equivalent to DMV standards for verification of a person's age and identity; and

(B) The letter contains sufficient security features to alleviate alteration or counterfeiting of the letter.

(q) A letter verifying identity provided by a U.S. District Court Probation Office if:

(A) DMV determines the procedures used in issuing the letter are reasonably equivalent to DMV standards for verification of a person's age and identity; and

(B) The letter contains sufficient security features to alleviate alteration or counterfeiting of the letter.

(r) Oregon Department of Correction Release Identification card, issued after April 30, 2005.

(5) DMV will not accept a document as proof of identity and date of birth if DMV has reason to believe the document is not valid. DMV may request an applicant for a driver permit, driver license, or identification card to present additional documentary proof of identity and date of birth if the document presented does not establish the applicant's identity or date of birth to the satisfaction of DMV.

Stat. Auth.: ORS 184.616, 184.619, 807.050, 807.150 & 807.400

Stats. Implemented: ORS 807.050, 807.062, 807.150, 807.160, 807.220, 807.230 & 807.280

Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; March 1988, Renumbered from 735-031-0016; MV 6-1990, f. & cert. ef. 4-2-90; DMV 12-1997, f. & cert. ef. 11-17-97; DMV 7-2001, f. & cert. ef. 3-7-01; DMV 34-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 5-2004, f. & cert. ef. 3-25-04; DMV 21-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; DMV 8-2005, f. & cert. ef. 2-16-05; DMV 9-2006, f. & cert. ef. 8-25-06; DMV 2-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08

735-062-0021

Proof of Identity and Date of Birth Requirements when no SSN

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will require an applicant for an original, renewal or replacement driver permit, driver license, or identification card to present to DMV documentary proof of the applicant's identity and date of birth prior to the issuance of such driver permit, driver license, or identification card. An applicant who has never been issued a SSN and who has submitted a statement as described in OAR 735-062-0005(4) must provide at least one document, as described in section (4) of this rule, as proof of identity and date of birth to DMV.

(2) Documents must be original or certified copies.

(3) For an original, renewal or replacement driver license, driver permit or identification card, if the applicant's name is different than the name on proof of identity and date of birth submitted pursuant to section (1) of this rule, the applicant must provide one or more documents showing to DMV's satisfaction a legal name change including, but not limited to, a marriage certificate, divorce decree, certificate of registered domestic partnership, judgment of dissolution or annulment of marriage or domestic partnership, adoption decree, legal name change decree or court order.

(4) Acceptable proofs of identity and date of birth are:

(a) United States passport, not expired more than five years from the date of expiration.

(b) Valid foreign passport with appropriate Department of Homeland Security documentation, not expired.

(c) U.S. Department of Homeland Security documents, not expired, including:

(A) Resident Alien card or Permanent Resident card (I-551);

(B) Temporary Resident ID card (I-688);

(C) Employment Authorization Document (I-688A, I-688B and I-766);

(D) Certificate of Citizenship (N560 and N561);

(E) Certificate of Naturalization (N550, N570 and N578);

(F) Reentry Permit Form I-327; or

(G) Refugee Travel Document Form I-571.

(d) Immigrant Visa, issued by the United State Department of State, not expired.

(5) DMV will not accept a document as proof of identity and date of birth if DMV has reason to believe the document is not valid. DMV may request an applicant for a driver permit, driver license, or identification card to present additional documentary proof of identity or date of birth if the document presented does not establish the applicant's identity and date of birth to the satisfaction of DMV.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.050, 807.150 & 807.400

Stats. Implemented: ORS 807.050, 807.062, 807.150, 807.160, 807.220, 807.230 & 807.280

Hist.: DMV 2-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08

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Rule Caption: Hardship or Probationary Permit Restrictions.
Adm. Order No.: DMV 3-2008
Filed with Sec. of State: 1-25-2008
Certified to be Effective: 1-25-08

Notice Publication Date: 12-1-2007
Rules Amended: 735-064-0100
Subject: Chapter 867, Oregon Laws 2007 (HB 2740) amends ORS 809.600(1) to include the offense of aggravated vehicular homicide. OAR 735-064-0100 lists things a person driving on a hardship or probationary permit must not do, including being convicted or forfeiting bail for an offense listed in ORS 809.600(1). As the offenses in ORS 809.600(1) are listed in OAR 735-064-0100(1)(c), DMV has amended the rule to include the offense of aggravated vehicular homicide. Also the term IID installer is being changed to IID provider to make the terminology consistent with the administrative rules in OAR Chapter 735 Division 118 which describe approved ignition interlock devices.
Rules Coordinator: Lauri Salsbury—(503) 986-3171

735-064-0100
Hardship or Probationary Permit Restrictions

(1) A person issued a hardship or probationary permit must not do any of the following:

(a) The person must not drive outside the hardship or probationary permit driving restrictions;

(b) The person must not be convicted of or forfeit bail for more than one traffic offense listed in ORS 809.600(2)(b) (including city traffic offenses and similar offenses under federal or state law) within any 12-month period. See OAR 735-064-0220 for a list of offenses and statutory references;

(c) The person must not be convicted of or forfeit bail for an offense as specified in ORS 809.600(1)(a) through (g). These offenses are: murder, manslaughter, criminally negligent homicide, assault, recklessly endangering another person, menacing, or criminal mischief resulting from the operation of a motor vehicle; reckless driving, driving while under the influence of intoxicants, failure to perform the duties of a driver involved in an accident or collision, criminal driving while suspended or revoked, fleeing or attempting to elude a police officer, aggravated vehicular homicide;

(d) The person must not use intoxicants and drive;

(e) The person must not refuse to submit to a chemical breath test, blood test or urine test;

(f) The person must not be convicted of or forfeit bail for an offense under ORS 811.170; or

(g) The person must not falsify any information appearing on the Hardship/Probationary Application.

(2) The person required to have an IID must not violate the following provisions:

(a) Drive any vehicle which does not have an IID installed unless exempted by statute and administrative rule;

(b) Drive an employer's owned or leased vehicle without an IID unless the person is carrying a copy of an employer's exemption letter, Employer IID Exemption form or medical exemption letter in his or her possession;

(c) Tamper with the IID or remove it from the vehicle; or

(d) Solicit another person to blow into the IID.

(3) The person must maintain any required recommendation from a program approved by AMH and the court recommendation for a hardship or probationary permit during the term of the hardship or probationary permit.

(4) Evidence that a restriction has been violated includes, but is not limited to the following:

(a) Police reports;

(b) Accident reports;

(c) Reports from rehabilitation/treatment agencies;

(d) Written reports from family members or the general public;

(e) An official report which indicates the person has driven outside the hardship or probationary permit restrictions;

(f) An official report which indicates the person has been driving after using intoxicants;

(g) Receipt of a copy of a report from a police officer that indicates the person has refused the chemical breath test, blood test or urine test following an arrest for driving under the influence of intoxicants;

(h) An official report from a police officer;

(i) A court conviction; and

(j) A written, signed statement from an approved IID provider.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.270 & 813.510
Stats. Implemented: ORS 807.240, 807.270, 813.100, 813.510, 813.602, 813.608, 813.610, 813.612, & 813.614
Hist.: MV 7-1984, f. 6-29-84, ef. 7-1-84; MV 17-1986, f. & ef. 10-1-86; MV 12-1987(Temp), f. 9-16-87, ef. 9-27-87; MV 31-1987, f. & ef. 10-5-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0120; MV 30-1989, f. & cert. ef. 10-3-89; DMV 4-1994, f. & cert. ef. 7-21-94; DMV 12-1996, f. & cert. ef. 12-20-96; DMV 2-2006, f. & cert. ef. 2-15-06; DMV 3-2008, f. & cert. ef. 1-25-08

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Rule Caption: Emergency Driver Permit.
Adm. Order No.: DMV 4-2008
Filed with Sec. of State: 1-25-2008
Certified to be Effective: 1-25-08
Notice Publication Date: 12-1-2007
Rules Amended: 735-064-0230
Subject: Chapter 359, Oregon Laws 2007 (HB 2147) amends ORS 809.260 to require courts to send to DMV an order of denial of driving privileges for persons between 13 and 20 years of age convicted of an offense involving the possession, use or abuse of alcohol. Previously ORS 809.260 only applied to persons between 13 and 17 years of age. ORS 807.220 allows DMV to issue an emergency driver permit to a person whose driving privileges are suspended by a court ordered denial of driving privileges under ORS 809.260. OAR 735-064-0230 was amended to expand the age of persons that are eligible for emergency driver permits, and to clarify those sections that only apply to persons under 18 years of age, not those over 18 years of age.

The rule was also amended to require a person to provide documented proof when applying for an emergency driver permit to drive the person or a member of the person's immediate family to medical appointments and treatment. Documented proof must include the need for the appointments and treatment, plus the routes and times of travel needed.
Rules Coordinator: Lauri Salsbury—(503) 986-3171

735-064-0230
Emergency Driver Permit

(1) An emergency driver permit authorizes operation of only those vehicles that the holder of a Class C driver license may operate, and does not include operation of any vehicle for which a commercial driver license is required or operation of a motorcycle.

(2) DMV may issue an emergency driver permit to a person between 14 and 18 years of age for an emergency situation only, and not for convenience. An emergency situation includes, but is not limited to, the need for a person to drive to and from:

(a) Medical appointments and treatment for the person or a member of the person's immediate family when no other means of transportation is available;

(b) Work or on the job when no other transportation is available and the person's employment is essential to the welfare of the person's family;

(c) Work or on the job when the person's employment is necessary to help harvest crops that may go unharvested or be lost if the person is unable to drive; and

(d) Grocery stores when no other means of transportation is available.

(3) DMV may issue an emergency driver permit to a person for an emergency situation when a court has issued an order of denial of the person's driving privileges under ORS 809.260. For purposes of this subsection, an emergency situation includes, but is not limited to:

(a) Those emergencies situations listed in Section (2) of this rule; and

(b) The need to drive to and from school when no other means of transportation is available.

(4) Except as provided in section (5) of this rule, an applicant for an emergency driver permit must:

(a) Submit a completed Student/Emergency Permit Application, Form 735-0009 or Court Denial Emergency Driver Permit Application, Form 735-0009a, signed by the applicant, and the applicant's parent or legal guardian, if the applicant is under 18 years of age and is not an emancipated minor, and the sheriff of the county in which the applicant resides;

(b) Provide proof satisfactory to DMV detailing the need for an emergency driver permit signed by the applicant, and the applicant's parent or legal guardian, if the applicant is under 18 years of age and is not an emancipated minor, including, but not limited to:

(A) The circumstances of the emergency;

(B) The expected end date of the emergency;

(C) A complete description of the days, times and routes to be traveled;

(D) The name and address of the medical facilities, routes, days and times the applicant is required to drive to appointments or treatment on a regular basis, if the applicant needs to drive to medical appointments or to receive medical treatment on a regular basis for himself or herself or a member of the applicant's immediate family. The applicant also must submit a signed statement from the physician, physician assistant or certified nurse practitioner treating the applicant or the applicant's immediate family member, advising of the need for medical appointments or treatment on a regular basis. The statement must include how often appointments or treatments are required and the hours of the day and days of the week appointments or treatments are available. Actual appointment and treatment times are subject to verification by DMV and law enforcement;

(E) A signed letter from the applicant's employer on company letterhead stating the days and hours the applicant works if the applicant is applying to drive for employment purposes; and

(F) The signature of a school administrator on the application certifying that there is no other school or public transportation available and that the applicant attends school on the days and hours stated on the application, if the applicant is applying to travel to and from school.

(c) Pay all applicable fees;

(d) Pay the reinstatement fee as established under ORS 807.370 if the applicant's driving privileges are suspended by court denial;

(e) Fulfill all applicable requirements of ORS Chapter 807 and OAR 735, division 62 for issuance of a class C driver license; and

(f) Have an instruction driver permit, if the applicant is over 15 years of age, or if under 15 years of age, obtain an instruction driver permit within 60 days after the applicant's 15th birthday. This subsection does not apply to an applicant who is only eligible for an emergency permit because his or her driving privileges are suspended by a court ordered denial of driving privileges under ORS 809.260.

(5) To be eligible for an emergency driver permit, an applicant does not need to:

(a) Possess an instruction driver permit for at least six months prior to applying for an emergency driver permit;

(b) Have at least 50 hours of driving experience with a licensed driver over the age of 21; or

(c) Complete a traffic safety education course.

(6) In addition to any other driving restrictions that may be imposed by DMV, the holder of an emergency driver permit, who is under 18 years of age, may not drive a motor vehicle carrying any passenger under 20 years of age who is not a member of the permit holder's immediate family.

(7) Except as provided in section (9) of this rule, an emergency driver permit issued prior to the applicant's 16th birthday will expire on the following date, whichever occurs first:

(a) At the end of the emergency; or

(b) Six months and 60 days after the emergency driver permit holder's 16th birthday.

(8) Except as provided in section (9) of this rule an emergency driver permit issued on or after the applicant's 16th birthday and prior to the applicant's 18th birthday will expire on the following date, whichever occurs first:

(a) At the end of the emergency;

(b) Six months and 60 days after issuance of the emergency driver permit; or

(c) One week after the emergency driver permit holder's 18th birthday.

(9) Section (7) and (8) of this rule are not applicable to an emergency driver permit issued because a court ordered denial of driving privileges, under ORS 809.260, which expires on the following date, whichever comes first:

(a) At the end of the emergency; or

(b) At the end of the suspension period.

(10) After the end of the suspension period for a court order denial of driving privileges under ORS 809.260, a person issued an emergency driver permit may be eligible to apply for a driver license or driver permit, including an emergency permit or special student driver permit.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.120, 807.220
Stats. Implemented: ORS 807.220
Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0006; MV 6-1990, f. & cert. ef. 4-2-90; DMV 12-1996, f. & cert. ef. 12-20-96; DMV 1-2001, f. & cert. ef. 1-17-01; DMV 19-2006, f. & cert. ef. 12-13-06; DMV 4-2008, f. & cert. ef. 1-25-08

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Rule Caption: Treating domestic partner equal to spouse, and enhancing proofs of residence address.

Adm. Order No.: DMV 5-2008
Filed with Sec. of State: 2-4-2008
Certified to be Effective: 2-4-08
Notice Publication Date: 12-1-2007
Rules Amended: 735-016-0030, 735-016-0040, 735-050-0000, 735-050-0060, 735-050-0062, 735-050-0064, 735-062-0030, 735-064-0005
Subject: Chapter 99, Oregon Laws 2007 (HB 2007) affords the same rights to a "domestic partner" as are granted to a spouse. A "domestic partnership" is a civil contract entered into in person between two individuals of the same sex who are at least 18 years of age, who are otherwise capable and at least one of whom is a resident of Oregon. The law defines "partner" as an individual joined in a domestic partnership. These rule amendments implement the requirements of HB 2007.

OAR 735-062-0030, which includes the proof DMV will accept from a person to prove residence address when applying for a driver license, driver permit or identification card, was amended to further strengthen DMV requirements to help prevent fraudulent activity while also allowing appropriate options for a person to comply with the requirements. Additional amendments simply clarify the requirements.
Rules Coordinator: Lauri Salsbury—(503) 986-3171

735-016-0030
Domicile — Establishing Intent to Remain or Return

(1) In order to be domiciled in Oregon, a person whose place of abode is in Oregon must intend to remain in this state or if absent from the state must intend to return to it.

(2) DMV may require proof that the person intends to remain in Oregon, including but not limited to proof of:

(a) Ownership of the person's residence in Oregon, or a lease or rental agreement of 12 months or more in duration;

(b) Permanent employment in Oregon;

(c) Payment of Oregon income taxes; or

(d) Payment of residence tuition fees at institutions of higher education in Oregon.

(3) A person who is absent from Oregon but claims to be domiciled in this state may be required to provide DMV proof showing intent to return to Oregon, including but not limited to proof that:

(a) The person has continuously maintained an Oregon residence while absent from Oregon;

(b) The person owns a residence in Oregon;

(c) The person is temporarily residing outside of Oregon for a period of limited duration (e.g., payment of non-resident tuition while attending a school outside of Oregon, temporary transfer of employment to another state or country, temporary care of a family member out of state). The person may be required to show they have maintained ties with Oregon, including but not limited to voter registration or maintenance of an Oregon bank account;

(d) The person is a member of the United States Armed Forces, or the member's spouse, partner in a domestic partnership, or a dependent who resides with the member, who lists Oregon residence in his or her military records; or

(e) The person pays Oregon income tax.

(4) A person who claims to reside at the address of a service provider in Oregon, as defined in OAR 735-010-0008, for purposes of vehicle registration, driver licensing or obtaining an identification card shall provide proof as described in section (2) or (3) of this rule.

Stat. Auth.: ORS 184.616, 184.619, 803.350, 803.370, 807.050, 807.062 & 821.080, Sec. 3, Ch. 99, OL 2007
Stats. Implemented: ORS 802.500, 802.520, 803.200, 803.300, 803.325, 803.350, 803.355, 803.360, 803.370, 807.010, 807.040 807.045, 807.050, 807.062, 807.400, 821.080 & 826.033
Hist.: DMV 7-1999, f. & cert. ef. 12-17-99; DMV 24-2001, f. 12-14-01, cert. ef. 1-1-02; DMV 5-2008, f. & cert. ef. 2-4-08

735-016-0040
Application of Domicile and Residency Requirements

All of the following apply to the application of domicile and residency requirements for eligibility to obtain or requirement for an Oregon vehicle registration, driver license, driver permit or identification card:

(1) A person must be a resident of or domiciled in Oregon, and a business must be a resident of Oregon, to be eligible to register a vehicle in this

state, unless otherwise authorized or required by law, including but not limited to:

(a) An inter-jurisdictional or reciprocal registration agreement;

(b) A declaration by the Director of Transportation pursuant to ORS 802.520; or

(c) An out-of-state corporation owning, operating or maintaining a place of business in Oregon with regard to vehicles that are used by the corporation doing business in Oregon. (ORS 803.300)

(2) A person must be a resident of or domiciled in Oregon to be eligible to obtain an Oregon driver license, driver permit or identification card, unless otherwise authorized or required by law.

(3) A person may be an Oregon resident for purposes of both vehicle registration and driver licensing or only for the purpose of vehicle registration.

(4) A person is an Oregon resident for purposes of obtaining an Oregon driver license, driver permit, identification card or vehicle registration if the person has taken action to indicate the acquiring of residence in Oregon by doing any of the following:

(a) Currently residing in Oregon after having remained in Oregon for a consecutive period of six months or more;

(b) Placing children in a public school without payment of nonresident tuition fees;

(c) Making a declaration to be an Oregon resident for the purpose of obtaining, at resident rates, a state license or tuition fees at an educational institution maintained by public funds; or

(d) Being gainfully employed in Oregon and taking any of the steps described above to indicate a residence.

(5) Notwithstanding section (4) of this rule, a person is not an Oregon resident for purposes of this section if:

(a) The person's gainful employment in Oregon is temporary, such as seasonal agricultural work, traveling sales work or a temporary job assignment in Oregon lasting fewer than six months; or

(b) The person is a student at an educational institution maintained by public funds who is paying nonresident tuition.

(6) A person is an Oregon resident only for purposes of registering a vehicle if the person does not meet the criteria in section (4) of this rule but:

(a) Owns a motor vehicle that operates in intrastate transportation for compensation or profit, other than for seasonal agricultural work; or

(b) Is the owner of an unincorporated business that has an established place of business, main office, branch office or warehouse facility in Oregon that operates motor vehicles in Oregon.

(7) A business entity shall be considered a resident for purposes of registering a vehicle(s) owned and operated in Oregon by the business entity for business purposes if it:

(a) Maintains an established place of business, main office, branch office or warehouse facility in Oregon and operates a motor vehicle(s) in Oregon; or

(b) Owns a motor vehicle that operates in Oregon in intrastate transportation for compensation or profit, other than for seasonal agricultural work.

(8) A lessor shall be considered a resident for purposes of registering a vehicle(s) leased in Oregon for a period of 60 or more days and operated in Oregon by the lessor for business purposes if the lessor:

(a) Maintains an established place of business, main office, branch office or warehouse facility in Oregon and operates motor vehicles in Oregon; or

(b) Owns a motor vehicle that operates in Oregon in intrastate transportation for compensation or profit, other than for seasonal agricultural work.

(9) Although not residing in Oregon, a member of the United States Armed Forces, the member's spouse, partner in a domestic partnership, or dependent who resides with the member, are eligible to register a vehicle or obtain a driver license, permit or identification card from Oregon, if domiciled in this state. Sufficient proof of domicile includes documentation that the member's state of legal residence, as listed in military records, for purposes of withholding State income taxes from military pay is Oregon.

Stat. Auth.: ORS 184.616, 184.619, 803.350, 803.370, 807.050, 807.062 & 821.080, Sec. 3, Ch. 99, OL 2007

Stats. Implemented: ORS 802.500, 802.520, 803.200, 803.300, 803.325, 803.350, 803.355, 803.360, 803.370, 807.010, 807.040, 807.045, 807.050, 807.062, 807.400, 821.080 & 826.033

Hist.: DMV 7-1999, f. & cert. ef. 12-17-99; DMV 24-2001, f. 12-14-01, cert. ef. 1-1-02; DMV 5-2008, f. & cert. ef. 2-4-08

735-050-0000

Determination of Ownership

(1) Any person whose name appears as an owner on the motor vehicle registration will be considered an owner for financial responsibility purposes, unless exempted under sections (3) through (5) of this rule. Unless otherwise provided, any person seeking an exemption under this order must furnish the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) with a self serving affidavit and an affidavit against interest from the person who holds the primary ownership interest in the motor vehicle. However, the affidavit against interest requirement may be waived if the department determines it to be unfeasible.

(2) Where the parties are married or in a domestic partnership and living together, both parties will be considered owners.

(3) Where the parties are married or in a domestic partnership and living apart, an owner may be exempted from financial responsibility by showing that there has been a complete relinquishment of the motor vehicle by such person. A separation agreement showing the date at which complete relinquishment of the motor vehicle occurred is also satisfactory.

(4) Where there is a dissolution of marriage or of a domestic partnership, and the parties have had joint ownership of a vehicle, it is the responsibility of the person who obtains possession of the vehicle through a dissolution decree to transfer the title by presenting an application for transfer of title and a copy of the decree to DMV. If the party awarded ownership of the vehicle by decree fails to transfer the title and is involved in an uninsured accident, the other party may be exempted from the requirements of the financial responsibility laws, ORS Chapter 806, if DMV determines that his or her ownership interest has been extinguished by a dissolution decree. The person must present an affidavit that he or she no longer has possession or use of the vehicle and a copy of the dissolution decree to DMV.

(5) Where persons are living together other than spouses or in a domestic partnership, a person may be exempted from the requirements of the financial responsibility laws, ORS Chapter 806, only when DMV determines the person does not exhibit any incidents of having the right to immediate possession of the motor vehicle. The following are the incidents of who has the right to immediate possession:

(a) The person who has paid or is paying all or a substantial part of the purchase price of the motor vehicle. Evidence of payments will be required by DMV;

(b) The person who has paid the major portion of the maintenance and operation costs. If possible, this will be supported by documentation; and

(c) The person who uses the car the greater amount of time.

(6) Where a person has sold a motor vehicle and has transferred possession to the buyer but the application for transfer of title has not been presented to DMV, he will be considered an owner for financial responsibility purposes, unless the seller can produce affidavits, as provided in section (1) of this rule, or a written purchase agreement signed by the buyer showing that the right to immediate possession rests in the buyer.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 806.010 & Sec. 3, Ch. 99, OL 2007

Stats. Implemented: ORS 806.010

Hist.: MV 32, f. 10-5-66; MV 36, f. 11-22-67; Administrative Renumbering 3-1988, Renumbered from 735-033-0015; DMV 5-2008, f. & cert. ef. 2-4-08

735-050-0060

Good Faith Belief of Compliance with Financial Responsibility Requirements — Purpose and Definitions

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will terminate future responsibility requirements and rescind a financial responsibility suspension of a person's driving privileges as allowed by ORS 806.245, 809.380 and 809.450 when the person:

(a) Is currently in compliance; and

(b) Reasonably and in good faith believed he or she was in compliance at the time of the accident or DMV's letter of verification.

(2) For purposes of OAR 735-050-0060 through 735-050-0064 "good faith" means a state of mind of honesty in purpose and freedom from intent to defraud. Failure of a person to inquire further when the person could reasonably be expected to do so constitutes absence of good faith.

(3) For purposes of OAR 735-050-0060 through 735-050-0064, "reasonably believed" or "reasonable belief" means a belief based on the combinations of facts that existed and the circumstances that a person knew, or with ordinary diligence should have known, which would give cause for a rational person to believe.

(4) It is presumed that a person has knowledge of the contents of his or her motor vehicle liability insurance policy.

(5) DMV will rescind a suspension under this rule if DMV is presented with evidence that the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements. Evidence for the above may be presented to the Accident Reports Unit or at a hearing. In either case, examples of such evidence include, but is not limited to, the following:

(a) Copies of cancelled checks, money orders or receipts for cash that show payment was received for an automobile liability insurance policy;

(b) Written verification on agency or company letterhead or sworn testimony from the insurance producer;

(c) Copies of insurance policies, binders, declarations or applications; and

(d) Notarized written statements or sworn testimony from a spouse, partner in a domestic partnership, co-owner of current or former policies or any other person involved in the payment of policy premiums.

(6) A person is entitled to a hearing on rescinding of the suspension of the person's driving privilege under this rule. A negative determination by the Accident Reports Unit does not limit the right to a hearing.

Stat. Auth.: ORS 184.616, 184.619, 806.245, 809.380 & 809.450, Sec. 3, Ch. 99, OL 2007
Stats. Implemented: ORS 806.245, 809.380 & 809.450
Hist.: MV 17-1985, f. 12-19-85, ef. 1-1-86; MV 22-1987; Administrative Renumbering 3-1988, Renumbered from 735-033-0055, f. 9-21-87, ef. 9-27-87; MV 7-1989, f. & cert. ef. 2-1-89; DMV 20-2003, f. 12-15-03 cert. ef. 1-1-04; DMV 5-2008, f. & cert. ef. 2-4-08

735-050-0062
What Constitutes "Reasonably and in Good Faith"

(1) Examples of circumstances that constitute reasonable and good faith belief include, but are not limited to, the following:

(a) An insurance company accepted application and payment for liability insurance covering the period of time in question;

(b) An insurance producer told a person that he or she was insured or would be insured by a particular policy, and the person was not told otherwise until after the accident or the Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) random sample;

(c) A separated spouse, partner in a domestic partnership, or other additional holder of an insurance policy cancels the policy without the person's knowledge and consent as shown by:

(A) Proof of legal separation; or

(B) A written statement from the party canceling the policy; and

(d) A person is not yet 21 years old, is attending school or is in the military service and believes he or she is covered by a parent's policy.

(2) DMV will use the examples in section (1) of this rule as guidelines in making decisions. However, each request for the rescinding of a suspension under this rule will be reviewed on a case-by-case basis.

Stat. Auth.: ORS 184.616, 184.619, 806.245, 809.380 & 809.450, Sec. 3, Ch. 99, OL 2007
Stats. Implemented: ORS 806.245, 809.380 & 809.450
Hist.: MV 7-1989, f. & cert. ef. 2-1-89; DMV 20-2003, f. 12-15-03 cert. ef. 1-1-04; DMV 5-2008, f. & cert. ef. 2-4-08

735-050-0064
What Does Not Constitute "Reasonably and in Good Faith"

(1) Examples of beliefs that do not constitute a reasonable and good faith belief include, but are not limited to, the following:

(a) Belief that a vendor's single interest (VSI) or other policy issued by a dealer or financing institution provides motor vehicle liability coverage. That policy or its declarations must clearly state that it does not provide motor vehicle liability insurance, does not meet financial responsibility requirements or contain some other similar statement;

(b) Belief by a person who is not yet 21 years of age, not attending school or not in military service, and not residing with a parent that he or she is covered by a parent's policy;

(c) Belief by a person that a policy meets the requirements of the financial responsibility law when the person has not read the policy declarations and limitations;

(d) Belief that a policy is still in force because of non-receipt of a notice of cancellation, unless the person presents substantial evidence showing that the insurance company did not meet the notification requirements for cancellation found in ORS Chapter 742;

(e) Belief that a spouse or partner in a domestic partnership, normally pays all bills and must have paid an insurance premium; and

(f) Belief based only upon an insurance producer's representation after an accident has occurred when, at the time of the accident, the person did not reasonably believe that they were covered.

(2) The Driver and Motor Vehicle Services Division of the Department of Transportation will use the examples in section (1) of this rule as guidelines in making decisions. However, each request for the rescinding of a suspension under this rule will be reviewed on a case-by-case basis.

Stat. Auth.: ORS 184.616, 184.619, 806.245, 809.380, 809.450 & Sec. 3, Ch. 99, OL 2007
Stats. Implemented: ORS 806.245, 809.380 & 809.450
Hist.: MV 7-1989, f. & cert. ef. 2-1-89; DMV 20-2003, f. 12-15-03 cert. ef. 1-1-04; DMV 5-2008, f. & cert. ef. 2-4-08

735-062-0030
Proof of Residence Address

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) requires all applicants for an original driver permit, driver license, or identification card to present to DMV at least one document showing the applicant's name and current residence address. Current residence address is the address where the applicant actually lives, and DMV will include this address on the permit, license, or identification card. Acceptable documents include any of the items listed in section (3) of this rule.

(2) DMV requires all applicants who apply for a renewal or replacement driver permit, driver license, or identification card to present to DMV at least one document showing the applicant's current residence address if the applicant's address has changed since the date of last issuance. Acceptable documents include any of the items listed in section (3) of this rule.

(3) Proof of residence address includes any of the following documents that show the applicant's current residence address:

(a) Any one of the proofs of identity listed in OAR 735-062-0020(10) or (11) that contains the applicant's current residence address.

(b) Mortgage documents.

(c) A statement from the parent, step-parent, or legal guardian of an applicant attesting to the applicant's residence address. The parent, step-parent or legal guardian must reside at the same address as the applicant. In addition, the parent, step-parent, or legal guardian must accompany the applicant and present one acceptable proof of residence address document as set forth in this rule.

(d) A statement of the applicant's spouse or partner in a domestic partnership. The spouse or partner must reside at the same residence as applicant. In addition, the spouse or partner must accompany the applicant and present one acceptable proof of residence address document as set forth in this rule.

(e) Utility hook-up order dated within 60 days of application.

(f) Payment booklet dated within one year of application.

(g) Mail that is dated within 60 days of the application for the license, permit or identification card. DMV will accept mail from the following sources:

(A) Credit card companies;

(B) U.S. Treasury;

(C) Social Security Administration;

(D) State or Federal Revenue Department;

(E) Government agencies. (Mail received from DMV containing only a residence address);

(F) Utility companies;

(G) Financial institutions;

(H) Insurance companies; and

(I) Originators of out-of-state clearance letter.

(h) Oregon vehicle title or registration documents containing only a residence address.

(i) Oregon manufactured structure ownership document.

(j) Oregon voter registration card.

(k) Selective Service card.

(L) Medical or health benefits card.

(m) Educational institution transcript forms or other school documents showing enrollment for the current school year.

(n) An unexpired professional license issued by an agency in the United States.

(o) Form DS2019, Certificate of Eligibility for Exchange Visitor (J-1) Status.

(p) Letter from a caseworker at a homeless shelter, transitional service provider, halfway house or Oregon State Hospital verifying that the applicant resides at the provider's address, dated within 30 days of application and be on original letterhead.

(4) If the applicant does not have a residence address, DMV may accept a descriptive address with a mailing address. DMV may require the applicant to provide proof that no residence address has been assigned to the property. Such proof may include, but is not limited to, a statement from the U.S. Postal Service or from the Assessor's office in the county in which the property is located.

(5) An applicant who is homeless may use a descriptive address of the location where he/she actually resides, e.g., "under the west end of

Burnside Bridge." The applicant must prove that he or she is a resident of or domiciled in Oregon pursuant to OAR 735-016-0040. In addition to the descriptive address, the applicant also must provide a mailing address.

(6) An applicant who travels continuously may use a descriptive address of "continuous traveler." The applicant must prove that he or she is a resident of or domiciled in Oregon pursuant to OAR 735-016-0040. In addition to the descriptive address, the applicant also must provide a mailing address.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.050, 807.150, 807.400 & Sec. 3, Ch. 99, OL 2007
Stats. Implemented: ORS 807.110, 807.160 & 807.400
Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; March 1988, Renumbered from 735-031-0017; DMV 2-1995, f. & cert. ef. 2-10-95; DMV 12-1997, f. & cert. ef. 11-17-97; DMV 34-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 5-2004, f. & cert. ef. 3-25-04; DMV 21-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; DMV 8-2005, f. & cert. ef. 2-16-05; DMV 16-2005(Temp), f. & cert. ef. 6-17-05 thru 12-13-05; DMV 23-2005, f. & cert. ef. 11-18-05; DMV 9-2006, f. & cert. ef. 8-25-06; DMV 5-2007, f. 5-24-07, cert. ef. 8-1-07; DMV 1-2008(Temp), f. 1-18-08, cert. ef. 2-4-08 thru 8-1-08; DMV 5-2008, f. & cert. ef. 2-4-08

735-064-0005
Definitions

As used in Division 64 rules, unless the context requires otherwise:

(1) "AMH" means the Addictions and Mental Health Division of Oregon Department of Human Services.

(2) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(3) "DUII" means driving under the influence of intoxicants.

(4) "Family necessities" means driving to and from grocery shopping, driving a household member to and from work, driving the applicant or the applicant's children to and from school, driving the applicant's children to and from child care, driving to and from medical appointments and caring for elderly family members.

(5) "Fee" is an amount defined in ORS 807.370.

(6) "Hardship/probationary permit" means a restricted driving privilege issued to a person whose privilege is both suspended and revoked and who is required to install an IID due to a DUII suspension.

(7) "IID" means ignition interlock device.

(8) "Intoxicants" means intoxicating liquor, any controlled substance, any inhalant or any combination of the three.

(9) "Immediate family" means the applicant's spouse or partner in a domestic relationship, children, stepchildren, brother, sister, mother, father, mother-in-law, father-in-law, grandmother or grandfather.

(10) "Oregon resident" means a person who is domiciled in this state as defined by ORS 803.355 or is a resident of this state as defined by ORS 807.062(4) and (5).

(11) "Private transportation" means family members, friends or fellow employees who are able to serve the applicant's transportation needs.

(12) "Public transportation" means bus, shuttle or commuter service that is able to serve the applicant's transportation needs.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.240, 807.270 & Sec. 3, Ch. 99, OL 2007
Stats. Implemented: ORS 807.240, 807.270 & 813.520
Hist.: DMV 12-1996, f. & cert. ef. 12-20-96; DMV 2-2001, f. & cert. ef. 1-17-01: DMV 15-2001, f. & cert. ef. 9-21-01; DMV 2-2006, f. & cert. ef. 2-15-06; DMV 17-2006, f. & cert. ef. 11-17-06; DMV 5-2008, f. & cert. ef. 2-4-08

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Department of Transportation, Highway Division
Chapter 734

Rule Caption: Prequalification of Offeror.
Adm. Order No.: HWD 1-2008(Temp)
Filed with Sec. of State: 1-24-2008
Certified to be Effective: 1-24-08 thru 7-22-08
Notice Publication Date:
Rules Amended: 734-010-0230, 734-010-0260
Subject: This rule change relates to the Prequalification requirements for bidding on ODOT Highway and Bridge public improvement projects. ODOT will soon be rolling out the Small Contracting Program for Construction. This new program is targeting the small contractor to enable them to competitively bid as a prime contractor on construction projects under $100,000. ODOT's present prequalification system requires mandatory annual prequalification and a payment of $100 a year to become prequalified to bid on a highway construction project. Under the Small Contracting Program, ODOT will not require the mandatory general prequalification and the mandatory $100 filing fee for this program, but instead will implement a less stringent qualification process. This rule change will accomplish that objective.
Rules Coordinator: Lauri Salsbury—(503) 986-3171

734-010-0230
Prequalification for Bidding

(1) Pursuant to ORS 279C.430(1), the Commission requires that all bidders be prequalified within the appropriate class(es) of work contained in the current Contractor's Prequalification Application adopted by ODOT.

(2) Special contractor prequalifications may be required in addition to the mandatory prequalification in subsection (1) when the elements of a particular public improvement project require specialized knowledge and/or expertise, or when a mandatory general prequalification is not required. When special prequalification is required, notice of the Request for Special Contractor Prequalification will be through ODOT's Electronic Procurement System, and in the Daily Journal of Commerce for projects with an estimated cost over $125,000.

(3) Subsection (1) of this rule does not apply to public improvement contracts with a value, estimated by ODOT, of less than $100,000; however, ODOT may require a special contractor prequalification under subsection (2) even where there is no mandatory prequalification.

Stat. Auth.: ORS 184.616, 184.619, 279A.050, 279A.065 & 279C.430
Stats. Implemented: ORS 279C.430
Hist.: HWD 1-2005, f. 2-16-05, cert. ef. 3-1-05; HWD 1-2007, f. & cert. ef. 1-24-07; HWD 1-2008(Temp), f. & cert. ef. 1-24-08 thru 7-22-08

734-010-0260
Waiving Prequalification Requirements

Prequalification requirements for contracts may be waived by the Deputy Director or Chief Engineer under the following circumstances:

(1) In the case of an emergency;

(2) If finding that special circumstances exist so that prequalification is not necessary.

Stat. Auth.: ORS 184.616, 184.619, 279A.050, 279A.065 & 279C.430
Stats. Implemented: ORS 279C.430
Hist.: HWD 1-2005, f. 2-16-05, cert. ef. 3-1-05; HWD 1-2008(Temp), f. & cert. ef. 1-24-08 thru 7-22-08

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Department of Veterans' Affairs
Chapter 274

Rule Caption: Veterans' Organizations and Expansion and Enhancement Appropriations.
Adm. Order No.: DVA 2-2008
Filed with Sec. of State: 2-4-2008
Certified to be Effective: 2-4-08
Notice Publication Date: 9-1-2007
Rules Amended: 274-030-0500
Subject: This Permanent Rule is being filed solely for the purpose to submit the correct text for 274-030-0500 to the Secretary of State. All other text that was adopted, amended or repealed with the Certificate and Order for Filing Permanent Administrative Rules filed on December 20, 2007 by the Department remain unchanged.
Rules Coordinator: Herbert D. Riley—(503) 373-2055

274-030-0500
Definitions for 274-030-0500 – 274-030-0575

Whenever used in these rules or any amendments thereof, or in any blank form, document, publication, or written instrument of any kind prescribed, provided, published, issued, or used by the Director of Veterans' Affairs of the State of Oregon or any of his duly authorized agents or employees in connection with the administration of the provisions of ORS 406.310 to 406.340 and ORS 406.450 to 406.462, providing for distribution of funds to organizations and counties for rehabilitation services, the terms herein defined shall have the meanings herein set forth unless the context of the words with which a term is used shall clearly indicate a different meaning:

(1) "Advisory Committee" shall mean the Advisory Committee to the Director of the Department of Veterans' Affairs as provided for in ORS 406.210.

(2) "Benefits" shall mean funds available for distribution to veterans' organizations and counties of the State of Oregon under ORS 406.310 to ORS 406.330 and ORS 406.450 to 406.462.

(3) "Capital outlay" shall be synonymous with and mean the same as "capital assets" as defined in the Oregon Accounting Manual, Number 10.50.00 PR. Copies of the Oregon Accounting Manual are available from

the Department of Veterans' Affairs or the Department of Administrative Services Division website.

(4) "County" shall mean a county which carries on a program of veterans' rehabilitation work and which contracts for or employs a part-time or full-time Service Officer.

(5) "County Service Officer" shall mean a person contracted with or employed as a part-time or full-time agent or employee of the governing body of the county whose duty is to carry on a program of rehabilitation and service to veterans.

(6) "Department" means the Department of Veterans' Affairs for the State of Oregon.

(7) "Director" shall mean Director of the Department of Veterans' Affairs for the State of Oregon.

(8) "Funds Available" shall mean the funds remaining from those that have been designated by the Director, with advice from the Advisory Committee, to aid organizations and counties in connection with their respective programs of service to veterans.

(9) "Rehabilitation and Service". For the purpose of these rules, the words "rehabilitation" and "service to veterans" shall be synonymous and shall be interpreted to mean assistance rendered by paid Service Officers accredited by the U.S. Department of Veterans Affairs.

(10) "Rehabilitation Program for Two Years Preceding". For the purpose of these rules the phrase, "**However, a veterans' organization does not qualify for benefits under ORS 406.310 unless it has carried on a program of veterans' rehabilitation work in Oregon for not less than two years immediately preceding**", is interpreted to mean that, for the two years immediately preceding application for benefits under ORS 406.310, a veterans' organization must have in its employ a part-time or full-time paid Service Officer who is accredited by the U.S. Department of Veterans Affairs and who, during the past two years, has been active in representing veterans before the rating boards of the Portland Regional Office of the U.S. Department of Veterans Affairs.

(11) "Service Officer" shall mean a part-time or full-time paid state or national employee of a veterans' organization who is accredited by the U.S. Department of Veterans Affairs and employed to represent veterans before rating boards of the U.S. Department of Veterans Affairs.

(12) "Supplant" means to remove from a situation and replace or supply with a substitute.

(13) A "veterans' organization" shall mean a veterans' organization accredited by the U.S. Department of Veterans Affairs, which has carried on a program of veterans' rehabilitation work in Oregon for not less than two years immediately preceding application, by a part-time or full-time paid Service Officer.

(14) "Voluntary Service Officer" shall mean an appointee of a County Court or Board of Commissioners who acts as County Service Officer without remuneration.

Stat. Auth.: ORS 406 & 408.410
Stats. Implemented: ORS 406.030, 406.215, 406.217, 406.450 - 462
Hist.: DVA 28, f. 8-16-61; DVA 4-1984, f. 6-15-84, ef. 7-1-84; DVA 1-2007(Temp), f. & cert. ef. 7-25-07 thru 1-18-08; DVA 4-2007, f. 12-20-07, cert. ef. 1-1-08; DVA 2-2008, f. & cert. ef. 2-4-08

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Employment Department
Chapter 471

Rule Caption: Misrepresentation Disqualification.
Adm. Order No.: ED 3-2008(Temp)
Filed with Sec. of State: 2-15-2008
Certified to be Effective: 2-15-08 thru 8-13-08
Notice Publication Date:
Rules Amended: 471-030-0052
Subject: Changes the penalties for fraud and misrepresentation to be in line with the new statutory penalties.
Rules Coordinator: Janet Orton—(503) 947-1724

471-030-0052
Misrepresentation Disqualification

(1) An authorized representative of the Employment Department shall determine the number of weeks of disqualification under ORS 657.215 according to the following criteria:

(a) When the disqualification is imposed because the individual failed to accurately report work and/or earnings, the number of weeks of disqualification shall be determined by dividing the total amount of benefits overpaid to the individual for the disqualifying act(s), by the maximum Oregon weekly benefit amount in effect during the first effective week of the initial claim in effect at the time of the individual's disqualifying act(s), rounding off to the nearest two decimal places, multiplying the result by four rounding it up to the nearest whole number.

(b) When the disqualification is imposed because the disqualifying act(s) under ORS 657.215 relates to the provisions of 657.176, the number of weeks of disqualification shall be the number of weeks calculated in the same manner as under subsection (a) above, or four weeks, whichever is greater.

(c) When the disqualification is imposed because the disqualifying act(s) relates to the provisions of ORS 657.155 (other than work and/or earnings), the number of weeks of disqualification shall be the number of weeks calculated in the same manner as under subsection (a) above, or the number of weeks in which a disqualifying act(s) occurred, whichever is greater.

(d) When the disqualification is imposed because the disqualifying act(s) under ORS 657.215 relates to the provisions of 657.176 and a failure to accurately report work and/or earnings, the number of weeks of disqualification shall be the number of weeks calculated in the manner set forth in subsection (a) plus four weeks.

(e) When the disqualification is imposed because the disqualifying act(s) relates to the provisions of ORS 657.155 (other than work and/or earnings) and a failure to accurately report work and/or earnings, the number of weeks of disqualification shall be the number of weeks calculated in the manner set forth in subsection (a) plus the number of weeks in which a disqualifying act(s) occurred relating to the provisions of 657.155 (other than work and earnings.)

(2) The number of weeks of disqualification assessed under section (1) of this rule shall be doubled, but not to exceed 52 weeks, if the individual has one previous disqualification under ORS 657.215, and that prior disqualification determination has become final.

(3) Notwithstanding sections (1) and (2) of this rule, the number of weeks of disqualification under ORS 657.215 shall be 52 weeks if:

(a) The disqualification under ORS 657.215 is because the individual committed forgery; or

(b) The individual has two previous disqualifications under ORS 657.215, and those prior two disqualification determinations have become final.

(4) Notwithstanding Sections (1), (2) and (3), an authorized representative of the Employment Department may determine the number of weeks of disqualification according to the circumstances of the individual case, but not to exceed 52 weeks.

(5) All disqualifications imposed under ORS 657.215 shall be served consecutively.

(6) Any week of disqualification imposed under ORS 657.215 may be satisfied by meeting all of the eligibility requirements of ORS Chapter 657, other than 657.155(1)(e).

Stat. Auth.: ORS 657
Stats. Implemented: ORS 657.215
Hist.: 1DE 151, f. 9-28-77, ef. 10-4-77; ED 10-2003, f. 7-25-03, cert. ef. 7-27-03; ED 3-2008(Temp), f. & cert. ef. 2-15-08 thru 8-13-08

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Land Conservation and Development Department
Chapter 660

Rule Caption: Process and criteria for establishing urban and rural reserves in the Portland Metro region.
Adm. Order No.: LCDD 1-2008
Filed with Sec. of State: 2-13-2008
Certified to be Effective: 2-13-08
Notice Publication Date: 1-1-2008
Rules Adopted: 660-027-0005, 660-027-0010, 660-027-0020, 660-027-0030, 660-027-0040, 660-027-0050, 660-027-0060, 660-027-0070, 660-027-0080
Rules Amended: 660-004-0040, 660-011-0060, 660-021-0010, 660-021-0020, 660-021-0030, 660-021-0040, 660-021-0050, 660-021-0060, 660-021-0070, 660-021-0080, 660-025-0040
Subject: The new rules under division 27 of OAR chapter 660 provide a process and criteria for the designation of urban and rural reserves in the Portland Metro area. These rules are required under state law enacted by the 2007 Oregon Legislature (Sections 3, 6 and 11 of Senate Bill 1011, codified as Chapter 723, Oregon Laws 2007). The amendments to related rules and repeal of related rules listed above are necessary to conform these rules to the new statute or to the new rules under OAR chapter 660, division 27.
Rules Coordinator: Sarah Watson—(503) 373-0050, ext. 271

660-004-0040
Application of Goal 14 to Rural Residential Areas

(1) The purpose of this rule is to specify how Statewide Planning Goal 14 (*Urbanization*) applies to rural lands in acknowledged exception areas planned for residential uses.

(2)(a) This rule applies to lands that are not within an urban growth boundary, that are planned and zoned primarily for residential uses, and for which an exception to Statewide Planning Goal 3 (*Agricultural Lands*), Goal 4 (*Forest Lands*), or both has been taken. Such lands are referred to in this rule as rural residential areas.

(b) Sections (1) to (8) of this rule do not apply to the creation of a lot or parcel, or to the development or use of one single-family home on such lot or parcel, where the application for partition or subdivision was filed with the local government and deemed to be complete in accordance with ORS 215.427(3) before the effective date of Sections (1) to (8) of this rule.

(c) This rule does not apply to types of land listed in (A) through (H) of this subsection:

(A) Land inside an acknowledged urban growth boundary;

(B) Land inside an acknowledged unincorporated community boundary established pursuant to OAR chapter 660, division 022;

(C) Land in an acknowledged urban reserve area established pursuant to OAR chapter 660, division 021;

(D) Land in an acknowledged destination resort established pursuant to applicable land use statutes and goals;

(E) Resource land, as defined in OAR 660-004-0005(2);

(F) Nonresource land, as defined in OAR 660-004-0005(3);

(G) Marginal land, as defined in ORS 197.247, 1991 Edition;

(H) Land planned and zoned primarily for rural industrial, commercial, or public use.

(3)(a) This rule shall take effect on the effective date of an amendment to Goal 14 to provide for development of all lawfully created lots and parcels created in rural residential areas prior to the effective date of the amendment to Goal 14.

(b) Some rural residential areas have been reviewed for compliance with Goal 14 and acknowledged to comply with that goal by the department or commission in a periodic review, acknowledgment, or post-acknowledgment plan amendment proceeding that occurred after the Oregon Supreme Court's 1986 ruling in 1000 Friends of Oregon v. LCDC, 301 Or 447 (Curry County), and before the effective date of this rule. Nothing in this rule shall be construed to require a local government to amend its acknowledged comprehensive plan or land use regulations for those rural residential areas already acknowledged to comply with Goal 14 in such a proceeding. However, if such a local government later amends its plan's provisions or land use regulations that apply to any rural residential area, it shall do so in accordance with this rule.

(4) The rural residential areas described in Subsection (2)(a) of this rule are rural lands. Division and development of such lands are subject to Statewide Planning Goal 14 (Urbanization) which prohibits urban use of rural lands.

(5)(a) A rural residential zone currently in effect shall be deemed to comply with Goal 14 if that zone requires any new lot or parcel to have an area of at least two acres.

(b) A rural residential zone does not comply with Goal 14 if that zone allows the creation of any new lots or parcels smaller than two acres. For such a zone, a local government must either amend the zone's minimum lot and parcel size provisions to require a minimum of at least two acres or take an exception to Goal 14. Until a local government amends its land use regulations to comply with this subsection, any new lot or parcel created in such a zone must have an area of at least two acres.

(c) For purposes of this section, "rural residential zone currently in effect" means a zone applied to a rural residential area, in effect on the effective date of this rule, and acknowledged to comply with the statewide planning goals.

(6) After the effective date of this rule, a local government's requirements for minimum lot or parcel sizes in rural residential areas shall not be amended to allow a smaller minimum for any individual lot or parcel without taking an exception to Goal 14 pursuant to OAR 660, division 014.

(7)(a) The creation of any new lot or parcel smaller than two acres in a rural residential area shall be considered an urban use. Such a lot or parcel may be created only if an exception to Goal 14 is taken. This subsection shall not be construed to imply that creation of new lots or parcels two acres or larger always complies with Goal 14. The question of whether the creation of such lots or parcels complies with Goal 14 depends upon compliance with all provisions of this rule.

(b) Each local government must specify a minimum area for any new lot or parcel that is to be created in a rural residential area. For the purposes of this rule, that minimum area shall be referred to as the minimum lot size.

(c) If, on the effective date of this rule, a local government's land use regulations specify a minimum lot size of two acres or more, the area of any new lot or parcel shall equal or exceed that minimum lot size which is already in effect.

(d) If, on the effective date of this rule, a local government's land use regulations specify a minimum lot size smaller than two acres, the area of any new lot or parcel created shall equal or exceed two acres.

(e) A local government may authorize a planned unit development (PUD), specify the size of lots or parcels by averaging density across a parent parcel, or allow clustering of new dwellings in a rural residential area only if all conditions set forth in paragraphs (7)(e)(A) through (7)(e)(H) are met:

(A) The number of new dwelling units to be clustered or developed as a PUD does not exceed 10.

(B) The number of new lots or parcels to be created does not exceed 10.

(C) None of the new lots or parcels will be smaller than two acres.

(D) The development is not to be served by a new community sewer system.

(E) The development is not to be served by any new extension of a sewer system from within an urban growth boundary or from within an unincorporated community.

(F) The overall density of the development will not exceed one dwelling for each unit of acreage specified in the local government's land use regulations on the effective date of this rule as the minimum lot size for the area.

(G) Any group or cluster of two or more dwelling units will not force a significant change in accepted farm or forest practices on nearby lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices there.

(H) For any open space or common area provided as a part of the cluster or planned unit development under this subsection, the owner shall submit proof of nonrevocable deed restrictions recorded in the deed records. The deed restrictions shall preclude all future rights to construct a dwelling on the lot, parcel, or tract designated as open space or common area for as long as the lot, parcel, or tract remains outside an urban growth boundary.

(f) Except as provided in subsection (e) of this section, a local government shall not allow more than one permanent single-family dwelling to be placed on a lot or parcel in a rural residential area. Where a medical hardship creates a need for a second household to reside temporarily on a lot or parcel where one dwelling already exists, a local government may authorize the temporary placement of a manufactured dwelling or recreational vehicle.

(g) In rural residential areas, the establishment of a new mobile home park or manufactured dwelling park as defined in ORS 446.003(23) and (30) shall be considered an urban use if the density of manufactured dwellings in the park exceeds the density for residential development set by this rule's requirements for minimum lot and parcel sizes. Such a park may be established only if an exception to Goal 14 is taken.

(h) A local government may allow the creation of a new parcel or parcels smaller than a minimum lot size required under subsections (a) through (d) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (D) of this subsection exist:

(A) The parcel to be divided has two or more permanent habitable dwellings on it;

(B) The permanent habitable dwellings on the parcel to be divided were established there before the effective date of this rule;

(C) Each new parcel created by the partition would have at least one of those permanent habitable dwellings on it; and

(D) The partition would not create any vacant parcels on which a new dwelling could be established.

(E) For purposes of this rule, "habitable dwelling" means a dwelling that meets the criteria set forth in ORS 215.283(1)(s)(A)-(D).

(i) For rural residential areas designated after the effective date of this rule, the affected county shall either:

(A) Require that any new lot or parcel have an area of at least ten acres, or

(B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the requirements for an exception to Goal 14 in OAR chapter 660, division 14. The minimum lot size adopted by the coun-

ty shall be consistent with OAR 660-004-0018, "Planning and Zoning for Exception Areas."

(8)(a) Notwithstanding the provisions of section (7) of this rule, divisions of rural residential land within one mile of an urban growth boundary for any city or urban area listed in paragraphs (A) through (E) of this subsection shall be subject to the provisions of subsections (8)(b) and (8)(c).

(A) Ashland;

(B) Central Point;

(C) Medford;

(D) Newberg;

(E) Sandy.

(b) If a city or urban area listed in subsection (8)(a):

(A) has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR chapter 660, division 21; or

(B) is part of a regional growth plan that contains at least a twenty-year regional urban reserve of land beyond the land contained within the collective urban growth boundaries of the participating cities, and that has been acknowledged through the process prescribed for Regional Problem Solving in ORS 197.652 through 197.658; then any division of rural residential land in that reserve area shall be done in accordance with the acknowledged urban reserve ordinances or acknowledged regional growth plan.

(c) Notwithstanding the provisions of section (7) of this rule, if any part of a lot or parcel to be divided is less than one mile from an urban growth boundary for a city or urban area listed in subsection (8)(a), and if that city or urban area does not have an urban reserve area acknowledged to comply with OAR chapter 660, division 21, or is not part of an acknowledged regional growth plan as described in subsection (b), paragraph (B), of this section, the minimum area of any new lot or parcel there shall be ten acres.

(d) Notwithstanding the provisions of section (7), if Metro has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR chapter 660, division 21 or division 27, any land division of rural residential land in that urban reserve shall be done in accordance with the applicable acknowledged comprehensive plan and zoning provisions adopted to implement the urban reserve.

(e) Notwithstanding the provisions of section (7), if any part of a lot or parcel to be divided is less than one mile from the urban growth boundary for the Portland metropolitan area and is in a rural residential area, and if Metro has not designated an urban reserve that contains at least a twenty-year reserve of land acknowledged to comply with either OAR chapter 660, division 21 or division 27, the minimum area of any new lot or parcel there shall be twenty acres. If the lot or parcel to be divided also lies within the area governed by the Columbia River Gorge National Scenic Area Act, the division shall be done in accordance with the provisions of that act.

(f) Notwithstanding the provisions of section (7) and subsection (8)(e), a local government may establish minimum area requirements smaller than twenty acres for some of the lands described in subsection (8)(e). The selection of those lands and the minimum established for them shall be based on an analysis of the likelihood that such lands will urbanize, of their current parcel and lot sizes, and of the capacity of local governments to serve such lands efficiently with urban services at densities of at least 10 units per net developable acre. In no case shall the minimum parcel area requirement set for such lands be smaller than 10 acres.

(g) A local government may allow the creation of a new parcel, or parcels, smaller than a minimum lot size required under subsections (a) through (f) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (G) of this subsection exist:

(A) The parcel to be divided has two or more permanent, habitable dwellings on it;

(B) The permanent, habitable dwellings on the parcel to be divided were established there before the effective date of OAR 660-004-0040;

(C) Each new parcel created by the partition would have at least one of those permanent, habitable dwellings on it;

(D) The partition would not create any vacant parcels on which new dwellings could be established; and

(E) The resulting parcels shall be sized to promote efficient future urban development by ensuring that one of the parcels is the minimum size necessary to accommodate the residential use of the parcel.

(F) For purposes of this rule, habitable dwelling means a dwelling that meets the criteria set forth in ORS 215.283(1)(s)(A) - (D); and

(G) The parcel is not in an area designated as rural reserve under OAR chapter 660, division 27.

(9) The development, placement, or use of one single-family dwelling on a lot or parcel lawfully created in an acknowledged rural residential area is allowed under this rule and Goal 14, subject to all other applicable laws.

Stat. Auth.: ORS 197.040, 195.141

Stats. Implemented: ORS 197.175 & 197.732, 195.145, 195.141

Hist.: LCDD 7-2000, f. 6-30-00, cert. ef. 10-4-00; LCDD 3-2001, f. & cert. ef. 4-3-01; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 1-2008, f. & cert. ef. 2-13-08

660-011-0060

Sewer Service to Rural Lands

(1) As used in this rule, unless the context requires otherwise:

(a) "Establishment of a sewer system" means the creation of a new sewage system, including systems provided by public or private entities;

(b) "Extension of a Sewer System" means the extension of a pipe, conduit, pipeline, main, or other physical component from or to an existing sewer system in order to provide service to a use, regardless of whether the use is inside the service boundaries of the public or private service provider. The sewer service authorized in section (8) of this rule is not an extension of a sewer;

(c) "No practicable alternative to a sewer system" means a determination by the Department of Environmental Quality (DEQ) or the Oregon Health Division, pursuant to criteria in OAR chapter 340, division 071, and other applicable rules and laws, that an existing public health hazard cannot be adequately abated by the repair or maintenance of existing sewer systems or on-site systems or by the installation of new on-site systems as defined in OAR 340-071-0100;

(d) "Public health hazard" means a condition whereby it is probable that the public is exposed to disease-caused physical suffering or illness due to the presence of inadequately treated sewage;

(e) "Sewage" means the water-carried human, animal, vegetable, or industrial waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present;

(f) "Sewer system" means a system that serves more than one lot or parcel, or more than one condominium unit or more than one unit within a planned unit development, and includes pipelines or conduits, pump stations, force mains, and all other structures, devices, appurtenances and facilities used for treating or disposing of sewage or for collecting or conducting sewage to an ultimate point for treatment and disposal. The following are not considered a "sewer system" for purposes of this rule:

(A) A system provided solely for the collection, transfer and/or disposal of storm water runoff;

(B) A system provided solely for the collection, transfer and/or disposal of animal waste from a farm use as defined in ORS 215.303.

(2) Except as provided in sections (3), (4), (8), and (9) of this rule, and consistent with Goal 11, a local government shall not allow:

(a) The establishment of new sewer systems outside urban growth boundaries or unincorporated community boundaries;

(b) The extension of sewer lines from within urban growth boundaries or unincorporated community boundaries in order to serve uses on land outside those boundaries;

(c) The extension of sewer systems that currently serve land outside urban growth boundaries and unincorporated community boundaries in order to serve uses that are outside such boundaries and are not served by the system on July 28, 1998.

(3) Components of a sewer system that serve lands inside an urban growth boundary (UGB) may be placed on lands outside the boundary provided that the conditions in subsections (a) and (b) of this section are met, as follows:

(a) Such placement is necessary to:

(A) Serve lands inside the UGB more efficiently by traversing lands outside the boundary;

(B) Serve lands inside a nearby UGB or unincorporated community;

(C) Connect to components of the sewer system lawfully located on rural lands, such as outfall or treatment facilities; or

(D) Transport leachate from a landfill on rural land to a sewer system inside a UGB; and

(b) The local government.

(A) Adopts land use regulations to ensure the sewer system shall not serve land outside urban growth boundaries or unincorporated community boundaries, except as authorized under section (4) of this rule; and

(B) Determines that the system satisfies ORS 215.296(1) or (2) to protect farm and forest practices, except for systems located in the subsurface of public roads and highways along the public right of way.

(4) A local government may allow the establishment of a new sewer system, or the extension of an existing sewer system, to serve land outside

urban growth boundaries and unincorporated community boundaries in order to mitigate a public health hazard, provided that the conditions in subsections (a) and (b) of this section are met, as follows:

(a) The DEQ or the Oregon Health Division initially:

(A) Determines that a public health hazard exists in the area;

(B) Determines that the health hazard is caused by sewage from development that existed in the area on July 28, 1998;

(C) Describes the physical location of the identified sources of the sewage contributing to the health hazard; and

(D) Determines that there is no practicable alternative to a sewer system in order to abate the public health hazard; and

(b) The local government, in response to the determination in subsection (a) of this section, and based on recommendations by DEQ and the Oregon Health Division where appropriate:

(A) Determines the type of sewer system and service to be provided, pursuant to section (5) of this rule;

(B) Determines the boundaries of the sewer system service area, pursuant to section (6) of this rule;

(C) Adopts land use regulations that ensure the sewer system is designed and constructed so that its capacity does not exceed the minimum necessary to serve the area within the boundaries described under paragraph (B) of this subsection, except the capacity may be designed to provide for future sewer service planned for an area within a designated urban reserve, as provided under OAR 660-021-0040(6) or 660-027-0070(4).

(D) Adopts land use regulations to prohibit the sewer system from serving any uses other than those existing or allowed in the identified service area on the date the sewer system is approved;

(E) Adopts plan and zone amendments to ensure that only rural land uses are allowed on rural lands in the area to be served by the sewer system, consistent with Goal 14 and OAR 660-004-0018, unless a Goal 14 exception has been acknowledged;

(F) Ensures that land use regulations do not authorize a higher density of residential development than would be authorized without the presence of the sewer system; and

(G) Determines that the system satisfies ORS 215.296(1) or (2) to protect farm and forest practices, except for systems located in the subsurface of public roads and highways along the public right of way.

[ED. NOTE: Goals referenced are available from the agency.]

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 197.712

Hist.: LCDD 4-1998, f. & cert. ef. 7-28-98; LCDD 1-2005, f. 2-11-05, cert. ef. 2-14-05; LCDD 1-2008, f. & cert. ef. 2-13-08

660-021-0010
Definitions

For purposes of this division, the definitions contained in ORS 197.015 and the Statewide Planning Goals (OAR chapter 660, division 015) apply. In addition, the following definitions apply:

(1) "Urban Reserve": Lands outside of an urban growth boundary that will provide for:

(a) Future expansion over a long-term period; and

(b) The cost-effective provision of public facilities and services within the area when the lands are included within the urban growth boundary.

(2) "Resource Land": Land subject to the Statewide Planning Goals listed in OAR 660-004-0010(1)(a) through (f), except subsection (c).

(3) "Nonresource Land": Land not subject to the Statewide Planning Goals listed in OAR 660-004-0010(1)(a) through (f) except subsection (c). Nothing in this definition is meant to imply that other goals do not apply to nonresource land.

(4) "Exception Areas": Rural lands for which an exception to Statewide Planning Goals 3 and 4, as defined in OAR 660-004-0005(1), have been acknowledged.

(5) "Developable Land": Land that is not severely constrained by natural hazards, nor designated or zoned to protect natural resources, and that is either entirely vacant or has a portion of its area unoccupied by structures or roads.

(6) "Adjacent Land": Abutting land.

(7) "Nearby Land": Land that lies wholly or partially within a quarter mile of an urban growth boundary.

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 195.145

Hist.: LCDC 2-1992, f. & cert. ef. 4-29-92; LCDD 4-2000, f. & cert. ef. 3-22-00; LCDD 1-2008, f. & cert. ef. 2-13-08

660-021-0020
Authority to Establish Urban Reserve

(1) Cities and counties cooperatively, and the Metropolitan Service District for the Portland Metropolitan area urban growth boundary, may designate urban reserves under the requirements of this division, in coordination with special districts listed in OAR 660-021-0050(2) and other affected local governments, including neighboring cities within two miles of the urban growth boundary. Where urban reserves are adopted or amended, they shall be shown on all applicable comprehensive plan and zoning maps, and plan policies and land use regulations shall be adopted to guide the management of these reserves in accordance with the requirements of this division.

(2) As an alternative to designation of urban reserves under the requirements of this division, Metro may designate urban reserves for the Portland Metropolitan area urban growth boundary under OAR 660, division 027.

Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 197.145 & 197.040

Hist.: LCDC 2-1992, f. & cert. ef. 4-29-92; LCDD 4-2000, f. & cert. ef. 3-22-00; LCDD 1-2008, f. & cert. ef. 2-13-08

660-021-0030
Determination of Urban Reserve

(1) Urban reserves shall include an amount of land estimated to be at least a 10-year supply and no more than a 30-year supply of developable land beyond the 20-year time frame used to establish the urban growth boundary. Local governments designating urban reserves shall adopt findings specifying the particular number of years over which designated urban reserves are intended to provide a supply of land.

(2) Inclusion of land within an urban reserve shall be based upon the locational factors of Goal 14 and a demonstration that there are no reasonable alternatives that will require less, or have less effect upon, resource land. Cities and counties cooperatively, and the Metropolitan Service District for the Portland Metropolitan Area Urban Growth Boundary, shall first study lands adjacent to, or nearby, the urban growth boundary for suitability for inclusion within urban reserves, as measured by the factors and criteria set forth in this section. Local governments shall then designate, for inclusion within urban reserves, that suitable land which satisfies the priorities in section (3) of this rule.

(3) Land found suitable for an urban reserve may be included within an urban reserve only according to the following priorities:

(a) First priority goes to land adjacent to, or nearby, an urban growth boundary and identified in an acknowledged comprehensive plan as an exception area or nonresource land. First priority may include resource land that is completely surrounded by exception areas unless these are high value crop areas as defined in Goal 8 or prime or unique agricultural lands as defined by the United States Department of Agriculture;

(b) If land of higher priority is inadequate to accommodate the amount of land estimated in section (1) of this rule, second priority goes to land designated as marginal land pursuant to former ORS 197.247 (1991 edition);

(c) If land of higher priority is inadequate to accommodate the amount of land estimated in section (1) of this rule, third priority goes to land designated in an acknowledged comprehensive plan for agriculture or forestry, or both. Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.

(4) Land of lower priority under section (3) of this rule may be included if land of higher priority is found to be inadequate to accommodate the amount of land estimated in section (1) of this rule for one or more of the following reasons:

(a) Future urban services could not reasonably be provided to the higher priority area due to topographical or other physical constraints; or

(b) Maximum efficiency of land uses within a proposed urban reserve requires inclusion of lower priority lands in order to include or to provide services to higher priority lands.

(5) Findings and conclusions concerning the results of the above consideration shall be adopted by the affected jurisdictions

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 195.145

Hist.: LCDC 2-1992, f. & cert. ef. 4-29-92; LCDC 7-1996, f. & cert. ef. 12-31-96; LCDD 4-2000, f. & cert. ef. 3-22-00; LCDD 1-2008, f. & cert. ef. 2-13-08

660-021-0040
Urban Reserve Area Planning and Zoning

(1) Until included in the urban growth boundary, lands in urban reserves shall continue to be planned and zoned for rural uses in accordance with the requirements of this section, but in a manner that ensures a range of opportunities for the orderly, economic and efficient provision of urban services when these lands are included in the urban growth boundary.

(2) Urban reserve land use regulations shall ensure that development and land divisions in exception areas and nonresource lands will not hinder the efficient transition to urban land uses and the orderly and efficient provision of urban services. These measures shall be adopted by the time the urban reserves are designated, or in the case of those local governments with planning and zoning responsibility for lands in the vicinity of the Portland Metropolitan Area Urban Growth Boundary, by the time such local governments amend their comprehensive plan and zoning maps to implement urban reserve designations made by the Portland Metropolitan Service District. The measures may include:

(a) Prohibition on the creation of new parcels less than ten acres;

(b) Requirements for clustering as a condition of approval of new parcels;

(c) Requirements for preplatting of future lots or parcels;

(d) Requirements for written waivers of remonstrance against annexation to a provider of sewer, water or streets;

(e) Regulation of the siting of new development on existing lots for the purpose of ensuring the potential for future urban development and public facilities.

(3) For exception areas and nonresource land in urban reserves, land use regulations shall prohibit zone amendments allowing more intensive uses, including higher residential density, than permitted by acknowledged zoning in effect as of the date of establishment of the urban reserves. Such regulations shall remain in effect until such time as the land is included in the urban growth boundary.

(4) Resource land that is included in urban reserves shall continue to be planned and zoned under the requirements of applicable Statewide Planning Goals.

(5) Urban reserve agreements consistent with applicable comprehensive plans and meeting the requirements of OAR 660-021-0050 shall be adopted for urban reserves.

(6) Cities and counties are authorized to plan for the eventual provision of urban public facilities and services to urban reserves. However, this division is not intended to authorize urban levels of development or services in urban reserves prior to their inclusion in the urban growth boundary. This division is not intended to prevent any planning for, installation of, or connection to public facilities or services in urban reserves consistent with the statewide planning goals and with acknowledged comprehensive plans and land use regulations in effect on the applicable date of this division.

(7) A local government shall not prohibit the siting of a single family dwelling on a legal parcel pursuant to urban reserve planning requirements if the single family dwelling would otherwise have been allowed under law existing prior to the designation of the parcel as part of an urban reserve.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 197.145
Hist.: LCDC 2-1992, f. & cert. ef. 4-29-92; LCDC 5-1994, f. & cert. ef. 4-20-94; LCDD 2-1997(Temp), f. & cert. ef. 5-21-97; LCDD 3-1997, f. & cert. ef. 8-1-97; LCDD 4-2000, f. & cert. ef. 3-22-00; LCDD 1-2008, f. & cert. ef. 2-13-08

660-021-0050
Urban Reserve Agreements

Urban reserve planning shall include the adoption and maintenance of urban reserve agreements among cities, counties and special districts serving or projected to serve the designated urban reserves. These agreements shall be adopted by each applicable jurisdiction and shall contain:

(1) Designation of the local government responsible for building code administration and land use regulation in the urban reserves, both at the time of reserve designation and upon inclusion of these reserves within the urban growth boundary.

(2) Designation of the local government or special district responsible for the following services: sewer, water, fire protection, parks, transportation and storm water. The agreement shall include maps indicating areas and levels of current rural service responsibility and areas projected for future urban service responsibility when included in the urban growth boundary.

(3) Terms and conditions under which service responsibility will be transferred or expanded for areas where the provider of the service is expected to change over time.

(4) Procedures for notification and review of land use actions to ensure involvement by all affected local governments and special districts.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 195.145
Hist.: LCDC 2-1992, f. & cert. ef. 4-29-92; LCDD 4-2000, f. & cert. ef. 3-22-00; LCDD 1-2008, f. & cert. ef. 2-13-08

660-021-0060
Urban Growth Boundary Expansion

All lands within urban reserves established pursuant to this division shall be included within an urban growth boundary before inclusion of other lands, except where an identified need for a particular type of land cannot be met by lands within an established urban reserve.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 195.145
Hist.: LCDC 2-1992, f. & cert. ef. 4-29-92; LCDD 4-2000, f. & cert. ef. 3-22-00; LCDD 1-2008, f. & cert. ef. 2-13-08

660-021-0070
Adoption and Review of Urban Reserve

(1) Designation and amendment of urban reserves shall follow the procedures in ORS 197.610 through 197.650.

(2) Disputes between jurisdictions regarding urban reserve boundaries, planning and regulation, or urban reserve agreements may be mediated by the Department or Commission upon request by an affected local government or special district.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 195.145
Hist.: LCDC 2-1992, f. & cert. ef. 4-29-92; LCDD 2-1997(Temp), f. & cert. ef. 5-21-97; LCDD 3-1997, f. & cert. ef. 8-1-97; LCDD 4-2000, f. & cert. ef. 3-22-00; LCDD 1-2008, f. & cert. ef. 2-13-08

660-021-0080
Applicability

The provisions of this rule are effective upon filing with the Secretary of State.

Stat. Auth.: ORS 183, 195 & 197
Stats. Implemented: ORS 195.145
Hist.: LCDC 2-1992, f. & cert. ef. 4-29-92; LCDC 5-1994, f. & cert. ef. 4-20-94; LCDD 2-1997(Temp), f. & cert. ef. 5-21-97; LCDD 3-1997, f. & cert. ef. 8-1-97; LCDD 4-1997, f. & cert. ef. 12-23-97; LCDD 4-2000, f. & cert. ef. 3-22-00; LCDD 1-2008, f. & cert. ef. 2-13-08

660-025-0040
Exclusive Jurisdiction of LCDC

(1) The commission, pursuant to ORS 197.644(2), has exclusive jurisdiction to review the evaluation, work program, and all work tasks for compliance with the statewide planning goals and applicable statutes and administrative rules. Pursuant to ORS 197.626, the commission has exclusive jurisdiction to review the following land use decisions for compliance with the statewide planning goals:

(a) If made by a city with a population of 2,500 or more inside its urban growth boundary, amendments to an urban growth boundary to include more than 50 acres;

(b) If made by a metropolitan service district, amendments to an urban growth boundary to include more than 100 acres;

(c) Plan and land use regulations that designate urban reserves under OAR chapter 660, division 21; and

(d) Plan and land use regulations that designate urban or rural reserves under OAR chapter 660, division 27.

(2) The director may transfer one or more matters arising from review of a work task, urban growth boundary amendment or designation or amendment of an urban reserve or rural reserve to the Land Use Board of Appeals pursuant to ORS 197.825(2)(c)(A) and OAR 660-025-0250.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 195.145, 197.628 - 197.646, 197.825
Hist.: LCDC 1-1992, f. & cert. ef. 1-28-92; LCDC 6-1995, f. & cert. ef. 6-16-95; LCDD 3-2000, f. & cert. ef. 2-14-00; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2006, f. & cert. ef. 5-15-06; LCDD 1-2008, f. & cert. ef. 2-13-08

660-027-0005
Purpose and Objective

(1) This division is intended to implement the provisions of Oregon Laws 2007, chapter 723 regarding the designation of urban reserves and rural reserves in the Portland metropolitan area. This division provides an alternative to the urban reserve designation process described in OAR chapter 660, division 21. This division establishes procedures for the designation of urban and rural reserves in the metropolitan area by agreement between and among local governments in the area and by amendments to the applicable regional framework plan and comprehensive plans. This division also prescribes criteria and factors that a county and Metro must apply when choosing lands for designation as urban or rural reserves.

(2) Urban reserves designated under this division are intended to facilitate long-term planning for urbanization in the Portland metropolitan area and to provide greater certainty to the agricultural and forest industries, to other industries and commerce, to private landowners and to public and private service providers, about the locations of future expansion of the

Metro Urban Growth Boundary. Rural reserves under this division are intended to provide long-term protection for large blocks of agricultural land and forest land, and for important natural landscape features that limit urban development or define natural boundaries of urbanization. The objective of this division is a balance in the designation of urban and rural reserves that, in its entirety, best achieves livable communities, the viability and vitality of the agricultural and forest industries and protection of the important natural landscape features that define the region for its residents.

Stat. Auth.: ORS 195.141, 197.040.
Other Auth.: Statewide planning goals OAR 660-015
Stats. Implemented: ORS 195.137 - 195.145.
Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08

660-027-0010
Definitions

The definitions contained in ORS chapters 195 and 197 and the Statewide Planning Goals (OAR chapter 660, division 15) apply to this division, unless the context requires otherwise. In addition, the following definitions apply:

(1) "Foundation Agricultural Lands" means those lands mapped as Foundation Agricultural Lands in the January 2007 Oregon Department of Agriculture report to Metro entitled "Identification and Assessment of the Long-Term Commercial Viability of Metro Region Agricultural Lands."

(2) "Important Agricultural Lands" means those lands mapped as Important Agricultural Lands in the January 2007 Oregon Department of Agriculture report to Metro entitled "Identification and Assessment of the Long-Term Commercial Viability of Metro Region Agricultural Lands."

(3) "Intergovernmental agreement" means an agreement between Metro and a county pursuant to applicable requirements for such agreements in ORS 190.003 to 190.130, 195.025 or 197.652 to 197.658, and in accordance with the requirements in this division regarding the designation of urban and rural reserves and the performance of related land use planning and other activities pursuant to such designation.

(4) "Livable communities" means communities with development patterns, public services and infrastructure that make them safe, healthy, affordable, sustainable and attractive places to live and work.

(5) "Metro" means a metropolitan service district organized under ORS chapter 268.

(6) "Important natural landscape features" means landscape features that limit urban development or help define appropriate natural boundaries of urbanization, and that thereby provide for the long-term protection and enhancement of the region's natural resources, public health and safety, and unique sense of place. These features include, but are not limited to, plant, fish and wildlife habitat; corridors important for ecological, scenic and recreational connectivity; steep slopes, floodplains and other natural hazard lands; areas critical to the region's air and water quality; historic and cultural areas; and other landscape features that define and distinguish the region.

(7) "Public facilities and services" means sanitary sewer, water, transportation, storm water management facilities and public parks.

(8) "Regional framework plan" means the plan adopted by Metro pursuant to ORS 197.015(17).

(9) "Rural reserve" means lands outside the Metro UGB, and outside any other UGB in a county with which Metro has an agreement pursuant to this division, reserved to provide long-term protection for agriculture, forestry or important natural landscape features.

(10) "UGB" means an acknowledged urban growth boundary established under Goal 14 and as defined in ORS 195.060(2).

(11) "Urban reserve" means lands outside an urban growth boundary designated to provide for future expansion of the UGB over a long-term period and to facilitate planning for the cost-effective provision of public facilities and services when the lands are included within the urban growth boundary.

(12) "Walkable" describes a community in which land uses are mixed, built compactly, and designed to provide residents, employees and others safe and convenient pedestrian access to schools, offices, businesses, parks and recreation facilities, libraries and other places that provide goods and services used on a regular basis.

Stat. Auth.: ORS 195.141, 197.040.
Other Auth.: Statewide planning goals OAR 660-015
Stats. Implemented: ORS 195.137 - 195.145.
Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08

660-027-0020
Authority to Designate Urban and Rural Reserves

(1) As an alternative to the authority to designate urban reserve areas granted by OAR chapter 660, division 21, Metro may designate urban reserves through intergovernmental agreements with counties and by amendment of the regional framework plan to implement such agreements in accordance with the requirements of this division.

(2) A county may designate rural reserves through intergovernmental agreement with Metro and by amendment of its comprehensive plan to implement such agreement in accordance with the requirements of this division.

(3) A county and Metro may not enter into an intergovernmental agreement under this division to designate urban reserves in the county unless the county and Metro simultaneously enter into an agreement to designate rural reserves in the county.

Stat. Auth.: ORS 195.141, 197.040.
Other Auth.: Statewide planning goals OAR 660-015
Stats. Implemented: ORS 195.137 - 195.145.
Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08

660-027-0030
Urban and Rural Reserve Intergovernmental Agreements

(1) An intergovernmental agreement between Metro and a county to establish urban reserves and rural reserves under this division shall provide for a coordinated and concurrent process for Metro to adopt regional framework plan provisions, and for the county to adopt comprehensive plan and zoning provisions, to implement the agreement. The agreement shall provide for Metro and the county to concurrently designate urban reserves and rural reserves, as specified in OAR 660-027-0040.

(2) In the development of an intergovernmental agreement described in this division, Metro and a county shall follow a coordinated citizen involvement process that provides for broad public notice and opportunities for public comment regarding lands proposed for designation as urban and rural reserves under the agreement. Metro and the county shall provide the State Citizen Involvement Advisory Committee an opportunity to review and comment on the proposed citizen involvement process.

(3) An intergovernmental agreement made under this division shall be deemed a preliminary decision that is a prerequisite to the designation of reserves by amendments to Metro's regional framework plan and amendments to a county's comprehensive plan pursuant to OAR 660-027-0040. Any intergovernmental agreement made under this division shall be submitted to the Commission with amendments to the regional framework plan and county comprehensive plans as provided in OAR 660-027-0080(2) through (4).

Stat. Auth.: ORS 195.141, 197.040.
Other Auth.: Statewide planning goals OAR 660-015
Stats. Implemented: ORS 195.137 - 195.145.
Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08

660-027-0040
Designation of Urban and Rural Reserves

(1) Metro may not designate urban reserves under this division in a county until Metro and applicable counties have entered into an intergovernmental agreement that identifies the lands to be designated by Metro as urban reserves. A county may not designate rural reserves under this division until the county and Metro have entered into an agreement that identifies the lands to be designated by the county as rural reserves.

(2) Urban reserves designated under this division shall be planned to accommodate estimated urban population and employment growth in the Metro area for at least 20 years, and not more than 30 years, beyond the 20-year period for which Metro has demonstrated a buildable land supply inside the UGB in the most recent inventory, determination and analysis performed under ORS 197.296. Metro shall specify the particular number of years for which the urban reserves are intended to provide a supply of land, based on the estimated land supply necessary for urban population and employment growth in the Metro area for that number of years. The 20 to 30-year supply of land specified in this rule shall consist of the combined total supply provided by all lands designated for urban reserves in all counties that have executed an intergovernmental agreement with Metro in accordance with OAR 660-027-0030.

(3) If Metro designates urban reserves under this division prior to December 31, 2009, it shall plan the reserves to accommodate population and employment growth for at least 20 years, and not more than 30 years, beyond 2029. Metro shall specify the particular number of years for which the urban reserves are intended to provide a supply of land

(4) Neither Metro nor a local government may amend a UGB to include land designated as rural reserves during the period described in section (2) or (3) of this rule, whichever is applicable.

(5) Metro shall not re-designate rural reserves as urban reserves, and a county shall not re-designate land in rural reserves to another use, during

the period described in section (2) or (3) of this rule, whichever is applicable

(6) If Metro designates urban reserves under this division it shall adopt policies to implement the reserves and must show the reserves on its regional framework plan map. A county in which urban reserves are designated shall adopt policies to implement the reserves and must show the reserves on its comprehensive plan and zone maps

(7) If a county designates rural reserves under this division it shall adopt policies to implement the reserves and must show the reserves on its comprehensive plan and zone maps. Metro shall adopt policies to implement the rural reserves and show the reserves on its regional framework plan maps.

(8) When evaluating and designating land for urban reserves, Metro and a county shall apply the factors of OAR 660-027-0050 and shall coordinate with cities, special districts and school districts that might be expected to provide urban services to these reserves when they are added to the UGB, and with state agencies.

(9) When evaluating and designating land for rural reserves, Metro and a county shall apply the factors of OAR 660-027-0060 and shall coordinate with cities, special districts and school districts in the county, and with state agencies.

(10) Metro and any county that enters into an agreement with Metro under this division shall apply the factors in OAR 660-027-0050 and 660-027-0060 concurrently and in coordination with one another. Metro and those counties that lie partially within Metro with which Metro enters into an agreement shall adopt a single, joint set of findings of fact, statements of reasons and conclusions explaining why areas were chosen as urban or rural reserves, how these designations achieve the objective stated in OAR 660-027-0005(2), and the factual and policy basis for the estimated land supply determined under section (2) of this rule

(11) Because the January 2007 Oregon Department of Agriculture report entitled "Identification and Assessment of the Long-Term Commercial viability of Metro Region Agricultural Lands" indicates that Foundation Agricultural Land is the most important land for the viability and vitality of the agricultural industry, if Metro designates such land as urban reserves, the findings and statement of reasons shall explain, by reference to the factors in OAR 660-027-0050 and 660-027-0060(2), why Metro chose the Foundation Agricultural Land for designation as urban reserves rather than other land considered under this division.

Stat. Auth.: ORS 195.141, 197.040.
Other Auth.: Statewide planning goals OAR 660-015
Stats. Implemented: ORS 195.137 - 195.145.
Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08

660-027-0050
Factors for Designation of Lands as Urban Reserves

Urban Reserve Factors: When identifying and selecting lands for designation as urban reserves under this division, Metro shall base its decision on consideration of whether land proposed for designation as urban reserves, alone or in conjunction with land inside the UGB:

(1) Can be developed at urban densities in a way that makes efficient use of existing and future public and private infrastructure investments;

(2) Includes sufficient development capacity to support a healthy economy;

(3) Can be efficiently and cost-effectively served with public schools and other urban-level public facilities and services by appropriate and financially capable service providers;

(4) Can be designed to be walkable and served with a well-connected system of streets, bikeways, recreation trails and public transit by appropriate service providers;

(5) Can be designed to preserve and enhance natural ecological systems;

(6) Includes sufficient land suitable for a range of needed housing types;

(7) Can be developed in a way that preserves important natural landscape features included in urban reserves; and

(8) Can be designed to avoid or minimize adverse effects on farm and forest practices, and adverse effects on important natural landscape features, on nearby land including land designated as rural reserves.

Stat. Auth.: ORS 195.141, 197.040.
Other Auth.: Statewide planning goals OAR 660-015
Stats. Implemented: ORS 195.137 - 195.145.
Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08

660-027-0060
Factors for Designation of Lands as Rural Reserves

(1) When identifying and selecting lands for designation as rural reserves under this division, a county shall indicate which land was considered and designated in order to provide long-term protection to the agriculture and forest industries and which land was considered and designated to provide long-term protection of important natural landscape features, or both. Based on this choice, the county shall apply the appropriate factors in either section (2) or (3) of this rule, or both

(2) Rural Reserve Factors: When identifying and selecting lands for designation as rural reserves intended to provide long-term protection to the agricultural industry or forest industry, or both, a county shall base its decision on consideration of whether the lands proposed for designation

(a) Are situated in an area that is otherwise potentially subject to urbanization during the applicable period described in OAR 660-027-0040(2) or (3) as indicated by proximity to a UGB or proximity to properties with fair market values that significantly exceed agricultural values for farmland, or forestry values for forest land;

(b) Are capable of sustaining long-term agricultural operations for agricultural land, or are capable of sustaining long-term forestry operations for forest land

(c) Have suitable soils where needed to sustain long-term agricultural or forestry operations and, for agricultural land, have available water where needed to sustain long-term agricultural operations; an

(d) Are suitable to sustain long-term agricultural or forestry operations, taking into account:

(A) for farm land, the existence of a large block of agricultural or other resource land with a concentration or cluster of farm operations, or, for forest land, the existence of a large block of forested land with a concentration or cluster of managed woodlots;

(B) The adjacent land use pattern, including its location in relation to adjacent non-farm uses or non-forest uses, and the existence of buffers between agricultural or forest operations and non-farm or non-forest uses;

(C) The agricultural or forest land use pattern, including parcelization, tenure and ownership patterns; and

(D) The sufficiency of agricultural or forestry infrastructure in the area, whichever is applicable.

(3) Rural Reserve Factors: When identifying and selecting lands for designation as rural reserves intended to protect important natural landscape features, a county must consider those areas identified in Metro's February 2007 "Natural Landscape Features Inventory" and other pertinent information, and shall base its decision on consideration of whether the lands proposed for designation:

(a) Are situated in an area that is otherwise potentially subject to urbanization during the applicable period described OAR 660-027-0040(2) or (3);

(b) Are subject to natural disasters or hazards, such as floodplains, steep slopes and areas subject to landslides;

(c) Are important fish, plant or wildlife habitat;

(d) Are necessary to protect water quality or water quantity, such as streams, wetlands and riparian areas;

(e) Provide a sense of place for the region, such as buttes, bluffs, islands and extensive wetlands;

(f) Can serve as a boundary or buffer, such as rivers, cliffs and floodplains, to reduce conflicts between urban uses and rural uses, or conflicts between urban uses and natural resource uses

(g) Provide for separation between cities; and

(h) Provide easy access to recreational opportunities in rural areas, such as rural trails and parks.

(4) Notwithstanding requirements for applying factors in OAR 660-027-0040(9) and section (2) of this rule, a county may deem that Foundation Agricultural Lands or Important Agricultural Lands within three miles of a UGB qualify for designation as rural reserves under section (2) without further explanation under OAR 660-027-0040(10).

Stat. Auth.: ORS 195.141, 197.040.
Other Auth.: Statewide planning goals OAR 660-015
Stats. Implemented: ORS 195.137 - 195.145.
Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08

660-027-0070
Planning of Urban and Rural Reserves

(1) Urban reserves are the highest priority for inclusion in the urban growth boundary when Metro expands the UGB, as specified in Goal 14, OAR chapter 660, division 24, and in ORS 197.298.

(2) In order to maintain opportunities for orderly and efficient development of urban uses and provision of urban services when urban reserves

are added to the UGB, counties shall not amend land use regulations for urban reserves designated under this division to allow uses that were not allowed, or smaller lots or parcels than were allowed, at the time of designation as urban reserves until the reserves are added to the UGB.

(3) Counties that designate rural reserves under this division shall not amend their land use regulations to allow uses that were not allowed, or smaller lots or parcels than were allowed, at the time of designation as rural reserves unless and until the reserves are re-designated, consistent with this division, as land other than rural reserves.

(4) Counties, cities and Metro may adopt conceptual plans for the eventual urbanization of urban reserves designated under this division, including plans for eventual provision of public facilities and services for these lands, and may enter into urban service agreements among cities, counties and special districts serving or projected to serve the designated urban reserve area.

(5) Metro shall ensure that lands designated as urban reserves, considered alone or in conjunction with lands already inside the UGB, are ultimately planned to be developed in a manner that is consistent with the factors in OAR 660-027-0050.

Stat. Auth.: ORS 195.141, 197.040.
Other Auth.: Statewide planning goals OAR 660-015
Stats. Implemented: ORS 195.137 - 195.145.
Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08

660-027-0080
Local Adoption and Commission Review of Urban and Rural Reserves

(1) Metro and county adoption or amendment of plans, policies and other implementing measures to designate urban and rural reserves shall be in accordance with the applicable procedures and requirements of ORS 197.610 to 197.650.

(2) After designation of urban and rural reserves, Metro and applicable counties shall jointly and concurrently submit their adopted or amended plans, policies and land use regulations implementing the designations to the Commission for review and action in the manner provided for periodic review under ORS 197.628 to 197.650.

(3) Metro and applicable counties shall:

(a) Transmit the intergovernmental agreements and the submittal described in section (2) in one or more suitable binders showing on the outside a title indicating the nature of the submittal and identifying the submitting jurisdictions.

(b) Prepare and include an index of the contents of the submittal. Each document comprising the submittal shall be separately indexed, and

(c) Consecutively number pages of the submittal at the bottom of the page, commencing with the first page of the submittal.

(4) The joint and concurrent submittal to the Commission shall include findings of fact and conclusions of law that demonstrate that the adopted or amended plans, policies and other implementing measures to designate urban and rural reserves comply with this division, the applicable statewide planning goals, and other applicable administrative rules. The Commission shall review the submittal for:

(a) Compliance with the applicable statewide planning goals. Under ORS 197.747 "compliance with the goals" means the submittal on the whole conforms with the purposes of the goals and any failure to meet individual goal requirements is technical or minor in nature. To determine compliance with the Goal 2 requirement for an adequate factual base, the Commission shall consider whether the submittal is supported by substantial evidence. Under ORS 183.482(8)(c), substantial evidence exists to support a finding of fact when the record, viewed as a whole, would permit a reasonable person to make that finding;

(b) Compliance with applicable administrative rules, including but not limited to the objective provided in OAR 660-027-0005(2) and the urban and rural reserve designation standards provided in OAR 660-027-0040; and

(c) Consideration of the factors in OAR 660-027-0050 or 660-027-0060, whichever are applicable.

Stat. Auth.: ORS 195.141, 197.040.
Other Auth.: Statewide planning goals OAR 660-015
Stats. Implemented: ORS 195.137 - 195.145.
Hist.: LCDD 1-2008, f. & cert. ef. 2-13-08

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Landscape Architect Board
Chapter 804

Rule Caption: Expands registration procedure; identifies effective date of & procedure to reinstate registration; continuing education revisions.

Adm. Order No.: LAB 1-2008
Filed with Sec. of State: 2-4-2008
Certified to be Effective: 2-4-08
Notice Publication Date: 1-1-2008
Rules Amended: 804-022-0010, 804-025-0020
Rules Ren. & Amend: 804-030-0015 to 804-022-0015, 804-030-0035 to 804-022-0020
Subject: OAR 804-022-0010 allows applicants for registration in Oregon to apply with an application packet whereby they supply documents that would be required in a CLARB record. Previously, the Board required a CLARB record only. This change will allow applicants to apply directly to the Board in lieu of a CLARB record.

OAR 804-022-0015 outlines how an initial date of registration is assigned based on the application packet. Those candidates applying for initial licensure will continue to appear before the Board and their initial registration date will be the Board meeting date in which they are approved. When a reciprocity applicant's information is complete and approved by the Board Committee, the registration number will be assigned. When a candidate applies for an LAIT and staff has confirmed all required documents, staff will use that date and assign an initial registration number.

OAR 804-022-0020 lists the process that must be followed if a registrant fails to renew their registration within a 60 day window.

OAR 804-025-0020 changes Professional Development Hours (PDH) to an annual reporting process rather than a biennial reporting process. Registrants renew annually so PDH will also be annually. Expands continuing education opportunities.
Rules Coordinator: Susanna Knight—(503) 589-0093

804-022-0010
Landscape Architect Registration by Reciprocity

(1) Any person not registered as a Landscape Architect in Oregon, but who currently holds a license or certificate to practice in another state or territory, may file an application packet for registration under ORS 671.345.

(2) An application packet must include the following:

(a) A current Council of Landscape Architectural Registration Boards (CLARB) certificate to aid the board in determining the applicant's qualifications;

(b) A Board application form;

(c) An application fee;

(d) Annual registration fee; and

(e) Affidavit of Understanding stating that the applicant has read and understands the Oregon Landscape Architect Law and the Oregon Administrative Rules governing the practice of Landscape Architecture.

(3) In lieu of the CLARB certificate stated in (2)(a), the application packet must include:

(a) An official transcript from an LAAB accredited university in the university sealed envelope;

(b) Verification of a minimum of three years of work experience under the direct supervision of a registered Landscape Architect which was accrued after satisfying the degree requirement but may have been accrued while sitting for the examination;

(c) Proof of passing all sections of the national registration examination for Landscape Architecture;

(d) Identification of the state(s) where examinations were passed; and

(e) Identification of all states in which licensure is currently held.

(4) Registration may be granted after all application materials are approved.

Stat. Auth.: ORS 671
Stats. Implemented: ORS 671.345
Hist.: LAB 1-1983, f. & ef. 2-1-83; LAB 1-1984, f. & ef. 1-5-84; LAB 2-1989, f. 7-1-89, cert. & ef. 6-23-89; LAB 2-1989, f. 6-23-89, cert. ef. 7-1-89; LAB 1-1993, f. & cert. ef. 7-1-93; LAB 2-1998, f. & cert. ef. 4-22-98; Renumbered from 804-010-0025, LAB 1-2007, f. & cert. ef. 4-27-07; LAB 1-2008, f. & cert. ef. 2-4-08

804-022-0015
Effective Date of Registration

(1) The initial date of registration for a Landscape Architect applying by exam and experience will be the date of the meeting during which the board approved the application.

(2) The initial date of registration for a Landscape Architect applying by reciprocity will be assigned upon Board approval of the application packet.

(3) The initial date of registration for an LAIT will be the date when the review of the completed application packet is complete.

(4) The initial date of registration will be effective for one calendar year. The registration will be subject to renewal on an annual basis.

(5) Payment of the initial registration fee must be submitted with the application for registration.

(6) A Landscape Architect may petition the board for 'emeritus' status upon retirement from the profession.

(a) An emeritus registrant may no longer practice landscape architecture; and

(b) Is subject to the same re-application process as an inactive registrant in order to resume the practice of landscape architecture; and

(c) Is not subject to continuing education requirements.

Stat. Auth.: ORS 671

Stats. Implemented: ORS 671.376

Hist.: LAB 2-1982, f. & ef. 6-24-82; LAB 1-1984, f. & ef. 1-5-84; LAB 2-1984, f. & ef. 5-1-84; LAB 1-1989, f. 4-4-89, cert. ef. 4-7-89; LAB 2-1998, f. & cert. ef. 4-22-98; LAB 1-2005, f. & cert. ef. 2-14-05; Renumbered from 804-030-0015, LAB 1-2008, f. & cert. ef. 2-4-08

804-022-0020
Reinstatement of Lapsed Registration

(1) If a registration lapses beyond the five year reinstatement period and an individual requalifies as prescribed in ORS 671.335 to 671.345, a new certificate number will be issued.

(2) Individuals seeking reinstatement after 60 days lapsed but within the five year reinstatement period must

(a) submit a written request for reinstatement to the board explaining why the registration renewal was late; and

(b) appear before the Board for an oral interview to reinstate the registration.

(3) Written requests must be received no later than 15 days prior to any regularly scheduled Board meeting in order to be considered at that meeting. Written requests submitted after this deadline may be held until the next regularly scheduled Board meeting.

Stat. Auth.: ORS 671

Stats. Implemented: ORS 671.376

Hist.: LAB 2-1982, f. & ef. 6-24-82; LAB 1-1984, f. & ef. 1-5-84; LAB 2-1986, f. & ef. 3-5-86; LAB 1-1989, f. 4-4-89, cert. ef. 4-7-89; LAB 2-1998, f. & cert. ef. 4-22-98; Renumbered from 804-030-0035, LAB 1-2008, f. & cert. ef. 2-4-08

804-025-0020
Uniform Continuing Education Standards

(1) Definitions:

(a) Activity — any course or educational endeavor that has a clear purpose and objective and maintains, improves or expands the professional knowledge or skill of the registrant.

(b) Professional development hour (PDH) — one hour (with no less than 50 minutes of direct involvement, commonly referred to as a contact hour) of an activity that meets the requirements of these regulations.

(c) Structured educational activity — any activity that: has a sponsor other than the registrant, has evidence of pre-planning including a written objective and format, has an assessment component, and is documented and verifiable.

(d) Health, safety and welfare issue — any issue related to the practice of landscape architecture exemplified by the most current examination required for licensure.

(e) Common conversions:

(A) One university quarter credit hour = 30 hours.

(B) One university semester credit hour = 45 hours.

(C) One IACET Continuing Education Unit (CEU) = 10 hours.

(2) Basic Requirements:

(a) Each landscape architect shall complete 12 PDH units of acceptable continuing education requirements during the one-year period immediately preceding each annual renewal date as a condition for renewal.

(b) At least 9 PDH units of the continuing education requirement shall be earned by completing structured educational activities that directly address the health, safety, and welfare issues of the public as related to the practice of landscape architecture.

(c) If a registrant exceeds the total continuing education requirement in a renewal period, the registrant may carry a maximum of 12 PDH units forward into the next renewal period.

(3) Conditions For Acceptance:

(a) To be accepted as a PDH, a structured educational activity must be: related to the practice of landscape architecture, performed outside of the normal performance of one's occupation, and contemporaneously documented.

(A) Professional or Technical presentations; making professional or technical presentations at recognized professional meetings, conventions or conferences shall be the equivalent of one PDH.

(B) Teaching or instructing a qualified presentation shall constitute two PDH for each contact hour spent in the classroom. Teaching credits shall be valid for teaching a course or seminar in its initial presentation only. Teaching credits shall not apply to full-time faculty of any college or university.

(C) Authoring; Authoring (publishing) or presenting an original paper, article or book shall be the equivalent of preparation time spent, not to exceed 20 PDH per publication. Credit shall be given for authorship or presentation of that activity, but not for both. Credit cannot be claimed until actually published or presented. Credit shall be valid for authorship or presentation in its initial version only.

(D) Professional societies or organizations; Serving as an elected officer or appointed chair of a committee of an organization in a professional society or organization shall be the equivalent of 4 PDH. Professional development hours shall be limited to 4 PDH per organization and shall not be earned until the completion of each year of service.

(E) Professional boards or commissions; Serving as an elected officer or appointed member of a professional board or commission shall be the equivalent of 4 PDH. Professional development hours shall be limited to 4 PDH per organization and shall not be earned until the completion of each year of service.

(F) Professional examination grading or writing; Serving as an exam grader or on a committee writing exam materials for a professional registration examination shall be the equivalent of 4 PDH. A maximum of 8 professional development hours per biennium may be applied from this source.

(G) Attaining specialty certifications through examination from a qualified professional society or organization shall be the equivalent PDH's equal to two times the allotted examination time (i.e. 4 PDH's shall be granted for a certification exam of 2 hours in length). A maximum of 4 PDH credits shall be allowed where there is no specific limit on the examination time.

(H) Pro-bono service that has a clear purpose and objective and maintains, improves, or expands the professional knowledge or skill of the registrant shall constitute 1 PDH for every 4 hours of service; maximum 4PDH per year.

(I) Extended travel outside the State of Oregon may constitute 2 PDH per week of travel.

(J) Attendance at industry related exhibitions such as home and garden shows shall constitute 1 PDH per show; maximum 2 PDH per year.

(K) Mentoring one or more students for one day at the University of Oregon Landscape Architecture Shadow Mentor Day program or other mentoring event shall constitute 1 PDH per mentor day; maximum 4 PDH per year;

(L) Membership on the regulatory board for the practice of landscape architecture shall constitute 8 HSW PDH per year of membership.

(4) The board has final authority with respect to approval for courses, specific activities, and credit given.

(5) A Landscape Architect registered for 25 consecutive years or more shall meet continuing education requirement upon completing 4 hours per year of self study reading to learn of new products, ideas, design concepts and methods related to health, safety, and welfare that maintain, improve, or expand the professional knowledge or skill of the registrant.

Stat. Auth.: ORS 671.415

Stat. Implemented: ORS 671.395

Hist.: LAB 1-2005, f. & cert. ef. 2-14-05; LAB 1-2008, f. & cert. ef. 2-4-08

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Oregon Department of Education
Chapter 581

Rule Caption: Updates categories for criteria for adoption of instructional materials.
Adm. Order No.: ODE 1-2008
Filed with Sec. of State: 1-25-2008
Certified to be Effective: 1-25-08
Notice Publication Date: 12-1-2007
Rules Amended: 581-011-0140
Subject: The rule specifies that the State Board of Education adopts by reference the Criteria for the Adoption of Instructional Materials for Mathematics for which publishing companies will submit instructional materials. The categories for which the criteria has been adopted have been updated for the 2009-2015 cycle.
Rules Coordinator: Paula Merritt—(503) 947-5746

581-011-0140
Criteria for Adoption of Instructional Materials — Mathematics 2009–2015

The State Board of Education adopts by reference the Criteria for the Adoption of Instructional Materials for Mathematics in the following categories:

(1) Mathematics — Grades K–2/3;
(2) Mathematics — Grades K–5/6;
(3) Mathematics — Grades 6–8.
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 337.035
Hist.: ODE 4-2002, f. 1-25-02, cert. ef. 1-28-02; ODE 1-2008, f. & cert. ef. 1-25-08

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Rule Caption: Rule define requirements for teacher/administrator mentoring, including process for awarding grants authorized by HB 2574.
Adm. Order No.: ODE 2-2008
Filed with Sec. of State: 1-25-2008
Certified to be Effective: 1-25-08
Notice Publication Date: 11-1-2007
Rules Amended: 581-020-0060, 581-020-0065, 581-020-0070, 581-020-0075, 581-020-0080
Subject: In 2007, HB 2574 directed the Oregon Department of Education to establish requirements for teacher and administrator mentoring programs. Proposed amendments will define requirements for mentoring programs and the process for awarding of grants.
Rules Coordinator: Paula Merritt—(503) 947-5746

581-020-0060
Pertaining to Beginning Teacher and Administrator Mentorship Program

The State Board of Education shall establish a beginning teacher and administrator mentorship program to provide eligible beginning teachers and administrators in the state with continued and sustained support from a formally assigned mentor teacher or administrator. The legislative assembly finds that:

(1) The quality of teaching and administration in the public schools is of vital importance to the future of Oregon;

(2) Oregon has a special interest in insuring that the induction of beginning teachers and administrators into their profession enhances their professional growth and development by making a positive impact on student learning for all students, to help close the achievement gap;

(3) The formal assignment of mentors who have demonstrated the appropriate subject matter knowledge and teaching and administrative skills will substantially improve the induction and professional growth of beginning teachers in the state as well as provide mentors with additional and valuable opportunities to enhance their own professional growth ;

(4) Teachers and administrators who receive research-based, relevant mentoring produce students with a higher rate of achievement;

(5) School districts that have teacher mentoring have a higher rate of retention among teachers; and

(6) Administrators who receive mentoring improve their effectiveness as administrators and continue to improve throughout their careers.
Stat. Auth.: ORS 329.795
Stats. Implemented: ORS 329.790 - 329.820
Hist.: EB 18-1988, f. & cert. ef. 3-16-88; EB 9-1990, f. & cert. ef. 1-30-90; ODE 2-2008, f. & cert. ef. 1-25-08

581-020-0065
Definitions

The following definitions apply to Oregon Administrative Rules 581-020-0060 through 581-020-0090 unless the context requires otherwise:

(1) "Administrator's Present Position" means being assigned in the role as a principal or a superintendent.

(2) "Beginning Administrator" means a principal or superintendent who:

(a) Possesses an administrative license issued by the Teacher Standards and Practices Commission;

(b) Is employed as a principal or superintendent by a school district; and

(c) Has been assigned for fewer than two school years in the administrator's present position.

(3) "Beginning Teacher" means a teacher who:

(a) Possesses a teaching license issued by the Teacher Standards and Practices Commission;

(b) Is employed at least half time, primarily as a classroom teacher, by a school district; and

(c) Has taught fewer than two school years, as a licensed teacher in any public, private, or state-operated school.

(4) "Classroom Teachers" means all teachers who provide direct instruction to students.

(5) "District" means a school district, an education service district, a state-operated school, or any legally constituted combination of such districts.

(6) "Mentor " means an individual who:

(a) Is an acting or retired teacher, principal or superintendent;

(b) Has met established best practice and research-based criteria as defined by the State Board of Education by rule

(c) Possesses a teaching or administrative license issued by the Teacher Standards and Practices Commission;

(d) Has successfully served for five or more years as a licensed teacher, principal or superintendent in any public school; and

(e) Has been selected and trained as described in ORS 329.815.

(7) "Mentorship program" means a program provided by a mentor to a beginning teacher or administrator that includes, but is not limited to, direct classroom observation and consultation; assistance in instructional planning and preparation; support in implementation and delivery of classroom instruction; development of school leadership skills and other assistance intended to assist the beginning teacher or administrator to become a confident and competent professional educator who makes a positive impact on student learning.

(8) "Teacher" means a licensed employee of a common or union high school district, an employee of an education service district or a state-operated school who has direct responsibility for instruction, coordination of educational programs or supervision of teachers and who is compensated for services from public funds. "Teacher" does not include a school nurse as defined in ORS 342.455 or a person whose duties require an administrative certificate.
Stat. Auth.: ORS 326.051, 329.795
Stats. Implemented: ORS 329.790 - 329.820
Hist.: EB 18-1988, f. & cert. ef. 3-16-88; EB 9-1990, f. & cert. ef. 1-30-90; ODE 2-2008, f. & cert. ef. 1-25-08

581-020-0070
Eligibility

(1) There is established a beginning teacher and administrator mentorship program to provide eligible beginning teachers and administrators in this state with a continued and sustained mentorship program from a formally assigned mentor.

(2) Any district is eligible to apply to participate in the beginning teacher and administrator mentorship program. Grants may be subject to application, evaluation, approval by the Oregon Department of Education, and the legislative appropriation of funds.

(3) A school district may enter into a partnership with another school district, an institution of higher education, an education service district or another organization to operate jointly a beginning teacher and administrator support program if:

(a) All moneys received as grants-in-aid for the mentorship program are administered by the participating school district to provide direct services to beginning teachers and administrators; and

(b) All other requirements of ORS 329.790 to 329.820 are met.

(4) The awarding of grants under OAR 581-020-0080 is subject to the availability of funds appropriated therefore.
Stat. Auth.: ORS 326.051, 329.795
Stats. Implemented: ORS 329.790 - 329.820
Hist.: EB 18-1988, f. & cert. ef. 3-16-88; EB 9-1990, f. & cert. ef. 1-30-90; ODE 2-2008, f. & cert. ef. 1-25-08

581-020-0075
Grant Application

Each district that wishes to participate in the beginning teacher and administrator mentorship program shall submit a formal application to the Department of Education. The application shall include:

(1) The names of all eligible beginning teachers and administrators employed by the district and a description of their assignments and;

(2) A description of the proposed mentorship program, which must provide frequent contact, totaling a minimum of 90 hours between mentors and beginning teachers and administrators, throughout the school year.

(3) A description of the research based training that will be provided to mentors and beginning teachers and administrators.

(4) A description of how the training will build relationships of trust and mutual collaboration with beginning teachers and administrators.

(5) A description of the professional development mentors will receive before the school year begins and throughout the school year.

(6) A school district shall certify in the application that no eligible beginning professional educators are or may be under a conditional license, except as provided for by rules of the Teacher Standards and Practices Commission; and

Stat. Auth.: ORS 326.051, 329.795
Stats. Implemented: ORS 329.790 - 329.820
Hist.: EB 18-1988, f. & cert. ef. 3-16-88; EB 9-1990, f. & cert. ef. 1-30-90; ODE 2-2008, f. & cert. ef. 1-25-08

581-020-0080
Funding

(1) Subject to ORS 291.230 to 291.260, the Department of Education shall distribute grants-in-aid to qualifying school districts to offset the costs of beginning teacher and administrator mentorship programs. A qualifying district shall receive annually up to $5,000 for each full-time equivalent beginning teacher and administrator approved for support. Each biennium the department shall adjust the amount specified for each teacher or administrator based on the Consumer Price Index, as defined in ORS 327.006.

(2) If the funds are insufficient for all eligible proposals, the Department of Education shall award grants on a competitive basis taking into consideration geographic and demographic diversity.

Stat. Auth.: ORS 326.051, 329.795
Stats. Implemented: ORS 329.790 - 329.820
Hist.: EB 18-1988, f. & cert. ef. 3-16-88; EB 36-1988, f. & cert. ef. 8-5-88; EB 9-1990, f. & cert. ef. 1-30-90; EB 25-1990(Temp), f. & cert. ef. 5-18-90; ODE 2-2008, f. & cert. ef. 1-25-08

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Rule Caption: Rule define requirements for teacher/administrator mentoring, including process for awarding grants authorized by HB 2574.
Adm. Order No.: ODE 3-2008
Filed with Sec. of State: 1-25-2008
Certified to be Effective: 1-25-08
Notice Publication Date: 12-1-2007
Rules Amended: 581-020-0085, 581-020-0090
Subject: In 2007, HB 2574 directed the Oregon Department of Education to establish requirements for teacher and administrator mentoring programs. Proposed amendments will define requirements for mentoring programs and the process for awarding of grants.
Rules Coordinator: Paula Merritt—(503) 947-5746

581-020-0085
The Selection, Nature and Extent of Duties of Mentor Teachers

(1) The selection, nature and extent of duties of mentors shall be determined by the school district based on the requirements of ORS 329.790 to 329.820.

(2) No teacher, principal or superintendent shall be designated as a mentor unless willing to perform in that role;

(3) No mentor shall participate in the evaluation of a beginning teacher or administrator for purposes of actions taken under ORS 342.805 to 342.937;

(4) Written or other reports of a mentor regarding a beginning teacher or administrator may not be used in the evaluation of beginning teacher or administrator.

(5) Each mentor shall complete successfully a training provided by the Oregon Department of Education or approved according to criteria established by the Department of Education while participating in the beginning teacher and administrator mentorship program;

(6) The grant received for each beginning teacher or administrator may be used by the district to compensate mentors or to compensate other individuals assigned duties to provide release time for teachers, principals or superintendents acting as mentors.

Stat. Auth.: ORS 326.051, 329.795
Stats. Implemented: ORS 329.790 - 329.820
Hist.: EB 18-1988, f. & cert. ef. 3-16-88; EB 9-1990, f. & cert. ef. 1-30-90; ODE 3-2008, f. & cert. ef. 1-25-08

581-020-0090
Violation and Penalty

A district that is determined by the Department of Education to be in violation of one or more of the requirements of OAR 581-020-0060 through 581-020-0085 may be required to refund all grants-in-aid moneys distributed under OAR 581-020-0080. The amount of penalty shall be determined by the State Board of Education.

Stat. Auth.: ORS 326.051, 329.795
Stats. Implemented: ORS 329.790 - 329.820
Hist.: EB 18-1988, f. & cert. ef. 3-16-88; ODE 3-2008, f. & cert. ef. 1-25-08

Rule Caption: Amendment of adequate yearly progress substantive appeals process.
Adm. Order No.: ODE 4-2008
Filed with Sec. of State: 1-25-2008
Certified to be Effective: 1-25-08
Notice Publication Date: 12-1-2007
Rules Amended: 581-022-1065
Subject: The rule directs the Superintendent of Public Instruction to appoint a committee to hear substantive appeals from schools relating adequate yearly progress (AYP) determinations. The amendment modifies when the committee will consider an appeal and updates outdated references to school years.
Rules Coordinator: Paula Merritt—(503) 947-5746

581-022-1065
Substantive Appeals

(1) The Superintendent of Public Instruction will appoint a committee of at least eight members of the educational community to serve annually to review district requests for substantive appeals of school Adequate Yearly Progress (AYP) determinations.

(2) Substantive appeals for AYP designations will be considered by the committee when:

(a) The written request from the school district superintendent or the superintendent's designee is received at the Oregon Department of Education (ODE) within 18 calendar days of the public release of preliminary AYP reports;

(b) The school is determined to not meet AYP based on unique events that could not be predicted and/or controlled by the school or district; and

(c) The data issue contributing to the substantive appeal could not otherwise be remedied through district corrections of related data.

(3) Substantive appeals will not be considered by the committee when based on:

(a) Problems that could have been avoided by correcting student level data during the validation window available for each data collection;

(b) Challenges to state policy and rules, federal law, regulations or non-regulatory guidance or provisions described in the State's Accountability Workbook; or

(c) Lack of knowledge of policies outlined in the AYP/Report Card manuals or the Assessment Administration Manual or numbered memos.

(4) The committee will review appeals based on:

(a) The district's description of the issue;

(b) The district's history related to the issue; and

(c) Availability of alternatives to mitigate instances of the issue.

(5) School districts must provide in a secure format, a data file containing individual student level data identified by Oregon's Secure Student Identifier (SSID) and a designation of each subgroup required for reports of Adequate Yearly Progress (AYP).

(6) Data submitted must be consistent with the AYP Manual produced by August 1st.

(7) The committee's decision regarding appeals will be final.

(8) The ODE will publish annually the list of approved appeals by November 15th. The list will designate those appeals that will not be approved in subsequent years.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 326.051
Hist.: ODE 6-2007, f. & cert. ef. 2-21-07; ODE 4-2008, f. & cert. ef. 1-25-08

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Oregon Housing and Community Services
Chapter 813

Rule Caption: Updates eligibility criteria; clarifies uses for program funds and monitoring requirements; incorporates updates per changes to law.
Adm. Order No.: OHCS 1-2008
Filed with Sec. of State: 1-28-2008
Certified to be Effective: 1-28-08
Notice Publication Date: 11-1-2007
Rules Amended: 813-120-0001, 813-120-0010, 813-120-0020, 813-120-0040, 813-120-0050, 813-120-0060, 813-120-0070, 813-120-0080, 813-120-0090, 813-120-0110, 813-120-0120, 813-120-0130, 813-120-0140
Rules Ren. & Amend: 813-120-0030 to 813-120-0105, 813-120-0100 to 813-120-0035

Subject: 813-120-0001 This rule is being amended to bring it into compliance with current laws and add clarification.

813-120-0010 This rule is being amended to add the definition of First-Time Homebuyer and Housing to the list of definitions. Other amendments clarify the common definitions and terms located within the rules.

813-120-0020 Incorporates clarification language on eligible application for funds. Amendments bring it into compliance with current law.

813-120-0040 This rule is being amended to better describe the types of eligible costs for HOME funds.

813-120-0050 This rule is being amended to add clarifying language and update to reflect current law.

813-120-0060 This rule is being amended for clarification on what the Department is requiring in the form of program information.

813-120-0070 This rule is being amended to add when expenditures for HOME eligible projects can begin.

813-120-0080 This rule is being amended to clarify the application process and it's requirements.

813-120-0105 This rule is being renumbered from 813-120-0030. Amendments clarify activities that are eligible to receive HOME funds.

813-120-0110 This rule is amended to clarify the general administrative and monitoring requirements for the HOME program. Additional references to applicable laws have been added.

813-120-0120 This rule is being amended for readability and clarification of noncompliance issues.

813-120-0130 This rule is being amended to add State Recipient and Subrecipient to who may be responsible for sanctions when noncompliance is identified.

813-120-0140 This rule is being amended to clarify the process for requesting consideration of the Department's decision regarding funding.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-120-0001
Purpose and Objectives

OAR chapter 813, division 120, is promulgated to accomplish the general purpose of the U.S. Department of Housing and Urban Development (HUD) Final Rule for the HOME Investment Partnerships Program, 24 C.F.R. Part 92, and to implement the Oregon HOME Investment Partnerships Program. Pursuant to 24 C.F.R. §92.105, the Department was designated a participating jurisdiction upon receiving HUD's approval of Oregon's Consolidated Plan. The HOME Investment Partnerships Program is established to address the priority needs outlined in the Consolidated Plan for the development and rehabilitation of decent, safe, sanitary and affordable housing for low- and very-low-income individuals and families. OAR chapter 813, division 120, describes the HOME Investment Partnerships Program and its objective to provide funds to acquire, construct and rehabilitate housing, to provide tenant-based rental assistance for individuals and families of low- and very lowincome, and to leverage local and private monies available from other sources for the purposes of production of low- and very low-income housing.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 456.620
Stats. Implemented: ORS 456.559(1)(f)
Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 3-1995, f. & cert. ef. 9-25-95; OHCS 1-2008, f. & cert. ef. 1-28-08

813-120-0010
Definitions

All terms used in OAR chapter 813, division 120, are defined in the Act, in 24 C.F.R. Part 92, in OAR 813-005-0005 and herein. As used in OAR chapter 813, division 120, unless the context indicates otherwise:

(1) "Adjusted Income" means a Family's annual income (as determined pursuant to 24 C.F.R. §92.203) less specified allowances determined by HUD, including allowances for dependents, elderly family members, handicapped or disabled members and child care expenses.

(2) "Administrative Costs" means allowable costs, as described in OMB Circular A-87, incurred by the Department in carrying out its eligible Program activities in accordance with prescribed regulations24 CFR Part 58.

(3) "Applicant" means an individual or entity that has applied for HOME funds under the Program.

(4) "Commitment", when used in reference to a specific Project, means a commitment of HOME funds as outlined under 24 C.F.R. §92.2.

(5) "Community Housing Development Organization" or "CHDO" means a private nonprofit organization registered with the Oregon Secretary of State that meets the requirements as defined in 24 C.F.R. §92.2, has among its stated purposes the provision of decent and affordable housing for low- and moderate-income persons as evidenced in its charter, articles of incorporation or by-laws, has been designated tax-exempt under Section 501 (c) (3) or (4) of the Internal Revenue Code of 1986, ,as amended, maintains accountability to the low-income community by:

(a) Maintaining at least one-third of its governing board's membership for low-income community residents or elected representatives of low-income neighborhood organizations;

(b) Having not more than one-third of its governing board's membership be public officials and having not more than one-third of its governing board's membership directly or indirectly appointed by the State or a local government;

(c) Having not more than one-third of its governing board's membership directly or indirectly appointed by a for-profit entity;

(d) Providing a formal process for Program beneficiaries to advise the CHDO in design, siting, development, and housing management decisions;

(e) Having a demonstrated capacity to carry out the proposed activities funded by the Program;

(f) Having at least a one-year history of serving the community of the proposed Project or, for newly-created CHDOs formed by local churches, service organizations or neighborhood organizations, a parent organization that can satisfy such requirement; and

(g) After meeting the above requirements, has received official CHDO designation from the Department.

(6) "Consolidated Plan" means the plan for the State of Oregon approved by HUD which describes the needs, resources, priorities and proposed activities to be undertaken with respect to the HUD HOME Program in Oregon.

(7) "Displaced Person" means any person who moves involuntarily from real property or moves his or her personal belongings from the real property as a direct result of an activity undertaken with HOME fund assistance.

(8) "Expenditure of Funds" means the process of requesting the Department draw down HOME funds from the HOME Investment Trust Fund Account for a specific Project.

(9) "Family" is defined in 24 C.F.R. §5.403.

(10) "First-Time Homebuyer" means an individual and his or her spouse who have not owned a home during the three-year period prior to purchase of a home with assistance under the American Dream Downpayment Initiative (ADDI) as described in 24 CFR 92 Subpart M. The term "First-Time Homebuyer" means an individual who is a displaced homemaker or single parent as defined in 24 CFR 92.

(11) "For-Profit Organization" means an individually- or cooperatively-owned organization for profit, which is not a foreign corporation, incorporated under or subject to the provisions of ORS Chapter 60.

(12) "HOME" means HUD's HOME Investment Partnerships Program established by the HOME Investment Partnerships Act at Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, 42 U.S.C. §12701 et seq.

(13) "HOME Agreement" means an agreement between the Department and Recipient setting forth the terms and conditions of the grant, loan or other disbursement of HOME funds by the Department to the Recipient.

(14) "HOME Investment Trust Fund Account" means the account established by the U.S. Treasury and managed through HUD's Integrated Disbursement and Information System for the Program.

(15) "Homeownership" means ownership in fee simple title or 99 year leasehold interest in a one- to four-unit dwelling or in a condominium unit, ownership or membership in a cooperative, or equivalent form of ownership approved by HUD. The ownership interest may be subject only to the restrictions on resale required under 24 C.F.R. §92.254(a), mortgages, deeds of trust, or other liens or instruments securing debt on the property as approved by the Department, or any other restrictions or encumbrances that do not impair the good and marketable nature of title to the ownership interest.

(16) "Household" means one or more persons occupying a housing unit.

(17) "HUD" means the U.S. Department of Housing and Urban Development.

(18) "Housing"means manufactured housing and manufactured housing lots, permanent housing for disabled homeless persons, transitional housing, single room occupancy housing, and group homes. Housing also includes elder cottage housing opportunity (ECHO) units that are small, free-standing, barrier-free, energy efficient, removable, and designed to be installed adjacent to existing single-family dwellings. Housing does not include emergency shelters (including shelters for disaster victims) or facilities, correctional facilities and student dormitories.

(19) "HUD Section 8 Housing Quality Standards" or "HQS" means those occupancy standards as contained in 24 C.F.R §982.401.

(20) "Integrated Disbursement and Information System" or "IDIS" means HUD's computerized disbursement and information system which disburses funds and collects and reports information on the use of HOME funds in the U.S. Treasury account and which shall apply to fiscal management in accordance with 24 C.F.R. §92.502.

(21) "Layering" means the use of HOME funds with other federal funds which would result in excessive subsidy to a specific Project.

(22) "Local Partnership Program" means a local agency, approved for participation in the Program through the Department's Low Income Rental Housing Fund Program, to provide Tenant-Based Rental Assistance within aspecific geographical service area.

(23) "Low-Income " means annual Family income which does not exceed 80 percent of the median income for the area, as determined by HUD, with allowances for Family size.

(24) "Low-Income Neighborhood" means a Neighborhood in which at least 51 percent of its Households are Low-Income.

(25) "Match" means the mandatory use of non-federal sources pursuant to 24 C.F.R. §§92.218 - 92.222.

(26) "Neighborhood" means a geographic location designated in comprehensive plans, ordinances, or other local documents as neighborhood, village, or similar geographical designation that is within the boundary but does not encompass the entire area of a unit of general local government. If the unit of general local government has a population under 25,000, the neighborhood may, but need not, encompass the entire area of a unit of general local government.

(27) "Nonprofit Organization" means an organization which is established under the provisions of ORS Chapter 65; a community development corporation as defined in ORS 458.210; a housing authority as defined in ORS 456.005(2); a community action agency as established by the Economic Opportunity Act of 1964 and ORS 458.505(4); or other nonprofit entity (including an office, division or agency of a political subdivision) representing or seeking to serve the housing, human services and community economic revitalization needs of a clearly-defined population and area.

(28) "Program" means the Oregon HOME Investment Partnerships Program established under OAR chapter 813, division 120.

(29) "Project" means a site or sites together with any building (including a manufactured housing unit), or buildings located on the site(s) that are under common ownership, financing and management and are to be assisted with HOME funds as a single undertaking under the Program.

(30) "Project Completion" means all necessary construction, reconstruction and title transfer have been accomplished and in the Department's judgment complies with the requirements of OAR chapter 813, division 120, and applicable federal requirements, and the final drawdown for the Project has been disbursed and the Project completion report has been entered into HUD's IDIS.

(31) "Public Agency" means a state, county, municipality or other governmental entity. Nonprofit Organizations which are organized as public nonprofit corporations may also be considered Public Agencies.

(32) "Public Housing Agency" or "PHA" means any Public Agency that is authorized to engage in or assist in the development or operation of Low-Income housing.

(33) "Recipient" means any entity under contract with the Department to undertake activities funded by the Department's HOME Program. For the purposes of HOME Tenant-Based Rental Assistance, homebuyer assistance, and homeowner rehabilitation, a Recipient may include the tenant or homeowner receiving assistance.

(34) "Reconstruction" means the rebuilding, on the same lot, of housing standing on a site at the time of Project Commitment. The number of units may not decrease or increase but the number of rooms per unit may decrease or increase. Reconstruction also includes replacing an existing substandard unit of manufactured housing.

(35) "State Recipient" means a unit of general local government designated by the Department to administer HOME funds.

(36) "Subrecipient" means a Public Agency or Nonprofit Organization selected by the Department to administer or implement all or a portion of its HOME Program. Such an organization is not considered a Subrecipient if it receives HOME funds solely as a developer or owner of housing.

(37) "Tenant-Based Rental Assistance" is a form of assistance awarded to a Household to defray the costs of renting a housing unit. Assistance may include, but is not limited to, rent and security deposits. Assistance provided to a Household may be transferred to another housing unit as approved by the Local Partnership Program, or other agency providing Tenant-Based Rental Assistance, and the Department.

(38) "Transitional Housing" means housing that is designed to provide housing and appropriate supportive services to persons including, but not limited to, deinstitutionalized individuals with disabilities, homeless individuals with disabilities, and homeless families with children, and has as its purpose facilitating the movement of individuals and families to independent living within a time period that is set by the Department or Project owner before occupancy.

(39) "Very Low-Income" means annual income which does not exceed 50 percent of the median Family income for the area, as determined by HUD with allowances for Family size.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 456.620
Stats. Implemented: ORS 456.559(1)(f)
Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 3-1995, f. & cert. ef. 9-25-95; HSG 1-1997, f. & cert. ef. 4-15-97; OHCS 1-2008, f. & cert. ef. 1-28-08

813-120-0020
Eligible Applicants

Eligible Applicants for HOME funds include:

(1) Units of general local government, For-Profit and Nonprofit Organizations, and individuals to construct new housing for Low- and Very Low-Income Families, or to acquire and/or rehabilitate existing housing for Low- and Very Low-Income Families, or to sponsor local programs to construct, acquire or rehabilitate housing owned and occupied by Low- and Very Low-Income Families;

(2) Local Partnership Programs and other approved agencies to provide Tenant-Based Rental Assistance to qualified Low- and Very Low-Income Families;

(3) CHDOs to provide funds for the construction of housing for rental and Homeownership opportunities by Low- and Very Low-Income Families, or to acquire and/or rehabilitate existing structures for rental and Homeownership opportunities by Low- and Very Low-Income Families.

(a) The Department shall set aside 15 percent of the HOME allocation for housing developed, owned or sponsored by CHDOs.

(b) The CHDO set-aside may also include Project-specific predevelopment and technical assistance loans.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 456.620
Stats. Implemented: ORS 456.559(1)(f)
Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 3-1995, f. &n cert. ef. 9-25-95; HSG 1-1997, f. & cert. ef. 4-15-97; OHCS 1-2008, f. & cert. ef. 1-28-08

813-120-0035
Forms of Assistance

(1) The Department shall provide funds for he acquisition, construction and rehabilitation of housing, including Transitional Housing, affordable to Low-and Very Low-Income Families, and Tenant-Based Rental Assistance to Low- and Very-Low-Income Families subject to limitations otherwise prescribed by OAR 813, division 120, and 24 CFR Part 92.

(2) The Department shall also provide down-payment assistance to First-time Homebuyers in accordance with the American Dream Downpayment Initiative as described in 24 CFR Subpart M.

(3) The Department shall confirm to the applicant in writing the amount and form or assistance, if any, to be provided form the HOME Program.

(4) The Department may establish fees, interest rates, repayment terms, performance criteria and reporting requirements pursuant to 24 CFR Part 92, as the Department considers appropriate or necessary for the type and use of assistance provided. The Department shall specify such terms and conditions to an applicant in writing before funds are advanced or any agreements signed. The Department may require an applicant to execute such documents as the Department considers appropriate or necessary to evidence the type and amount of assistance provided, and any terms and

conditions agreed to in connection with such assistance, subject to federal policy or regulatory direction.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 456.620
Stats. Implemented: ORS 456.559(1)(f)
Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94; OHCS 12-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07; OHCS 11-2007, f. & cert. ef. 1-11-07; Renumbered from 813-120-0100, OHCS 1-2008, f. & cert. ef. 1-28-08

813-120-0040
Eligible Costs for HOME Activities

Costs are determined as eligible to be paid with HOME funds to the extent that they promote housing affordability. Eligible costs include:

(1) Development hard costs such as the actual costs of constructing or rehabilitating housing including, but not limited to:

(a) For new construction, costs to meet the applicable new construction standards of Oregon and the Model Energy Code referred to in 24 C.F.R. §92.251.

(b) For rehabilitation, costs to meet the property standards in 24 C.F.R. §92.251; to make essential improvements, including energy-related repairs or improvements, improvements necessary to permit use by persons with disabilities, the abatement of lead-based paint hazards, as required by 24 C.F.R. §92.355, and to repair or replace major housing systems in danger of failure; costs to refinance existing debt when rehabilitating owner-occupied single family units;

(c) For both new construction and rehabilitation,

(A) Costs to make utility connections; and costs of existing structure demolition and improvements to the Project site. A Project shall be documented to have complied with these standards prior to the submission of an IDIS Project Completion Report.

(B) Costs associated with Project site improvements. Site improvements shall be comparable to those found in similar developments in the geographic area surrounding the Project and shall be accomplished for the primary use of the proposed Project residents.

(2) Development soft costs incurred by the owner and/or sponsor. These costs include reasonable and necessary costs associated with financing and/or development of new construction, rehabilitation, or acquisition including, but not limited to:

(a) Architectural, engineering and/or related professional services required for preparing plans, drawings, specifications or work write-ups;

(b) Costs to process and settle Project financing, including private lender origination fees, credit reports, fees for title evidence, legal document recording, attorneys, private appraisal, building permits, and independent cost estimate, builder or developer fees;

(c) Costs of a Project audit.

(d) Costs associated with services provided in connection with affirmative marketing and fair housing information, in conformance with 24 C.F.R. Part 92.

(e) For new construction or rehabilitation, the cost of funding an initial operating deficit reserve, and costs for the payment of impact fees that are charged for all developments within a jurisdiction.

(3) Costs of acquiring improved or unimproved real property, including acquisition by homebuyers.

(4) Costs of relocation payments and other related assistance for permanently or temporarily Displaced Persons, families, businesses, farm operations or other entities determined appropriate by the Department, and staff and overhead costs directly related to providing advisory and other relocation services.

(5) Costs of rent or rental deposits for tenants receiving HOME Tenant-Based Rental Assistance.

(6) Costs of Program administration up to ten percent (10%) of the Department's fiscal year allocation. Allowable Administrative Costs include, but are not limited to, activities involving the coordination, monitoring and evaluation of HOME-assisted Projects or Programs such as preparing budgets, schedules and amendments; evaluating Program results against stated objectives; developing systems for assuring compliance with Program requirements; monitoring Program activities for progress and compliance with Program requirements; preparing reports and other compliance documents related to the HOME Program; and coordinating the resolution of audit and monitoring findings; the Department's staff and overhead costs directly related to carrying out the Project.

(7) Project-specific technical assistance and site control loans, and Project-specific seed money loans to CHDOs as outlined in 24 C.F.R. §92.301.

(8) Up to five percent (5%) of the Department's fiscal year HOME allocation may be used for the operating expenses of CHDOs as outlined in 24 C.F.R., Part 92.208.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 456.620
Stats. Implemented: ORS 456.559(1)(f)
Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 3-1995, f. & cert. ef. 9-25-95; HSG 1-1997, f. & cert. ef. 4-15-97; OHCS 1-2008, f. & cert. ef. 1-28-08

813-120-0050
HOME Affordability Requirements

HOME affordability requirements vary according to the amount of HOME funds invested and the activity involved. The Department may choose to include one or all of the activities in its Program.

Affordability is defined as follows:

(1) For HOME assisted units in rental housing Projects:

(a) Initial and continuing contract rents shall not exceed the lesser of the HUD periodically determined fair market rent (FMR) for comparable-sized units in the area, or a contract rent that does not exceed 30 percent of Adjusted Income of a Family whose income is 65 percent of the area median income as determined by HUD, adjusted for the number of bedrooms in the unit;

(b) If the Project contains five or more HOME-assisted units, a minimum of 20 percent of the HOME-assisted units shall be occupied by Very Low-Income Families

(A) paying no more than 30 percent of Adjusted Income for rent, or

(B) having contract rents not greater than 30 percent of gross annual income of a Family whose income equals 50 percent of area median income, as determined by HUD and adjusted for family size, but under no circumstances shall rents described in (ii) exceed the limits identified in (a) above;

(c) The HOME-assisted units shall be occupied only by Low- and Very Low-Income Families;

(d) The Project does not refuse leasing HOME-assisted units to a Family participating in the HUD Section 8 rental certificate or voucher program or HOME Tenant-Based Rental Assistance under OAR 813, division 120; and

(e) The HOME assisted units of a Project shall remain affordable after Project Completion, enforced by deed restrictions or covenants running with the land, for periods not less than the following based on the amount of HOME assistance per unit regardless of loan or other mortgage terms or ownership transfer:

(A) For rehabilitation and/or acquisition of existing housing per unit amount of HOME funds: Under $15,000 — 5 years; $15,000 to $40,000 — 10 years; over $40,000 — 15 years.

(B) For acquisition of newly-constructed housing which is acquired within one year of the date of the certificate of initial occupancy, or for new construction, the Project must remain affordable for 20 years.

(C) The affordability restrictions may terminate upon foreclosure or other transfer in lieu of foreclosure. If at any time following transfer by foreclosure or transfer in lieu of foreclosure, but if during the term of the affordability period, the owner of record prior to the foreclosure or transfer in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or has had family or business ties, obtains an ownership interest in the Project or property, the affordability restrictions shall be revived according to the original terms.

(2) For homebuyer assistance for acquisition (with or without rehabilitation) of existing housing, such housing:

(a) (For new construction) has an initial purchase price that does not exceed 95 percent of the median purchase price for the type of single-family housing for the area, as determined pursuant to 24 C.F.R. §94.254(a)(iii), or (for acquisition with rehabilitation) has an estimated value after rehabilitation that does not exceed 95 percent of the median purchase price for the area for the type of single-family housing, as determined pursuant to 24 C.F.R. §94.254(a)(iii);

(b) Shall, during the affordability period, be the principal residence of an owner whose Family qualifies as a Low-Income Family at the time of purchase; and

(c) Is subject to resale restriction or recapture provisions pursuant to 24 C.F.R. §92.254, from Project Completion for minimum periods based upon the amount of HOME assistance provided: Less than $15,000 — 5 years; $15,000 to $40,000 — 10 years; over $40,000 — 15 years.

(3) For homeowner rehabilitation Projects without acquisition:

(a) The housing is the principal residence of an owner whose Family qualifies as a Low-Income Family at the time HOME funds are committed to that housing; and

(b) The after-rehabilitation estimated value of the property shall not exceed 95 percent of the median purchase price for the area for the type of single-family housing as determined pursuant to 24 C.F.R. §94.254(a)(iii).

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 456.620
Stats. Implemented: ORS 456.559(1)(f)
Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 3-1995, f. & cert. ef. 9-25-95; HSG 1-1997, f. & cert. ef. 4-15-97; OHCS 1-2008, f. & cert. ef. 1-28-08

813-120-0060
Program Information

(1) The Department has adopted guidelines for the HOME Program regarding application procedures, Project eligibility, Project selection criteria, forms of financial assistance available, and other applicable information. Program guidelines are published in the Program's application materials.

(2) The guidelines described in OAR 813-120-0060(1) are hereby adopted by reference.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 456.620
Stats. Implemented: ORS 456.559(1)(f)
Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 3-1995, f. & cert. ef. 9-25-95; HSG 1-1997, f. & cert. ef. 4-15-97; OHCS 1-2008, f. & cert. ef. 1-28-08

813-120-0070
Distribution and Expenditure of Funds

(1) The Department will follow the allocation strategies as outlined in the Consolidated Plan or its successor the program information described in OAR 813-120-0060 which may distribute funds based on a formula that takes onto account the relative housing needs of regions or other factors, distribute funds on a statewide basis, or may consider some other means of distribution.

(2) As opportunities arise, the Department may use HOME funds for the demonstration and development of new activities.

(3) The Department shall use its best efforts to make commitments for Projects under the State's HOME allocation for a fiscal year within two years after the month in which that allocation is approved by HUD. All HOME funds committed to a Project under the State's HOME allocation for a fiscal year shall be expended within five years after the month in which the HOME allocation for that fiscal year is approved by HUD.

(4) A Recipient shall begin expenditure of its HOME funds within six months of the date the HOME Agreement between the Recipient and the Department is executed. The Department may, in its sole discretion, permit extension(s) upon submission by the Recipient of documentation acceptable to the Department.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 456.620
Stats. Implemented: ORS 456.559(1)(f)
Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 3-1995, f. & cert. ef. 9-25-95; HSG 1-1997, f. & cert. ef. 4-15-97; OHCS 1-2008, f. & cert. ef. 1-28-08

813-120-0080
Application Procedure and Requirements

(1) The Department may distribute HOME funds, subject to availability of funds in the Program, through a process which may involve but is not limited to a first come — first reviewed process, demonstration program, a competitive review process, or as necessary to maintain an ongoing concern.

(a) Applications for HOME funds may include a pre-application and a final application. The completeness of information in pre-applications shall be the basis for inviting final applications.

(b) Each application submitted shall be reviewed by Department staff according to Program requirements and detailed Project evaluation criteria.

(2) The Applicant shall submit, on an application form and in accordance with the process prescribed by the Department, Applicant and Project information including but not limited to:

(a) Name, address and telephone number of the Applicant;

(b) Category of assistance requested;

(c) Amount requested and total Project costs, including a description and documentation of all additional Project funding and funding sources;

(d) A pro forma of Project income and expenses;

(e) The percentage of Match, as required by 24 C.F.R. §92.218;

(f) A written description of the Project including the number of units, unit mix, proposed rents, site location, Project amenities, and any other information required in the application materials, Program guidelines or 24 C.F.R. Part 92;

(g) A statement of Project purpose indicating the housing type and tenants to be housed, and the length of time and the number of units that will be committed for occupancy by Low- and Very Low-Income Families;

(h) A description of how the proposed Project meets the regional or statewide needs and priorities addressed in and is consistent with Oregon's Consolidated Plan or its successor, or documentation as to why the highest priority in the Applicant's community differs from the highest priorities outlined in Oregon's Consolidated Plan;

(i) A narrative of the experience of the sponsor/developer/owner/manager in developing and operating housing projects;

(j) A description of the Applicant's readiness to proceed on Project activities. Applicants should expect to begin construction activities within six months of execution of the HOME Agreement; and

(k) A schedule for completion of Project activities.

(3) Applicants must minimize Layering in Projects proposed for HOME funding in accordance24 CFR 92.250 Subpart b, and the Department will not invest any more HOME funds in combination with other federal governmental assistance than is necessary to provide affordable housing to the targeted population.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 456.620
Stats. Implemented: ORS 456.559(1)(f)
Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 3-1995, f. & cert. ef. 9-25-95; HSG 1-1997, f. & cert. ef. 4-15-97; OHCS 9-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07; OHCS 10-2007, f. & cert. ef. 1-11-07; OHCS 1-2008, f. & cert. ef. 1-28-08

813-120-0090
Application Review

(1) The Department shall consider an application and approve or deny the application, or request additional information within the timeframe set forth in the application materials.

(2). If the Department proposes to award HOME funds on an application requesting in excess of $100,000, it shall submit the application request to the State Housing Council for review. The Council shall approve or disapprove the application at a public hearing of the Council, pursuant to ORS 456.571(2).

(3) In reviewing applications for HOME assistance, the Department and the Council, as appropriate, may consider, in addition to any other or special evaluation criteria, the following:

(a) Amount of available funds in the HOME Program;

(b) Availability of other sources of assistance; and

(c) Applicant's efforts to leverage public or private funds.

(4) The Department may, in its sole discretion, further restrict the amount and/or type of assistance available or restrict the type of Applicant eligible for assistance.

(5) The Department shall select those applications which, in the judgment of the Department, best achieve the purposes of the HOME Program, this OAR chapter 813, division 120 (including the Program guidelines described in OAR 813-120-0060(1)), and 24 C.F.R. Part 92, and meet the evaluation criteria outlined in the Program guidelines described in OAR 813-120-0060(1). Applicants must document consistency with the priorities in Oregon's Consolidated Plan or its successor, or document why the highest priority in their communities differs from the highest priorities outlined in Oregon's Consolidated Plan or its successor. Projects that are not financially feasible shall not be funded.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 456.620
Stats. Implemented: ORS 456.559(1)(f)
Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 3-1995, f. & cert. ef. 9-25-95; OHCS 1-2008, f. & cert. ef. 1-28-08

813-120-0105
Eligible Activities

(1) The Department may provide funds for the following categories of activities. The Department may restrict the availability of Program funds for each such category at the time it solicits applications.

(2) Homeowner Rehabilitation: For rehabilitation of single-family housing that is the principal residence of a homeowner whose Family is a Low-Income or Very Low-Income Family at the time of commitment of HOME funds. Homeowner rehabilitation programs shall be administered by a State Recipient or a Subrecipient.

(3) Homebuyer Assistance: For acquisition, rehabilitation and/or construction of housing to be owned and occupied by Low- or Very Low-Income Families.

(4) Rental Rehabilitation: For acquisition and/or rehabilitation of existing structures for rental housing affordable to Low- and Very Low-Income Families. The initial and long-term affordability requirements outlined in OAR 813-120-0050 shall apply to rental housing assisted with HOME funds. Rental rehabilitation projects may be sponsored by a State Recipient, Nonprofit Organization, For-Profit Organization, individual or CHDO.

(5) New Construction: For the construction of new rental housing or the acquisition of rental housing which is acquired within one year of the date of the certificate of initial occupancy. New construction Projects may be sponsored by a State Recipient, Nonprofit Organization, For-Profit Organization, individual or CHDO.

(6) Acquisition of vacant land or demolition is an eligible activity only when proposed as a portion of a particular Project intended to provide affordable housing. New Construction of housing is an eligible activity only when the initial certificate of occupancy was issued mor more than one year prior to the Commitment of Program Funds, and is otherwise approved by the Department. Building conversion is considered new construction if one or more untis are being added beyond the existing walls of the structure.

(7) Tenant-Based Rental Assistance: For rental assistance to Low- and Very Low-Income Families.

(8) CHDO Predevelopment and Technical Assistance: Loans for project-specific predevelopment or technical assistance and site control activities performed by CHDOs may be authorized for up to 10 percent of the Program's allocation set-aside for CHDOs, as described in 24 C.F.R. §92.208,92.300(e) and (f).

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 456.620
Stats. Implemented: ORS 456.559(1)(f)
Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 1-1997, f. & cert. ef. 4-15-97; Renumbered from 813-120-0030, OHCS 1-2008, f. & cert. ef. 1-28-08

813-120-0110
General Administrative and Monitoring Requirements

(1) The following general administrative and reporting requirements apply under the HOME Program:

(a) The requirements of 24 CFR Parts 44,45 and 85 apply to State Recipients and Subrecipients, and the requirements of OMB Circular A-87 and 24 CFR 85.6, 85.12, 85.20, 85.22, 85.26, 85.34, 85.36, 85.44, 85.51 and 85.52 apply to State Recipients and any governmental Subrecipients receiving HOME finds.

(b) The requirements of OMB Circular A-122 and 24 CFR 84.2, 84.5, 84.13-16, 84.21, 84.22, 84.26-84.28, 84.30, 84.31, 84.34-85.37, , 84.40-84.48, 84.51, 84.60-84.62, 84.72 and 84.73 apply to Subrecipients receiving HOME funds that are non-governmental Nonprofit Organizations.

(c) Each Recipient shall submit periodic performance reports as required by the Department, and at the end of the term of its HOME Agreement a Recipient shall submit a summary performance report in form and detail as prescribed by the Department. Such reports shall include those items described in 24 C.F.R. §92.508.

(d) Financial records, supporting documents and all other pertinent records (including but not limited to records related to Program activities and HOME assisted Projects) shall be retained by State Recipients, Subrecipients and Recipients for the applicable five year period as described in 24 C.F.R. §92.508, or after any litigation or audit claim is resolved, whichever is later. Representatives of the Department, HUD, the Comptroller General of the United States, the General Accounting Office, and Oregon Secretary of State shall have access to all books, accounts, documents, records and other property belonging to or in use by State Recipients, Subrecipients, and Recipients that pertain to the receipt of HOME funds.

(2) The Department may perform such reviews and field inspections as it deems necessary or appropriate to ensure Program compliance. If the Department determines that a State Recipient, Subrecipient or Recipient has not complied with the requirements of the Program (including but not limited to its agreements with the Department), the Department may require remedial actions be taken or impose sanctions, as described in OAR 813-120-0120 and 813-120-0130.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 456.620
Stats. Implemented: ORS 456.559(1)(f)
Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 3-1995, f. & cert. ef. 9-25-95; HSG 1-1997, f. & cert. ef. 4-15-97; OHCS 1-2008, f. & cert. ef. 1-28-08

813-120-0120
Remedies for Noncompliance

(1) At any time before expiration of the affordability requirements contained in OAR 813-120-0050 that are applicable to a Recipient, the Department may, for cause, find that the Recipient is not in compliance with the requirements of the Program. Remedies for noncompliance may include penalties set forth in OAR 813-120-0130. The Department may make findings of noncompliance for reasons that include, but are not limited to, use of funds by the Recipient for activities not approved in the Recipient's HOME Agreement, the Recipient's failure to complete activities contemplated by such Agreement in a timely manner, the Recipient's failure to comply with all applicable rules or regulations, or the lack of a continued capacity by the Recipient to carry out the approved activities.

(2) If the Recipient's HOME Agreement terminates prior to Project Completion, the Recipient shall repay to the Department's HOME Investment Trust Fund Account all HOME funds disbursed to the Recipient by the Department for the Project. Repayment of HOME funds to the Department's HOME Investment Trust Fund Account shall not relieve the Recipient of its obligation to keep the Project affordable for the HOME period of affordability set forth in its Home Agreement with the Department.

Stat. Auth.: ORS 456.620
Stats. Implemented: ORS 456.559(1)(f)
Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; OHCS 1-2008, f. & cert. ef. 1-28-08

813-120-0130
Sanctions

(1) The Department may invoke sanctions against a State Recipient, Subrecipient or Recipient that fails to comply with its HOME Agreement. Sanctions will not be imposed by the Department until the State Recipient, Subrecipient or Recipient has been notified in writing of its deficiencies and has been given an opportunity to respond and correct the deficiencies noted. Below is an illustrative (but not comprehensive) list of circumstances that may warrant sanctions:

(a) The Recipient has not commenced any of the Project activities within six months after its Project award;

(b) The Recipient has not entered into the necessary third party agreements related to the Project within ninety (90) days of its Project award;

(c) The State Recipient, Subrecipient or Recipient has materially breached its HOME agreement; or

(d) The Department finds that significant corrective action is necessary to protect the integrity of the Project funds, and are not being made or will not be made by the Recipient within a reasonable time.

(2) Sanctions imposed by the Department may include but are not limited to one or more of the following:

(a) Bar a the State Recipient, Subrecipient or Recipient, as the case may be, from applying for future HOME funding;

(b) Revoke an existing HOME award;

(c) Withhold unexpended HOME funds;

(d) Require the State Recipient, Subrecipient or Recipient, as the case may be, to return unexpended HOME funds;

(e) Require the State Recipient, Subrecipient or Recipient, as the case may be, to repay expended HOME funds; and

(f) Other remedies that may be provided in the HOME agreement.

(3) The remedies set forth in this OAR 813-120-0130 are cumulative and not exclusive and are in addition to any other rights and remedies provided by law or under the HOME agreement.

(4) A State Recipient, Subrecipient or Recipient shall take all action necessary to enforce the terms of the its agreement against any third party that fails to comply with its agreement with the State Recipient, Subrecipient or Recipient, respectively, and shall recover on behalf of the Department any costs, expenses, and damages that may arise as the result of the breach of such agreement by such breaching third party. The Recipient, by its execution of its HOME Agreement with the Department (whether or not that Agreement expressly so states) acknowledges and agrees that the Department has the unrestricted right (but not the obligation) to enforce the terms of any agreement the Recipient has with a third party regarding the Program or Project or to recover any sums that may become due as the result of a breach of such agreement.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 456.620
Stats. Implemented: ORS 456.559(1)(f)
Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 1-1997, f. & cert. ef. 4-15-97; OHCS 1-2008, f. & cert. ef. 1-28-08

813-120-0140
Request for Reconsideration; Waiver

(1) An Applicant may, in writing, request the Director reconsider the Department's funding decision. The Applicant's request shall be filed with the office of the Director within 30 days of the Department's funding decision and shall state with particularity the basis for reconsideration. The Director may require additional information from the Applicant and shall consider a request which complies with the requirements of this OAR 813-120-0140. The Director's decision regarding such request is final.

(2) The Director may waive or modify any non-statutory requirements of HOME unless such waiver or modification would violate any applicable federal or state statutes or regulations.

Stat. Auth.: ORS 456.620
Stats. Implemented: ORS 456.559(1)(f)
Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; OHCS 1-2008, f. & cert. ef. 1-28-08

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Oregon Liquor Control Commission
Chapter 845

Rule Caption: Amend rules to delegate authority to the Administrator in connection with stays/contested case appeals.
Adm. Order No.: OLCC 1-2008
Filed with Sec. of State: 1-16-2008
Certified to be Effective: 2-1-08
Notice Publication Date: 11-1-2007
Rules Amended: 845-003-0670
Subject: This rules describes the specific authorities that the Commissioners delegate to others, such as the agency Administrator, in connection with contested cases and states that the Commissioners retain all authority not specifically delegated. We need to amend this rule in order to delegate to the Administrator the specific authority to prepare and issue orders granting or denying requests to stay the enforcement of Final Orders on appeal. We also need to amend the Statutory Authority and Statutes implemented sections of this rule to accurately and completely cite all Oregon Revised Statutes.
Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-003-0670
Retained Authority of Commissioners

(1) The Commissioners retain all authority not specifically delegated.

(2) The Commissioners delegate to the Administrator the authority to prepare and issue a Final Order by Default when the default is the result of a party's failure to request a hearing and file an answer or when a party, after requesting a hearing, withdraws the request.

(3) The Commissioners delegate to the Administrator the authority to prepare and issue a Final Order by Default when a party, after requesting a hearing, fails to appear at the hearing and the agency file does not constitute the sole record.

(4) The Commissioners delegate to the ALJ the authority to prepare and issue a Final Order by Default when the default is the result of a party's failure to appear at the time scheduled for hearing and the agency file constitutes the sole record.

(5) The Commissioners delegate to the Administrator the authority to prepare and issue a Final Order based upon an informal disposition by settlement.

(6) The Commissioners delegate to the Administrator the authority to prepare and issue a Final Order based upon a proposed order where exceptions are not filed timely and the order is not otherwise subject to review by the Commissioners.

(7) The Commissioners delegate to the Administrator the authority to summarily deny requests for reconsideration or rehearing and any stay request based on these requests for reconsideration or rehearing when exceptions or a request to reopen the record has been made by the same participant in the same case.

(8) The Commissioners delegate to the Administrator the authority to grant or deny requests for extension of time within which to file exceptions or comments to a proposed order, in conformity with the requirements of OAR 845-003-0590(3).

(9) The Commissioners delegate to the Administrator the authority to prepare and issue an order granting or denying a request to stay the enforcement of a Final Order pending judicial review.

Stat. Auth.: ORS 183.341(2), 471.730(5)(6)
Stats. Implemented: ORS 183.341(2)
Hist.: OLCC 9-1998, f. 10-21-98, cert. ef. 1-1-99; OLCC 1-2000(Temp), f. & cert. ef. 1-14-00 thru 7-11-00; OLCC 8-2000, f. 6-23-00, cert. ef. 7-1-00; OLCC 9-2003, f. 6-27-03, cert. ef. 7-1-03; OLCC 18-2003, f. 11-24-03, cert. ef. 12-1-03; OLCC 2-2005, f. 4-21-05, cert. ef. 5-1-05; OLCC 1-2008, f. 1-16-08, cert. ef. 2-1-08

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Rule Caption: Amend rule to create small dealers vs. large with different maximum numbers for container acceptance.
Adm. Order No.: OLCC 2-2008
Filed with Sec. of State: 1-16-2008
Certified to be Effective: 3-16-08
Notice Publication Date: 11-1-2007
Rules Amended: 845-020-0035
Subject: This rule needs amendment in order to comply with Statutory changes regarding container acceptance for dealers. The amendment will add language creating small dealers, under 5,000 square feet, who must accept up to 50 beverage containers per person per day and large dealers, greater than or equal to 5,000 square feet, who must accept up to 144 beverage containers per person per day. The change needs to be made to comply with the 2007 Legislature's SB 707. We also need to amend the Statutory Authority section of this rule in order to accurately and completely cite all Oregon Revised Statutes.
Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-020-0035
When Dealer Not Required to Accept Containers

(1) The Commission does not interpret ORS 459A.710 to require a dealer to accept an empty beverage container, if the dealer:

(a) Has not offered the product in the specific container size for sale within the past six months;

(b) Has reasonable grounds to believe the container was sold at retail outside Oregon;

(c) Has reasonable grounds to believe that container was obtained from or through a distributor without paying the refund value. The primary goal of this subsection is to prevent distributors, recyclers or others from putting containers through the refund/return system more than once without paying the refund value.

(2) Dealers must not use this rule to frustrate the requirement of the Beverage Container Act that dealers accept return of:

(a) Up to 144 beverage containers sold in Oregon from any person in any one day, if the dealer occupies a total enclosed space of 5,000 or more square feet in a single location; or

(b) Up to 50 beverage containers sold in Oregon from any person in any one day, if the dealer occupies a total enclosed space of less than 5,000 square feet in a single location.

Stat. Auth.: ORS 459A, 459.992, 471.730
Stats. Implemented: ORS 459A.715
Hist.: LCC 1-1982(Temp), f. & ef. 1-22-82; LCC 5-1982, f. 3-26-82, ef. 4-1-82; OLCC 10-1987, f. 3-13-87, ef. 4-1-87; OLCC 15-1999, f. 6-9-99, cert. ef. 7-1-99; OLCC 17-2007(Temp), f. & cert. ef. 9-17-07 thru 3-15-08; OLCC 2-2008, f. 1-16-08, cert. ef. 3-16-08

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Rule Caption: Adopt rules clarifying qualifications & requirements regarding tastings permitted by a distillery licensee.
Adm. Order No.: OLCC 3-2008(Temp)
Filed with Sec. of State: 2-14-2008
Certified to be Effective: 2-18-08 thru 8-15-08
Notice Publication Date:
Rules Adopted: 845-005-0430, 845-006-0451
Subject: The 2007 legislature passed SB 451 with the statutory changes becoming effective January 1, 2008. The statutory change amends ORS 471.230 removing the restriction that previously only permitted tastings of brandy or pot distilled liquor. These two new rules will set the qualifications and requirements a distillery licensee must meet to conduct tastings open to the public. We need to adopt these two rules on a temporary basis in order to comply with the statutory changes made to ORS 471.230 by SB 451, which became effective January 1, 2008.
Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-005-0430

Qualifications for Oregon Distillery Licensee Providing Tastings of Distilled Liquor on the Distillery Premises or on Another Premises Owned or Leased by the Distillery

ORS 471.230 allows an Oregon distillery licensee to provide tastings of distilled liquor manufactured by the distillery licensee on the distillery licensee's premises or another premises owned or leased by the licensee. This rule sets the qualifications to obtain approval to provide these tastings.

(1) Definitions. For this rule and OAR 845-006-0451:

(a) "Free" means at no cost and for no financial consideration, direct or indirect, to the person obtaining the tasting.

(b) "Per day" means from 7:00 am until 2:30 am on the succeeding calendar day.

(c) "Identified tasting area" means a specific tasting area where tastings of alcohol occur. The area must be of a size and design such that the person(s) serving the taste(s) can observe and control persons in the area to ensure no minors or visibly intoxicated persons possess or consume alcohol and that other liquor laws are followed.

(d) "Manufactured by the distillery licensee" means the licensee distills, rectifies, blends, or otherwise produces the distilled liquor product on the distillery licensed premises in Oregon.

(e) "Another premises owned or leased by the distillery licensee" means the distillery licensee owns specific real estate or has a written contract which allows the licensee to exclusively possess or use specific real estate for a specified term and for a specified rent. The real estate must be off of the distillery licensee's permanently licensed premises and may not be on the premises of a retail licensee as defined in ORS 471.392(2).

(2) A distillery licensee conducting tastings of distilled liquor for retailers at an educational seminar that is not open to the public is subject to OAR 845-013-0060 and is not subject to the requirements of this rule.

(3) A distillery licensee conducting tastings of distilled liquor at a retail liquor store other than the distillery licensee's own liquor store is subject to OAR 845-015-0155 and is not subject to the requirements of this rule.

(4) A distillery licensee conducting tastings of distilled liquor at a retail liquor store that is the distillery licensee's own liquor store must follow this rule.

(5) A distillery licensee providing tastings of distilled liquor on a full on-premises licensed premises that is other than the distillery licensee's full on-premises licensed premises is subject to OAR 845-005-0428 and is not subject to the requirements of this rule.

(6) If a distillery licensee also holds a full on-premises sales license as per ORS 471.175 on the distillery licensed premises or on another premises owned or leased by the distillery licensee, then all sale or service of alcohol for on- premises consumption at the full on-premises licensed location, including tastings, is under the full on-premises license and is not subject to this rule.

(7) A distillery licensee also holding a full on-premises sales license that provides alcohol service in connection with the pre-approved catering privilege under OAR 845-005-0405 or 845-005-0410 is providing the alcohol service under their full on-premises sales license and is not subject to the requirements of this rule.

(8) A distillery licensee who has been approved under this rule may offer free tastings of distilled liquor in accordance with the requirements of OAR 845-006-0451.

(9) Application for tastings on the distillery licensee's permanently licensed premises. A distillery licensee who intends to provide the service of distilled liquor tastings on the distillery licensed premises must make application to the Commission upon forms to be furnished by the Commission and receive prior approval from the Commission before beginning the distilled liquor tasting service. Once the Commission has given its approval for the tastings, the distillery licensee must re-apply if the licensee changes its identified tasting area. The application shall include:

(a) A floor plan showing the identified tasting area, on a form provided by the Commission; and

(b) A statement that the licensee understands and will comply with the requirements of OAR 845-006-0451.

(10) Application for tastings on another premises owned or leased by the distillery licensee. A distillery licensee who intends to provide the service of distilled liquor tastings on another premises owned or leased by the distillery licensee must make application to the Commission upon forms to be furnished by the Commission and receive prior approval from the Commission before beginning the distilled liquor tasting service. This other premises may not be on the premises of a retail licensee as defined in ORS 471.392(2). Once the Commission has given its approval for the tastings, the distillery licensee must re-apply if the licensee changes its identified tasting area. The application shall include:

(a) Either proof of ownership or the lease for the real estate for the address at which the other premises will be located;

(b) A floor plan showing the identified tasting area, on a form provided by the Commission;

(c) A statement that the identified tasting area is not on the premises of a retail licensee as defined in ORS 471.392(2);

(d) The written recommendation of the local governing body which governs the address of the premises; and

(e) A statement that the licensee understands and will comply with the requirements of OAR 845-006-0451.

(11) Liquor liability insurance requirement. A distillery licensee providing only tastings under the requirements of this rule is not required to obtain or maintain liquor liability insurance.

(12) The Commission may refuse to process any application required under this rule if the application is not complete and accompanied by the documents or disclosures required by the form. The Commission shall give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS chapter 183.

Stats Auth: ORS 471, 471.030, 471.040, 471.730(1) & (5)
Stats implemented: ORS 471.230
Hist.: OLCC 3-2008(Temp), f. 2-14-08, cert. ef. 2-18-08 thru 8-15-08

845-006-0451

Requirements for Oregon Distillery Licensee Providing Tastings of Distilled Liquor on the Distillery Premises or on Another Premises Owned or Leased by the Distillery

OAR 845-005-0430 sets the qualifications for an Oregon distillery licensee to obtain Commission approval to provide tastings of distilled liquor manufactured by the distillery licensee for consumption on the distillery licensed premises or on another premises owned or leased by the licensee. This rule sets the requirements to provide the tastings.

(1) Definitions. For this rule and OAR 845-005-0430:

(a) "Free" means at no cost and for no financial consideration, direct or indirect, to the person obtaining the tasting.

(b) "Per day" means from 7:00 am until 2:30 am on the succeeding calendar day.

(c) "Identified tasting area" means a specific tasting area where tastings of alcohol occur. The area must be of a size and design such that the person(s) serving the taste(s) can observe and control persons in the area to ensure no minors or visibly intoxicated persons possess or consume alcohol and that other liquor laws are followed.

(d) "Manufactured by the distillery licensee" means the licensee distills, rectifies, blends, or otherwise produces the distilled liquor product on the distillery licensed premises in Oregon.

(e) "Another premises owned or leased by the distillery licensee" means the distillery licensee owns specific real estate or has a written contract which allows the licensee to exclusively possess or use specific real estate for a specified term and for a specified rent. The real estate must be off of the distillery licensee's permanently licensed premises and may not be on the premises of a retail licensee as defined in ORS 471.392(2).

(2) The tastings of distilled liquor are allowed only within the identified tasting area approved by the Commission. The identified tasting area must be on the distillery licensee's permanently licensed premises or on another premises owned or leased by the licensee. Customers may not remove the tasting from the identified tasting area.

(3) A distillery licensee may provide only free tastings of distilled liquor. The distilled liquor must be manufactured by the distillery licensee and approved by the Commission for sale in Oregon.

(4) The distilled liquor tastings may be no more than a total of two free one-quarter ounce tastings (one-half ounce total) of distilled liquor per person per day. A tasting does not include a sealed container of alcohol.

(5) Minors are permitted in the identified tasting area only if allowed by the Commission's rule on minor postings, OAR 845-006-0340.

(6) Alcohol servers who pour tastings must have valid service permits and be at least 21 years of age.

(7) Failing to obtain Commission approval as required by OAR 845-005-0430 prior to providing the service of distilled liquor tastings is a Category I violation. Violation of any other section of this rule is a Category III violation.

(8) A violation of a liquor law at another premises owned or leased by the distillery licensee is the responsibility of the distillery licensee.

Stats Auth: ORS 471, 471.030, 471.040, 471.730(1) & (5)
Stats implemented: ORS 471.230
Hist.: OLCC 3-2008(Temp), f. 2-14-08, cert. ef. 2-18-08 thru 8-15-08

Oregon State Library
Chapter 543

Rule Caption: Model Rules of Procedure.
Adm. Order No.: OSL 1-2008
Filed with Sec. of State: 1-17-2008
Certified to be Effective: 1-17-08
Notice Publication Date:
Rules Amended: 543-001-0005
Subject: Adopts Attorney General's Model Rules of Procedure.
Rules Coordinator: James B. Scheppke—(503) 378-4367, ext. 243

543-001-0005
Model Rules of Procedure

Pursuant to provisions of ORS 183.341, the Oregon State Library adopts the Attorney General's Model Rules of Procedure as amended effective January 1, 2008.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Oregon State Library.]
Stat. Auth.: ORS 183.341 & ORS 357.015(2)
Stats. Implemented: ORS 183.341
Hist.: OSL 48, f. 9-20-71, ef. 10-20-71; OSL 54, f. 12-18-73, ef. 1-11-74; OSL 56, f. & ef. 6-21-76; OSL 1-1989, f. 4-18-89, cert. ef. 4-17-89; OSL 1-1995, f. & cert. ef. 10-27-95; OSL 1-2008, f. & cert. ef. 1-17-08

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Oregon Student Assistance Commission,
Office of Degree Authorization
Chapter 583

Rule Caption: Revises definition of diploma mill.
Adm. Order No.: ODA 1-2008
Filed with Sec. of State: 2-7-2008
Certified to be Effective: 2-7-08
Notice Publication Date: 1-1-2008
Rules Amended: 583-050-0011
Subject: The definition of diploma mill was changed in SB 198 during the 2007 Legislative Session.
Rules Coordinator: Susanne D. Ney—(541) 687-7394

583-050-0011
Definitions of Terms

(1) "Office" means Office of Degree Authorization, as represented by the administrator or designated agent.

(2)(a) "Degree" means any academic or honorary title, rank, or status designated by a symbol or by a series of letters or words-such as, but not limited to, associate, bachelor, master, doctor, and forms or abbreviations thereof, that signifies, purports, or may generally be taken to signify:

(A) Completion of a course of instruction at the college or university level; or

(B) Demonstration of achievement or proficiency comparable to such completion; or

(C) Recognition for non-academic learning, public service, or other reason of distinction comparable to such completion.

(b) "Degree" does not refer to a certificate or diploma signified by a series of letters or words unlikely to be confused with a degree, clearly intended not to be mistaken for a degree, and represented to the public so as to prevent such confusion or error.

(3) "Confer a degree" means give, grant, award, bestow, or present orally or in writing any symbol or series of letters or words that would lead the recipient to believe it was a degree that had been received.

(4) "Claim a degree" means to present orally, or in writing or in electronic form any symbol or series of letters or words that would lead the listener or reader to believe a degree had been received and is possessed by the person speaking or writing, for purposes related to employment, application for employment, professional advancement, qualification for public office, teaching, offering professional services or any other use as a public credential, whether or not such use results in monetary gain.

(5) "School" includes a person, organization, school or institution of learning that confers or offers to confer an academic degree upon a person or to provide academic credit applicable to a degree. The activities attributable to a school include instruction, measurement of achievement or proficiency, or recognition of educational attainment or comparable public distinction.

(6) "Accredited" means accredited and approved to offer degrees at the specified level by an agency or association recognized as an accreditor by the U.S. Secretary of Education, under the 1965 Higher Education Act as amended at the time of recognition, or having candidacy status with such an accrediting agency or association whose pre-accreditation is also recognized specifically for HEA purposes by the Secretary of Education.

(7) "Foreign equivalent of such accreditation" means authorization by a non-U.S. government found by ODA to have adequate academic standards. This determination may be made through one or more of the following methods at ODA's discretion:

(a) Direct investigation of foreign standards;

(b) Reliance on an evaluation and determination made by the American Association of Collegiate Registrars and Admissions Officers (AACRAO); or

(c) Evaluation of the transferability of courses and degrees earned in the foreign country to accredited Oregon institutions at similar degree levels.

(8) "Academic Standards" means those standards in 583-030-0035 or the equivalent standards of an accrediting body that relate to admission requirements, length of program, content of curriculum, award of credit and faculty qualifications.

(9) "Standard School" means a school that meets the requirements of ORS 348.609(1) for degree use without a disclaimer.

(10) "Nonstandard School" means a degree provider that has legal authority to issue degrees valid in its authorizing jurisdiction, but which does not meet the requirements to be a standard school.

(11) "Diploma mill" or "degree mill" means an entity that meets any one of the following conditions as defined in ORS 348.594:

(a) A school against which a court or public body, as defined in ORS 174.109, has issued

a ruling or finding, after due process procedures, that the school has engaged in dishonest,

fraudulent or deceptive practices related to the award of degrees, academic standards or

student learning requirements; or

(b) Is an entity without legal authority as a school to issue degrees valid as credentials in the jurisdiction that authorizes issuance of degrees.

(12) Valid degree means a degree issued by a standard school or by a nonstandard school if the disclaimer required by ORS 348.609(2) is used.

(13) "College level work" required for a degree means academic or technical work at a level demonstrably higher than that required in the final year of high school and demonstrably higher than work required for degrees at a lower level than the degree in question. From lowest to highest, degree levels are associate, bachelor's, master's and doctoral. Professional degree levels may vary. College level work is characterized by analysis, synthesis and application in which students demonstrate an integration of knowledge, skills and critical thinking. Award of credit for achieving appropriate scores on ODA-approved nationally normed college-level examinations such as those from College Level Examination Program, American Council on Education, Advanced Placement or New York Regents meets this standard.

(14) "Disclaimer" when appended to a published reference to a degree means the following statement from statute: "(Name of school) does not have accreditation recognized by the United States Department of Education and has not been approved by the Office of Degree Authorization."

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 348.609
Stats. Implemented: ORS 348.603 & 348.609
Hist.: ODA 2-1998, f. & cert. ef. 8-12-98; ODA 3-2000, f. & cert. ef. 8-8-00; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 3-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 2-2005, f. & cert. ef. 3-3-05; ODA 3-2005, f. 9-27-05, cert. ef. 9-30-05; ODA 1-06, f. & cert. ef. 6-23-06; ODA 1-2008, f. & cert. ef. 2-7-08

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Oregon University System,
Western Oregon University
Chapter 574

Rule Caption: Revisions to special course fees and general service fees.
Adm. Order No.: WOU 1-2008
Filed with Sec. of State: 2-1-2008
Certified to be Effective: 2-1-08
Notice Publication Date: 1-1-2008
Rules Amended: 574-050-0005
Subject: Amendments will allow for increases, additions, and revisions of special course fees and general service fees.
Rules Coordinator: Debra L. Charlton—(503) 838-8175

574-050-0005
Special Fees for Selected Courses and Some General Services

The Schedule of Fees for Selected Courses and General Services for Western Oregon University are hereby adopted by reference.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 351.070 & 351.072
Stats. Implemented: ORS 351.070 & 351.072
Hist.: OCE 1, f. & ef. 7-12-76; OCE 1-1978, f. & ef. 10-27-78; OCE 2-1980, f. & ef. 11-5-80; OCE 1-1981, f. & ef. 1-7-81; OCE 3-1981, f. & ef. 8-7-81; OCE 4-1981, f. & ef. 11-2-81; WOSC 2-1982, f. & ef. 9-17-82; WOSC 1-1983, f. & ef. 10-11-83; WOSC 1-1985, f. & ef. 10-4-85; WOSC 1-1986, f. & ef. 10-15-86; WOSC 1-1987, f. 4-1-87, ef. 9-23-87; WOSC 2-1988, f. & cert. ef. 9-19-88; WOSC 1-1989, f. & cert. ef. 4-18-89; WOSC 2-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 5-1989, f. & cert. ef. 9-7-89; WOSC 1-1990, f. & cert. ef. 4-18-90; WOSC 2-1990, f. & cert. ef. 9-24-90; WOSC 1-1991, f. & cert. ef. 1-30-91; WOSC 2-1991, f. & cert. ef. 3-22-91; WOSC 4-1991, f. & cert. ef. 5-21-91; WOSC 7-1991, f. & cert. ef. 7-22-91; WOSC 2-1992, f. & cert. ef. 6-16-92; WOSC 3-1992, f. & cert. ef. 8-14-92; WOSC 1-1993, f. & cert. ef. 1-15-93; WOSC 2-1993, f. & cert. ef. 6-18-93; WOSC 3-1993, f. & cert. ef. 7-16-93; WOSC 5-1993, f. & cert. ef. 10-21-93; WOSC 1-1994, f. & cert. ef. 8-12-94; WOSC 1-1995, f. & cert. ef. 8-11-95; WOSC 1-1996, f. & cert. ef. 10-16-96; WOSC 1-1997, f. & cert. ef. 2-27-97; WOU 3-1997, f. & cert. ef. 10-7-97; WOU 1-1998, f. & cert. ef. 1-26-98; WOU 2-1998, f. & cert. ef. 7-24-98; WOU 1-1999, f. & cert. ef. 2-25-99; WOU 2-1999, f. & cert. ef. 7-27-99; WOU 1-2000, f. & cert. ef. 3-16-00; WOU 2-2000, f. & cert. ef. 6-28-00; WOU 1-2001, f. & cert. ef. 3-5-01; WOU 2-2001, f. & cert. ef. 7-30-01; WOU 1-2002, f. 3-12-02, cert. ef. 3-15-02; WOU 2-2002, f. 8-2-02, cert. ef. 8-15-02; WOU 3-2002, f. 10-7-02, cert. ef. 10-15-02; WOU 1-2003, f. & cert. ef. 4-2-03; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 1-2004, f. & cert. ef. 3-24-04; WOU 2-2004, f. & cert. ef. 8-4-04; WOU 1-2005, f. & cert. ef. 3-8-05; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 3-2005, f. & cert. ef. 8-12-05; WOU 1-2006, f. & cert. ef. 3-2-06; WOU 2-2006, f. & cert. ef. 8-7-06; WOU 1-2007, f. & cert. ef. 3-5-07; WOU 2-2007, f. & cert. ef. 7-31-07; WOU 4-2007, f. & cert . ef. 11-1-07; WOU 1-2008, f. & cert. ef. 2-1-08

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Parks and Recreation Department
Chapter 736

Rule Caption: Definitions relating to Local Government Grant Program Rules.
Adm. Order No.: PRD 1-2008(Temp)
Filed with Sec. of State: 2-15-2008
Certified to be Effective: 3-1-08 thru 8-1-08
Notice Publication Date:
Rules Amended: 736-006-0110
Subject: Temporarily amends and adopts OAR 736-006-0110 at the same time other changes are being adopted to 736-006 as noticed on 10-15-07 and approved by OPRD Commissioners at their January 17, 2008 meeting. The changes in definitions were also reviewed and approved by OPRD Commissioner at their January 17, 2008 meeting. filing this temporary adoption permits the amendments to 736-006-0110 to be adopted at the same time as the other amendments, and meets the requirements to file notice of rulemaking on 736-006-0110.
Rules Coordinator: Joyce Merritt—(503) 986-0730

736-006-0110
Definitions

As used in this division, unless the context requires otherwise:

(1) "Acquisition" — Means the gaining of property rights, including but not limited to fee title or easements, for public use.

(2) "Bicycle Recreation" — Means the use of bicycles for enjoyment, social interaction, education, or physical well-being while on recreational trails or paths that are not along or adjacent to public roads or streets, and that are primarily recreational rather than transportational in nature.

(3) "Commission" — Means the Oregon Parks and Recreation Commission.

(4) "Committee" — Means the Local Government Grant Advisory Committee appointed by the Director to prioritize local government project applications.

(5) "Conversion" — Means the act of utilizing property acquired or developed using either Local Government Grant Program funds or Land and Water Conservation Funds for purposes other than public outdoor recreation uses.

(6) "Current Master Plan" — Means a site-specific resource-based plan guiding recreational site acquisition, development, protection, and management of park areas and facilities.

(7) "Department" — Means the Oregon Parks and Recreation Department (OPRD).

(8) "Development" — Means the construction or rehabilitation of facilities necessary for the use and enjoyment of public outdoor recreation resources.

(9) "Director" — Means the Director of the Oregon Parks and Recreation Department.

(10) "Eligible Project" — Means an acquisition, development, major rehabilitation undertaking, or planning or feasibility studies which satisfies the requirements of the Local Government Grant Program.

(11) "Force Account" — Means the governmental entity's own work force performing project work rather than contracting out for the services.

(12) "LWCF or Land and Water Conservation Fund" — Means those funds made available to the state through the Land and Water Conservation Fund Act of 1965 (Public Law 88-578).

(13) "Local Comprehensive Plan" — Means the acknowledged comprehensive land use plan prepared by each local jurisdiction within the state, as required by ORS chapter 197.

(14) "Local Governments" — Means cities, municipal corporations, counties, political subdivisions, park and recreation districts, port districts, and metropolitan service districts.

(15) "Local Government Grant Policies and Procedures Manual" — Means a manual prepared by the Department containing state and federal policies, procedures and instructions to assist local government agencies wishing to participate in the Local Government Grant Program.

(16) "Local Government Grant Program" — Means the program and process for distributing state monies to eligible local governments for outdoor park and recreation areas and facilities located on properties controlled or managed by the eligible local government.

(17) "Major Rehabilitation" — Means the repair, restoration, or reconstruction of facilities, which is necessitated by obsolescence, building code changes, or normal wear and tear not attributed to lack of maintenance.

(18) "OPRD" — Means the Oregon Parks and Recreation Department.

(19) "Outdoor Recreation" — Means structured and unstructured leisure and fitness activists that occur in open air and are not provided in a roofed and enclosed facility.

(20) "Project" — Means the planning or feasibility study documents or the site and associated improvements where acquisition, development, or major rehabilitation will occur.

(21) "Project Authorization" — Means the State/Local Agreement that authorizes the project to begin effective on or after the date signed by both the Director and Project Sponsor or their designee.

(22) "Project Sponsor" — Means the recipient of the grant funds and the entity responsible for implementation of the project and the maintenance and operation of the site.

(23) "SCORP" — Means the Statewide Comprehensive Outdoor Recreation Plan that is Oregon's basic five-year plan for outdoor recreation and that provides the state with an up-to-date regional information and planning tool serving as the basis by which all Oregon recreation providers (state, federal, local, and private) catalogue and rank their recreation needs, obtain funding through partnerships and grants, and affirm their respective roles.

(24) "State/Local Agreement" — Means the signed agreement between the Department and Project Sponsor, which authorizes the project to begin on, or after the date signed by both the Director and the Project Sponsor and that describes the contractual relationship and responsibilities of the parties to the Project.

(25) "Sustainability" — Means using, developing, protecting, and managing the resource in a manner that enables people to meet current and future generation needs from the multiple perspective of environmental, economic, and community objectives.

Stat. Auth.: ORS 390.180
Stats. Implemented: ORS 390.180
Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04; PRD 1-2008(Temp), f. 2-15-08, cert. ef. 3-1-08 thru 8-1-08

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Rule Caption: Amending existing rules to clarify Historic Cemetery Grants process.
Adm. Order No.: PRD 2-2008
Filed with Sec. of State: 2-15-2008
Certified to be Effective: 2-15-08
Notice Publication Date: 1-1-2008
Rules Amended: 736-054-0005, 736-054-0010, 736-054-0015, 736-054-0025
Subject: Amend existing rules to improve and clarify the Historic Cemetery Grants process so it better serves constituents needs: clarifies definitions, removes geographical zones, and removes requirement for above ground features.
Rules Coordinator: Joyce Merritt—(503) 986-0730

736-054-0005
Definitions

As used in this division, unless the context requires otherwise, the following definitions apply:

(1) "Commission" means the seven-member body appointed by the Director of the Oregon Parks and Recreation Department (OPRD) to carry out the responsibilities of ORS 97.772 to 97.784.

(2) "Grant" means an award from the Historic Cemetery Grant program.

(3) "Historic Cemetery" means the definition provided in ORS 97.772.

(4) "Project Completion" means satisfaction of all requirements of a grant agreement as determined after review or inspection by OPRD.

Stat. Auth.: ORS 390.124 (1) & 390.131
Stats. Implemented: ORS 97.780
Hist.: PRD 2-2005, f. & cert. ef. 3-23-05; PRD 2-2008, f. & cert. ef. 2-15-08

736-054-0010
Intent

(1) The Commission intends to coordinate restoration, renovation, or maintenance of the state's historic cemeteries and to recommend projects and funding that help maintain and improve such historic cemeteries. Grants may be recommended in the following general categories:

(a) Protection and security;

(b) Restoration and preservation; and

(c) Education and training.

(2) The Commission may determine each funding cycle the types of projects, areas of focus, or thematic concentration that will determine what will be considered eligible to be recommended for project funding.

(3) The Commission may consider geographic distribution in reviewing grant applications.

(4) The Commission may recommend funding a grant application either in whole or in part.

(5) The Commission will give preference to applications that include cash or in-kind match. The Commission may nevertheless recommend grant funding for a project that does not include a cash or in-kind match.

(6) The Commission may establish minimum or maximum grant award amounts.

Stat. Auth.: ORS 390.124 & 390.131
Stats. Implemented: ORS 97.780
Hist.: PRD 2-2005, f. & cert. ef. 3-23-05; PRD 2-2008, f. & cert. ef. 2-15-08

736-054-0015
Eligibility

(1) Site — To be eligible for a Grant, a burial place or cemetery must meet the definition of an historic cemetery as provided in ORS 97.772.

(2) Applicant — The Commission may consider a grant application from any entity that meets the requirements of this section, including, but not limited to: an individual, a non-profit or other public or private organization, schools, state agencies, local governments, and tribal governments.

(a) An applicant for a grant must demonstrate that an auditable fiscal agent will receive and expend the grant funds.

(b) An applicant for a project that will affect property not owned by the applicant must provide the Commission with a copy of written authorization from the fee owner of the site of the project unless the cemetery is not owned or is abandoned.

Stat. Auth.: ORS 390.124 & 390.131
Stats. Implemented: ORS 97.780
Hist.: PRD 2-2005, f. & cert. ef. 3-23-05; PRD 2-2008, f. & cert. ef. 2-15-08

736-054-0025
Evaluation of Applications

(1) Eligible applications received by the announced deadline will be evaluated by a Historic Cemetery Grants review committee, appointed by the Commission chair and containing at least one member of the Commission.

(2) The review committee will rank applications in order of priority based on the following criteria:

(a) Whether the application meets the Commission's funding priorities for that funding cycle;

(b) Whether the application has demonstrated the need for the project;

(c) Whether the applicant has demonstrated that adequate budget and financial controls are in place to properly administer the grant; and

(d) Any other criteria determined by the Commission prior to the announcement of the availability of grant funding, and which are contained in that announcement.

(3) The review committee shall recommend to the Commission grant funding recommendations up to the amount of funds that may be available in that biennium. The review committee may also rank several alternates in priority order that would be funded if any of the recommended grants are not awarded.

Stat. Auth.: ORS 390.124 & 390.131
Stats. Implemented: ORS 97.780
Hist.: PRD 2-2005, f. & cert. ef. 3-23-05; PRD 2-2008, f. & cert. ef. 2-15-08

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Rule Caption: Amend, Repeal, Adopt New Rules regarding Criminal Records Checks Responsive to HB 2157, 2005.
Adm. Order No.: PRD 3-2008
Filed with Sec. of State: 2-15-2008
Certified to be Effective: 2-15-08
Notice Publication Date: 11-1-2007
Rules Adopted: 736-002-0032, 736-002-0038, 736-002-0042, 736-002-0050, 736-002-0052, 736-002-0058, 736-002-0082, 736-002-0092, 736-002-0102, 736-002-0150, 736-002-0160
Rules Amended: 736-002-0010, 736-002-0020, 736-002-0030, 736-002-0070
Rules Repealed: 736-002-0040, 736-002-0060, 736-002-0080, 736-002-0090, 736-002-0100
Subject: Amend, repeal existing rules and adopt new rules in accordance with provisions of HB 2157, 2005 Legislative Session, to incorporate additional provisions for doing criminal records checks on subject individuals applying for employment or to contract, be licensed, or volunteer with the agency. The rules incorporate provisions for making preliminary fitness determinations, final fitness determinations, and assessing fees not to exceed actual costs of obtaining criminal records information from appropriate sources.
Rules Coordinator: Joyce Merritt—(503) 986-0756

736-002-0010
State Park Cooperating Associations

(1) Pursuant to ORS 390.121 to 390.150, the director of the Oregon State Parks and Recreation Department is authorized to enter into agreements with cooperating associations, which are private, non-profit scientific, historic or educational associations organized solely for the purpose of providing interpretive services to recreational facilities in Oregon. Recreation facility includes but is not limited to state parks, state recreation areas, and all recreational, historical and scenic attractions owned or under the control of the State of Oregon and administered by the Parks and Recreation Department.

(2) The following rules are established to carry out the purposes of this program. Agreement form 73410-1602 will be entered into by the cooperating association and the director of the state parks department:

(a) The activities of cooperating associations shall enhance park or facility interpretive and educational functions. Association activities at a recreation facility may not conflict with park or facility resources or objectives and shall be subject to prior approval by the district park manager;

(b) Cooperating associations may be formed to assist Oregon State Parks at a local, regional or statewide level provided that no more than one cooperating association shall be created to undertake activities in a single park or facility. Associations shall be separate entities, but are encouraged to work together as appropriate. Cooperating associations may sponsor interpretive or educational events or functions, as approved by the district park manager;

(c) Each association shall determine the number of directors to comprise the governing board. A state park representative, designated by the director, shall be an ex-officio member of the board. If the board desires, Oregon State Parks in its discretion may provide assistance to the board on an incidental basis. It will be the responsibility of each cooperating association to secure appropriate charter(s) and non-profit, tax-exempt status under provisions of Section 501(c)3 of the federal Internal Revenue Service Tax Code. Cooperating association membership fees may be allowed at the direction of the cooperating association board of directors;

(d) The cooperating association may:

(A) Provide educational or interpretive material for sale at a recreation facility;

(B) Acquire display materials and equipment for exhibits at a recreation facility;

(C) Provide support for special recreation facility interpretive programs or environmental education programs;

(D) Support recreation facility libraries; or

(E) Provide support for other interpretive projects related to a specific recreation facility.

(e) The Oregon State Parks and Recreation Department may:

(A) Provide incidental personnel services to the organization's interpretive program; and

(B) Provide space at a state park facility for the interpretive materials provided by the organization.

(f) Any money received from the sale of publications or other materials provided by an organization pursuant to an agreement entered into under this section shall be retained by the organization for use in the interpretive or educational services of the recreation facility for which the organization provides services. In the event that the cooperative association disbands or dissolves, remaining funds shall be donated to Oregon State Parks and earmarked for interpretive and educational purposes within the Oregon State Park system. An annual fiscal report of the cooperating association shall be presented to the state parks director;

(g) Associations may make available for sale theme-related objects which, in the judgment of the director or designee, can effectively contribute to the success of the park or facility interpretive program. Critical evaluation of proposed sales objects to insure that they are theme-related is extremely important to both Oregon State Parks and non-profit status of the cooperating association. Decisions made by the director are final;

(h) An agreement between a cooperating association and the director may be terminated upon thirty (30) days written notification by either party to the other.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 183.545, 183.550, 184 & 390.124

Stats. Implemented: ORS 390.143 - 390.144

Hist.: PR 10-1986, f. & ef. 7-9-86; PR 2-1993, f. & cert. ef. 1-29-93; PRD 3-2008, f. & cert. ef. 2-15-08

736-002-0020

Criminal Records Checks, Statement of Purpose and Applicability, Statutory Authority

(1) Purpose. These rules control the Department's acquisition of information about a subject individual's criminal history through criminal records checks or other means and its use of that information to determine whether the subject individual is fit to provide services to the Department as an employee, volunteer, contractor, or licensee in a position identified in OAR 736-002-0032. The fact that the Department approves a subject individual as fit does not guarantee the individual a position as a Department employee or status as a Department volunteer, contractor, or licensee.

(2) Authority. These rules are authorized under ORS 181.534, 390.124, 390.131, 390.140, 565.060, and 565.071.

Stat. Auth.: ORS 390.124, 390.131, 390.140, 181.534, HB 2157 (2005 Legislative Session)

Stats. Implemented: ORS 181.534

Hist.: PRD 3-2004, f. & cert. ef. 1-15-04; PRD 3-2008, f. & cert. ef. 2-15-08

736-002-0030

Definitions

The following definitions are used for the purposes of these Oregon Administrative Rules pertaining to criminal records checks.

(1) "Approved" means that, pursuant to a preliminary fitness determination under OAR 736-002-0050 or a final fitness determination under OAR 736-002-0058, an authorized designee has determined that the subject individual is fit to be an employee, contractor, licensee or volunteer in a position covered by OAR 736-002-0032.

(2) "Authorized Designee" means a Department employee authorized to obtain, review or process criminal offender information and other criminal records information about a subject individual through criminal records checks and other means, and to conduct a fitness determination in accordance with these rules.

(3) "Contact Person" means a person who is authorized by the Department to receive and process criminal records check request forms signed by subject individuals and is authorized to receive criminal records information. The contact person is not allowed to make final fitness determinations. The contact person is allowed to make preliminary fitness determinations under the authority of the Department only if there is no indication of potentially disqualifying crimes or conditions.

(4) "Conviction" means that a court of law has entered a final judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere (no contest) against a subject individual in a criminal case, unless that judgment has been reversed or set aside by a subsequent court decision.

(5) "Criminal Offender Information" includes records and related data as to physical description and vital statistics received and compiled by the Oregon Department of State Police Bureau of Criminal Identification for purposes of identifying criminal offenders and alleged offenders, records of arrest, and the nature and disposition of criminal charges, including sentencing, confinement, parole and release.

(6) "Crime Relevant to a Fitness Determination" means a crime listed or described in OAR 736-002-0070.

(7) "Criminal Records Check" or "CRC" means one of three processes undertaken to check the criminal history of a subject individual:

(a) "LEDS Criminal Records Check" means a name-based check of Oregon criminal offender information conducted through use of the Law Enforcement Data System (LEDS) maintained by the Oregon Department of State Police in accordance with the rules adopted and procedures established by the Oregon Department of State Police.

(b) "Oregon Criminal Records Check" means a check of Oregon criminal offender information, including through fingerprint identification, conducted by the Oregon Department of State Police at the Department's request.

(c) "Nationwide Criminal Records Check" means a nationwide check of federal criminal offender information, including through fingerprint identification, conducted by the Oregon Department of State Police through the Federal Bureau of Investigation or otherwise at the Department's request.

(8) "Criminal Records Check and Fitness Determination Rules" or "these rules" means Oregon Administrative Rules (OAR) chapter 736, division 2, except OAR 736-002-0010.

(9) "Department" means the Oregon Parks and Recreation Department and any division or office thereof.

(10) "False Statement" means a subject individual either (a) provided the Department with materially false information about his or her criminal history, or (b) failed to provide to the Department information material to determining his or her criminal history.

(11) "Family Member" means a spouse, domestic partner, natural parent, foster parent, adoptive parent, stepparent, child, foster child, adopted child, stepchild, sibling, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew or first cousin.

(12) "Fitness Determination" means a determination made by an authorized designee or a contact person pursuant to the process established in OAR 736-002-0050 or by an authorized designee pursuant to the process established in OAR 736-002-0058, that a subject individual is or is not fit to be a Department employee, contractor, licensee or volunteer in a position covered by OAR 736-002-0032.

(13) "Oregon State Fair" means a division of the Oregon Parks and Recreation Department responsible for holding the annual Oregon State Fair and managing, scheduling, renting, and maintaining the facilities of the Oregon State Fair.

(14) "Subject Individual" means an individual identified in OAR 736-002-0032 as someone from whom the Department may require statements about identity and criminal history and fingerprints for the purpose of conducting a criminal records check.

(15) "Unfit" means that, pursuant to a preliminary fitness determination under OAR 736-002-0050 or a final fitness determination under OAR 736-002-0058, an authorized designee or contact person has determined that the subject individual is unfit to be an employee, contractor, licensee or volunteer in a position covered by OAR 736-002-0032.

Stat. Auth.: ORS 390.124, 390.131, 390.140, 181.534, HB 2157 (2005 Legislative Session)

Stats. Implemented: ORS 181.534

Hist.: PRD 3-2004, f. & cert. ef. 1-15-04; PRD 3-2008, f. & cert. ef. 2-15-08

736-002-0032

Subject Individual

The Department may require a subject individual to provide statements about personal identity, criminal history or to provide fingerprints for the purpose of conducting a criminal records check because the person:

(1)(a) Is employed by or applying for employment with the Department; or

(b) Provides services or seeks to provide services to the Department as a contractor, or volunteer; or

(c) Is a licensee of the Oregon State Fair or is applying for a license or renewal of a license that is issued by the Oregon State Fair division of OPRD; and

(2) Is or will be working or providing services in a position with the Department:

(a) In which the person has direct access to persons under 18 years of age, elderly persons, or persons with disabilities;

(b) In which the person is providing information technology services and has control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems;

(c) In which the person has payroll functions, or in which the person has responsibility for receiving, receipting, or depositing money or negotiable instruments, billing, collections, or other financial transactions,

(d) In which the person has access to personal information about employees or members of the public, including Social Security numbers, dates of birth, driver's license numbers, medical information, personal financial information, or criminal history information;

(e) In which the person provides security, design, or construction services for government buildings, grounds, or facilities;

(3)(a) Is employed or applying for employment with the Department exclusive of the Oregon State Fair; or

(b) Provides services or seeks to provide services to the Department exclusive of the Oregon State Fair as a contractor or volunteer; and

(4) Is or will be working or providing services in a position with the Department exclusive of the Oregon State Fair,

(a) In which the person has access to information, the disclosure of which is prohibited by state or federal laws, rules, or regulations, or information that is defined as confidential under state or federal laws, rules or regulations;

(b) In which the person is responsible for purchasing or selling property, or has access to property held in trust or private property in the temporary custody of the state;

(c) In which the person has responsibility for auditing agency financial transactions;

(d) In which the person has access to tax or financial information of individuals or business entities;

(e) In which the person may issue citations under ORS 390.050.

(5)(a) Is employed or applying for employment with the Oregon State Fair division of OPRD; or

(b) Provides services or seeks to provide services to the Oregon State Fair division of OPRD as a contractor or volunteer; or

(c) Is a licensee of the Oregon State Fair or is applying for a license or renewal of a license that is issued by the Oregon State Fair division of OPRD; and

(6) Is or will be working or providing services in a position with the Oregon State Fair division of OPRD:

(a) In which the person has responsibility for sales or distribution of tickets or other instruments that can be exchanged for good, services, or access to events held on Oregon State Fair property;

(b) In which the person has key access to Oregon State Fair buildings and grounds that contain private property belonging or entrusted to exhibitors, promoters, licensees and event coordinators.

Stat. Auth.: ORS 390.124, 390.131, 390.140, 181.534, 390.200, 565.071
Stats. Implemented: ORS 181.534.
Hist.: PRD 3-2008, f. & cert. ef. 2-15-08

736-002-0038
Designated Positions: Authorized Designee and Contact Person

(1) Appointment.

(a) The Department Director or the Director's designee shall designate the positions that include the responsibilities of an authorized designee and /or contact person.

(b) Appointment to one of the designated positions shall be contingent upon an individual being approved under the Department's criminal records check and fitness determination process.

(c) Appointments shall be made by the Department Director or the Director's designee at his or her sole discretion.

(2) The Department Director or the Director's designee may also serve as an authorized designee or contact person, contingent on being approved under the Department's criminal records check and fitness determination process.

(3) Conflict of Interests. Authorized designees and contact persons shall not participate in a fitness determination or review any information associated with a fitness determination for a subject individual if either of the following is true:

(a) The authorized designee or contact person is a family member of the subject individual; or

(b) The authorized designee or contact person has a financial or close personal relationship with the subject individual. If an authorized designee or contact person is uncertain of whether a relationship with a subject individual qualifies as a financial or close personal relationship under this paragraph (b), the authorized designee or contact person shall consult with his or her supervisor prior to taking any action that would violate this rule if such a relationship were determined to exist.

(4) Termination of Authorized Designee or Contact Person Status.

(a) When an authorized designee's or contact person's employment in a designated position ends, his or her status as an authorized designee or contact person is automatically terminated.

(b) The Department shall suspend or terminate a Department employee's appointment to a designated position, and thereby suspend or terminate his or her status as an authorized designee or contact person, if the employee fails to comply with OAR 736-002-0010 through 736-002-0160 in conducting criminal records checks and fitness determinations.

(c) An authorized designee or contact person shall immediately report to his or her supervisor if he or she is arrested for or charged with, is being investigated for, or has an outstanding warrant or pending indictment for a crime listed in OAR 736-002-0070. Failure to make the required report is grounds for termination of the individual's appointment to a designated position and thereby termination of his or her status as an authorized designee.

(d) The Department will review and update an authorized designee's and contact person's eligibility for service in a designated position, at which time a new criminal records check and fitness determination may be required. This review can occur at any time the Department has reason to believe the authorized designee or contact person has violated these rules or is no longer eligible to serve in his or her current position.

(5) A determination of being unfit under OAR 736-002-0058 (3) related to a designated position is subject to the appeal rights provided under OAR 736-002-0102.

Stat. Auth.: ORS 181.534, 184.340, 184.365.
Stats. Implemented: ORS 181.534(9).
Hist.: PRD 3-2008, f. & cert. ef. 2-15-08

736-002-0042
Criminal Records Check Process

(1) Disclosure of Information by Subject Individual.

(a) Preliminary to a criminal records check, a subject individual shall complete and sign the OPRD Criminal Records Request (form 63400-2053HR), and, if requested by the Department, a fingerprint card. The Criminal Records Request form shall require the following information: name, birth date, Social Security number, driver's license or identification card number, current address, prior residences in other states, and any other information deemed necessary by the authorized designee. The OPRD Criminal Records Request form may also require details concerning any circumstance listed in OAR 736-002-0050(3)(a)-(h)

(b) A subject individual shall complete and submit to the Department the OPRD Criminal Records Request (form #63400-2053HR), and, if requested, a fingerprint card within three business days of receiving the forms. An authorized designee may extend the deadline for good cause.

(c) The Department may not request a fingerprint card from a subject individual under the age of 18 years unless the Department also requests the written consent of a parent or legal guardian.

(d) Within a reasonable period of time, as established by an authorized designee, a subject individual shall disclose additional information as requested by the Department in order to resolve any issue hindering the completion of a criminal records check.

(2) When A Criminal Records Check Is Conducted. An authorized designee may conduct or request the Oregon Department of State Police to conduct a criminal records check when:

(a) An individual meets the definition of "subject individual"; or

(b) Required by federal law or regulation, by state law or administrative rule, by contract or written agreement with the Department, or by Department policy.

(3) The Type of Criminal Records Check to Conduct. When an authorized designee determines under section 2 of this rule that a criminal records check is needed, the authorized designee shall proceed as follows:

(a) LEDS Criminal Records Check. The authorized designee may conduct a LEDS criminal records check as part of any fitness determination conducted in regard to a subject.

(b) Oregon Criminal Records Check. The authorized designee may request the Oregon Department of State Police to conduct an Oregon criminal records check (fingerprints required) when:

(A) The authorized designee determines that an Oregon criminal records check is warranted after review of the information provided by the subject individual, the results of a LEDS criminal records check, or other criminal records information; or

(B) The subject individual's job duties require a fingerprint criminal records check.

(c) Nationwide Criminal Records Check. The authorized designee may request the Oregon Department of State Police to conduct a nationwide criminal records check when:

(A) A subject individual has lived outside Oregon for 60 or more consecutive days during the previous three (3) years;

(B) Information provided by the subject individual or the results of a LEDS or Oregon criminal records check provide reason to believe, as determined by an authorized designee, that the subject individual has a criminal history outside of Oregon;

(C) As determined by an authorized designee, there is reason to question the identity of or information provided by a subject individual. Reasonable grounds to question the information provided by a subject individual include, but are not limited to: the subject individual discloses a Social Security Number that appears to be invalid; or the subject individual does not have an Oregon driver's license or identification card;

(D) A check is required by federal law or regulation, by state law or administrative rule, or by contract or written agreement with the Department;

(E) An Executive Service or Management Service employee seeks to serve as an authorized designee; or

(F) A subject individual is an OPRD employee working in, moving to, or applying for a position designated by the Department Director or the Director's designee as including the responsibilities of an authorized designee or contact person.

Stat. Auth.: ORS 390.124, 390.131, 390.140, 181.534, HB 2157 (2005 Legislative Session)
Stats. Implemented: ORS 181.534
Hist.: PRD 3-2008, f. & cert. ef. 2-15-08

736-002-0050
Preliminary Fitness Determination.

(1) An authorized designee may conduct a preliminary fitness determination if the Department is interested in hiring or appointing a subject individual on a preliminary basis, pending a final fitness determination.

(2) If an authorized designee elects to make a preliminary fitness determination about a subject individual, pending a final fitness determination, the authorized designee shall make that preliminary fitness determination about a subject individual based on information disclosed by the subject individual under OAR 736-002-0042(1) and a LEDS criminal records check.

(3) The authorized designee may approve a subject individual as fit on a preliminary basis if the authorized designee has no reason to believe that the subject individual has made a false statement and the information available to the authorized designee does not disclose that the subject individual:

(a) Has pled nolo contendere (or no contest to), been convicted of, found guilty of, or has a pending indictment for a crime listed under OAR 736-002-0070;

(b) Has been arrested for or charged with a crime listed under OAR 736-002-0070;

(c) Is being investigated for, or has an outstanding warrant for a crime listed under OAR 736-002-0070;

(d) Is currently on probation, parole, or post-prison supervision for a crime listed under OAR 736-002-0070;

(e) Has a deferred sentence or conditional discharge or is participating in a diversion program in connection with a crime listed under OAR 736-002-0070;

(f) Has been adjudicated in a juvenile court and found to be within the court's jurisdiction for an offense that would have constituted a crime listed in OAR 736-002-0070 if committed by an adult; or

(g) Is determined to be a sex offender and required to report under ORS 181.595, 181.596, or 181.597, or is determined to be a predatory sex offender under ORS 181.585.

(h) Only for jobs where driving is an essential function, has a felony driving conviction or other driving crime convictions that indicate a pattern of high-risk driving behavior.

(4) If the information available to the authorized designee discloses one or more of the circumstances identified in section 3, the authorized designee may nonetheless approve a subject individual as fit on a preliminary basis if the authorized designee concludes, after evaluating all available information, that hiring or appointing the subject individual on a preliminary basis does not pose a risk of harm to the Department, its client entities, the State, or members of the public.

(5) If a subject individual is determined to be fit or unfit to work/volunteer on the basis of a preliminary fitness determination, an authorized designee thereafter shall conduct a final fitness determination under OAR 736-002-0058.

(6) A subject individual may not appeal a preliminary fitness determination under the process provided under OAR 736-002-0102 or otherwise.

Stat. Auth.: ORS 390.124, 390.131, 390.140, 181.534, HB 2157 (2005 Legislative Session)
Stats. Implemented: ORS 181.534
Hist.: PRD 3-2008, f. & cert. ef. 2-15-08

736-002-0052
Hiring or Appointing on a Preliminary Basis

(1) The Department may hire or appoint a subject individual on a preliminary basis if an authorized designee has approved the subject individual on the basis of a preliminary fitness determination under OAR 736-002-0050.

(2) A subject individual hired or appointed on a preliminary basis under this rule may participate in training, orientation, or work activities as assigned by the Department.

(3) A subject individual hired or appointed on a preliminary basis is deemed to be on trial service and, if terminated prior to completion of a final fitness determination under OAR 736-002-0058, may not appeal the termination under the process provided under OAR 736-002-0102.

(4) If a subject individual hired or appointed on a preliminary basis is determined to be unfit upon completion of a final fitness determination, as provided under OAR 736-002-0058(3)(c), then the Department shall immediately terminate the subject individual's employment or appointment.

Stat. Auth.: ORS 390.124, 390.131, 390.140, 181.534, HB 2157 (2005 Legislative Session)
Stats. Implemented: ORS 181.534
Hist.: PRD 3-2008, f. & cert. ef. 2-15-08

736-002-0058
Final Fitness Determination

(1) If the Department elects to conduct a criminal records check, an authorized designee shall make a final fitness determination about a subject individual based on information provided by the subject individual under OAR 736-002-0042(1), the criminal records check(s) conducted, if any, and any false statements made by the subject individual.

(2) In making a final fitness determination about a subject individual, an authorized designee shall consider the factors in paragraphs a-f of this section 2 in relation to information provided by the subject individual under OAR 736-002-0042(1), any LEDS report or criminal offender information obtained through a criminal records check, and any false statement made by the subject individual. To assist in considering these factors, the authorized designee may obtain any other information deemed relevant from the subject individual or any other source, including law enforcement and criminal justice agencies or courts within or outside of Oregon. To acquire other relevant information from the subject individual, an authorized designee may request to meet with the subject individual, to receive written materials from him or her, or both. The authorized designee will use all collected information in considering:

(a) Whether the subject individual has been arrested, pled nolo contendere (or no contest to), convicted of, found guilty of, or has a pending indictment for a crime listed in OAR 736-002-0070;

(b) The nature of any crime conviction identified under paragraph a of this section 2;

(c) The facts that support the arrest, conviction, finding of guilty, or pending indictment;

(d) The facts that indicate the subject individual made a false statement;

(e) The relevance, if any, of a crime identified under paragraph a of this section 2 or of a false statement made by the subject individual to the specific requirements of the subject individual's present or proposed position, services or employment; and

(f) The following intervening circumstances, to the extent that they are relevant to the responsibilities and circumstances of the services or employment for which the final fitness determination is being made, including, but not limited to:

(A) The passage of time since the commission or alleged commission of a crime identified under paragraph a of this section 2;

(B) The age of the subject individual at the time of the commission or alleged commission of a crime identified under paragraph a of this section 2;

(C) The likelihood of a repetition of offenses or of the commission of another crime;

(D) The subsequent commission of another crime identified under OAR 736-002-0070;

(E) Whether a conviction identified under paragraph a has been set aside or pardoned, and the legal effect of setting aside the conviction or of a pardon;

(F) A recommendation of a current or recent employer;

(3) Possible Outcomes of a Final Fitness Determination.

(a) Automatic Approval. An authorized designee shall approve a subject individual if the information reviewed as described in paragraphs 1 and 2 of this rule shows none of the following:

(A) Evidence that the subject individual has been convicted of, or found guilty of a crime listed in OAR 736-002-0070;

(B) Evidence that the subject individual has a pending indictment for a crime listed in OAR 736-002-0070;

(C) Evidence that the subject individual has been arrested for any crime listed in OAR 736-002-0070;

(D) Evidence of the subject individual having made a false statement; and

(E) Any discrepancies between the criminal offender information and information obtained from the subject individual.

(b) Restricted Approval.

(A) If an authorized designee approves a subject individual under paragraph 3,b of this rule, the authorized designee may restrict the approval to specific activities or locations.

(B) An authorized designee shall complete a new criminal records check and fitness determination on the subject individual prior to removing a restriction.

(c) Unfit for Employment/Appointment.

(A) If a final fitness determination under this rule shows credible evidence of any of the factors identified in paragraphs 3, a, A-E, of this rule and, after evaluating the information described in paragraphs 1 and 2 of this rule, an authorized designee concludes that the subject individual acting in the position for which the fitness determination is being conducted would pose a risk of harm to the Department, its client entities, the State, or members of the public, the authorized designee shall determine the subject individual to be unfit for the position.

(B) If a subject individual is determined to be unfit, then the subject individual may not be employed by or provide services as a contractor, licensee, or volunteer to the Department in a position covered by OAR 736-002-0032.

(C) Under no circumstances shall a subject individual be determined to be unfit under these rules on the basis of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262.

(d) Refusal to Consent: If a subject individual refuses to submit or consent to a criminal records check including fingerprint identification, the authorized designee shall close the fitness determination file in accordance with OAR 736-002-0082 without further assessment under the fitness determination process.

(4) Final Fitness Determination. A final fitness determination becomes final unless the affected subject individual appeals by requesting either a contested case hearing or an alternative appeals process as described in OAR 736-002-0102.

(5) Reapplication. A new application received from a subject individual, who has received a final fitness determination and been determined to be unfit for an OPRD position or appointment, will not be considered during the same open recruitment period for the same position or volunteer appointment. The final fitness determination will stand pending the outcome of any appeal. No other recourse is available to the subject individual.

Stat. Auth.: ORS 390.124, 390.131, 390.140, 181.534, HB 2157 (2005 Legislative Session)
Stats. Implemented: ORS 181.534
Hist.: PRD 3-2008, f. & cert. ef. 2-15-08

736-002-0070
Crimes Relevant to a Fitness Determination

(1) Evaluation Based on Oregon Laws. An authorized designee shall evaluate a crime on the basis of Oregon laws and, if applicable, federal laws or the laws of any other jurisdiction in which a criminal records check indicates a subject individual may have committed a crime, as those laws are in effect at the time of the fitness determination.

(2) Crimes Relevant to A Fitness Determination

(a) All felonies;

(b) All misdemeanors.

(c) Any federal crime;

(d) Any United States Military crime or international crime;

(e) Any crime of attempt, solicitation, or conspiracy to commit any crime listed in this rule pursuant to ORS 161.405, 161.435, or 161.450.

Stat. Auth.: ORS 390.124, 390.131, 390.140, 181.534, HB 2157 (2005 Legislative Session)
Stats. Implemented: ORS 181.534
Hist.: PRD 3-2004, f. & cert. ef. 1-15-04; PRD 3-2008, f. & cert. ef. 2-15-08

736-002-0082
Closed Fitness Determination File

(1) The Department will close a fitness determination file when:

(a) Circumstances change so that a person no longer meets the definition of a subject individual;

(b) The subject individual refuses to sign and/or complete a Criminal Records Request form and/or does not provide materials or information under OAR 736-002-0042 within the timeframes established under that rule;

(c) An authorized designee cannot locate or contact the subject individual;

(d) The subject individual fails or refuses to cooperate with an authorized designee's attempts to acquire other relevant information under OAR 736-002-0058(2);

(e) The Department determines that the subject individual is not eligible or not qualified for the position of employee or volunteer for a reason unrelated to the fitness determination process; or

(f) The position is no longer open.

(2) A subject individual does not have a right to a contested case hearing under OAR 736-002-0102 to challenge the closing of an incomplete fitness determination file.

Stat. Auth.: ORS 390.124, 390.131, 390.140, 181.534, HB 2157 (2005 Legislative Session)
Stats. Implemented: ORS 181.534
Hist.: PRD 3-2004, f. & cert. ef. 1-15-04; PRD 3-2008, f. & cert. ef. 2-15-08

736-002-0092
Notice to Subject Individual of Fitness Determination or File Closure

(1) An authorized designee shall provide written notice to a subject individual (form 63400-2055HR) of:

(a) A preliminary fitness determination;

(b) A final fitness determination;

(c) Closure of a fitness determination file.

(2) The written notice shall include:

(a) The date on which the fitness determination was completed or the fitness determination file was closed;

(b) In the case of a final fitness determination, a separate notice addressing the subject individual's right to request a contested case hearing to appeal the final fitness determination and containing the information required by OAR 137-003-0505 (form 63400-2056HR) shall also be provided.

Stat. Auth.: ORS 390.124, 390.131, 390.140, 181.534, HB 2157 (2005 Legislative Session)
Stats. Implemented: ORS 181.534
Hist.: PRD 3-2008, f. & cert. ef. 2-15-08

736-002-0102
Appealing a Fitness Determination

(1) Purpose. This rule sets forth a contested case hearing process by which a subject individual may appeal a final fitness determination made under OAR 736-002-0058 that he or she is not fit to hold a position with or provide services to the Department as an employee, contractor, licensee, or volunteer.

(2) Process.

(a) A subject individual may appeal a final fitness determination by submitting a written request for a contested case hearing on OPRD Hearing Request (form 63400-2057HR) to the address specified in the notice provided under OAR 736-002-0092(2)(b) within 14 calendar days of the date appearing on the notice. The Department shall address a request received after expiration of the deadline as provided under OAR 137-003-0528.

(b) When a timely request is received by the Department under paragraph 2, a of this rule, a contested case hearing shall be conducted by an administrative law judge assigned by the Office of Administrative Hearings, pursuant to the Attorney General's Uniform and Model Rules, "Procedural Rules, Office of Administrative Hearings," OAR 137-003-0501 to 137-003-0700, as supplemented by the provisions of this rule.

(3) Discovery. The Department or an administrative law judge may protect information made confidential by ORS 181.534 (15) or other applicable law as provided in OAR 137-003-0570(7) or (8).

(4) No Public Attendance. Contested case hearings on fitness determinations are closed to non-participants.

(5) Proposed and Final Order:

(a) Proposed Order. After a hearing, the administrative law judge shall issue a proposed order.

(b) Exceptions. The subject individual or the subject individual's legal counsel or the Department's representative may file written exceptions with the Department within 14 calendar days after service of the proposed order. Exceptions will be considered as set forth in OAR 137-003-0650 and 137-003-0655.

(c) Default. A final fitness determination made under OAR 736-002-0058 becomes final:

(A) Unless the subject individual makes a timely request for a hearing; or

(B) When a party withdraws a hearing request, notifies the department or the administrative law judge that the party will not appear, or fails to appear at the hearing.

(6) Alternative Process. A subject individual currently employed by OPRD may choose to appeal a fitness determination either under the process made available by this rule or through the process made available by applicable human resource rules, policies and collective bargaining provisions. A subject individual's decision to appeal a final fitness determination through applicable human resource rules, policies, and collective bargaining provisions is an election of remedies as to the rights of the individual with respect to the fitness determination and is a waiver of the contested case process made available by this rule.

(7) Remedy. The only remedy that may be awarded is a determination that the subject individual is fit, or fit with restrictions pursuant to OAR 736-002-0058.

(8) Challenging Criminal Offender Information.

(a) A subject individual may not use the appeals process established by this rule to challenge the accuracy or completeness of information provided by the Oregon Department of State Police, the Federal Bureau of Investigation, or agencies reporting information to the Oregon Department of State Police or the Federal Bureau of Investigation.

(b) To challenge information as identified in this section 8, a subject individual may use any process made available by the providing agency.

(9) Hiring Not Postponed or Delayed. Appealing a fitness determination under section 2 or section 6 of this rule, challenging criminal offender information with the agency that provided the information, or requesting a new criminal records check and re-evaluation of the original fitness determination under section 8 of this rule, will not delay or postpone the Department's hiring process or employment decisions except when the authorized designee, in consultation with the Human Resources Division, decides that a delay or postponement should occur.

Stat. Auth.: ORS 390.124, 390.131, 390.140, 181.534, HB 2157 (2005 Legislative Session)
Stats. Implemented: ORS 181.534
Hist.: PRD 3-2004, f. & cert. ef. 1-15-04; PRD 3-2008, f. & cert. ef. 2-15-08

736-002-0150
Recordkeeping, Confidentiality, and Retention

(1) Recordkeeping:

(a) An authorized designee shall document a preliminary or final fitness determination, or the closing of a fitness determination file in writing (OPRD form 63400-2055HR).

(b) Written documentation of preliminary or final fitness determination and closing of a fitness determination file (OPRD form 63400-2055HR) shall be retained in the applicant file for two years after the date of notice.

(2) Confidentiality:

(a) Records Received from Oregon Department of State Police:

(A) Records the Department receives from the Oregon Department of State Police resulting from a criminal records check, including but not limited to LEDS reports and state or federal criminal offender information originating with the Oregon Department of State Police or the Federal Bureau of Investigation, are confidential pursuant to ORS 181.534 (15) and federal laws and regulations.

(B) Within the Department, only authorized designees and contact persons shall have access to records the Department receives from the Oregon Department of State Police resulting from a criminal records check.

(C) An authorized designee or contact person shall have access to records received from the Oregon Department of State Police in response to a criminal records check only if there is a demonstrated and legitimate need to know the information contained in the records.

(D) Authorized designees and contact persons shall maintain and disclose records received from the Oregon Department of State Police resulting from a criminal records check in accordance with applicable requirements and restrictions in ORS chapter 181 and other applicable federal and state laws, rules adopted by the Oregon Department of State Police pursuant thereto (see OAR chapter 257, division 15), these rules, and any written agreement between the Department and the Oregon Department of State Police.

(E) Only if a fingerprint-based criminal records check was conducted with regard to a subject individual, and only upon receiving a signed written request/authorization to review from the subject individual, shall the Department permit that subject individual to inspect his or her own state and federal criminal offender information, unless prohibited by federal law.

(F) If a subject individual, with a right to inspect criminal offender information under paragraph 2, a, E, of this rule, requests a copy of the individual's own state and federal criminal offender information, the Department, only upon receiving from the subject individual a signed written request and authorization to release the subject individual's criminal records, shall provide the subject individual with a copy, unless prohibited by federal law. The Department shall require sufficient identification from the subject individual to determine his or her identity before providing the criminal offender information to him or her.

(b) Other Records.

(A) The Department shall treat all records received or created under these rules that concern the criminal history of a subject individual, including OPRD Criminal Record Disclosure & Request Authorization (form 63400-2053HR) and fingerprint cards, as confidential pursuant to ORS 181.534(15).

(B) Within the Department, only authorized designees and contact persons may have access to the records identified under paragraph 2, a, if this rule.

(C) An authorized designee and/or contact person shall have access to records identified under paragraph 2, a, of this rule only if they have a demonstrated and legitimate need to know the information contained in the records.

(D) A subject individual shall have access to records identified under section 2 of this rule pursuant to and only to the extent required by the terms of the Public Records Law.

(3) Retention: Criminal records check records may exist in a variety of forms and shall be retained in accordance with the Secretary of State, Archives Division, OAR 166-300-0040.

Stat. Auth.: ORS 390.124, 390.131, 390.140, 181.534, HB 2157 (2005 Legislative Session)
Stats. Implemented: ORS 181.534
Hist.: PRD 3-2004, f. & cert. ef. 1-15-04; PRD 3-2008, f. & cert. ef. 2-15-08

736-002-0160
Fees

(1) The Department may charge a fee for acquiring criminal offender information for use in making a fitness determination. In any particular instance, the fee shall not exceed the fee(s) charged the Department by the Oregon Department of State Police and the Federal Bureau of Investigation to obtain criminal offender information on the subject individual.

(2) The Department shall not charge a fee if the subject individual is a Department employee, a Department volunteer, or an applicant for employment or a volunteer position with the Department.

Stat. Auth.: ORS 181.534, 180.267.
Stats. Implemented: ORS 181.534(9).
Hist.: PRD 3-2008, f. & cert. ef. 2-15-08

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Rule Caption: Local Govermnent Grant Program Rule Changes Affecting Grant Match Requirements.
Adm. Order No.: PRD 4-2008
Filed with Sec. of State: 2-15-2008
Certified to be Effective: 3-1-08
Notice Publication Date: 11-1-2007
Rules Amended: 736-006-0100, 736-006-0115, 736-006-0125, 736-006-0140, 736-006-0150
Subject: A number of local governments (grant recipients) have suggested administrative rule changes that will allow the LGGP to provide grants of up to $1,000,000 towards real property acquisition projects for local government sponsored recreational projects. Current rules provide grant awards of up to $500,000 of the projects costs. With property values continuing to increase, a lack of funding from local governments has deterred potential applicants, unable to generate large amounts of cash and in-kind contributions. As a result, opportunities to acquire new recreational areas have been lost.

Small governments tend to be able to generate good volunteer time for match but have difficulty in providing cash towards the project. It has been suggested that more projects could take place in smaller communities if the percentage of the grant was increased as compared to the required match.

Current rules do not allow for local governments to receive funding assistance for planning or feasibility studies. The proposed rule

modification would allow planning or feasibility studies to be eligible for grant assistance funding.

Rules Coordinator: Joyce Merritt—(503) 986-0756

736-006-0100

Purpose of Rule

This division establishes the procedures and standards used by the Oregon Parks and Recreation Department when distributing state monies to eligible local governments for outdoor park and recreation areas and facilities, acquisition of property for park purposes, trails, bicycle recreation opportunities, non-motorized water-based recreation, and the process for establishing the priority order in which projects shall be funded.

Stat. Auth.: ORS 390.180
Stats. Implemented: ORS 390.180
Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04; PRD 4-2008, f. 2-15-08, cert. ef. 3-1-08

736-006-0115

Apportionment of Monies Between Small and Large Grants

(1) Ten percent of available funds shall be set aside for small grants. Small grants are projects with a maximum $50,000 grant request.

(2) Other than for land acquisitions, the remainder of available funds shall be for large projects with a maximum $750,000 grant request.

(3) A Project Sponsor may request grant funding for land acquisitions in an amount not to exceed $1,000,000.

(4) In consultation with the Committee, the Commission and the Director may set the maximum at less than that above amounts based upon the availability of funds.

(5) Based on the quality and quantity of Eligible Projects, the Committee, with concurrence of the Director, may dedicate a portion of the funds for projects expected to be completed within 12 months of grant award.

Stat. Auth.: ORS 390.180
Stats. Implemented: ORS 390.180
Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04; PRD 4-2008, f. 2-15-08, cert. ef. 3-1-08

736-006-0125

Application Procedure

The purpose of this section is to set forth requirements that must be met by local government applicants in submitting an application for Local Government Grant Program funding assistance.

(1) Eligibility for Funding Assistance. Public agencies eligible for state funding assistance are:

(a) Cities, Municipal Corporations;

(b) Counties, Political Subdivisions;

(c) Park and Recreation Districts;

(d) Port Districts;

(e) Metropolitan Service Districts.

(2) Matching Requirements:

(a) The Local Government Grant Program provides for up to 50 percent funding assistance for cities/districts with a population greater than 25,000 and for counties with a population greater than 50,000.

(b) The Local Government Grant Program provides for up to 60 percent funding assistance for cities/districts with a population between 5,000 and 25,000 and counties with a population between 30,000 and 50,000.

(c) The Local Government Grant Program provides for up to 80 percent funding assistance for cities/districts with a population of less than 5,000 and counties with a population of less than 30,000.

(d) The eligible match by the Project Sponsor may include local budgeted funds, local agency labor or equipment, federal revenue sharing, other eligible grants, state and county inmate labor, donated funds, the value of private donated property, equipment, materials, labor, the value of land acquired within the past six year period, cost of appraisals, pre-development costs within the past two year period or any combination thereof. Engineering and administration costs and costs incurred prior to the state/Local Agreement cannot exceed 15 percent of the total project costs.

(3) Eligible Projects:

(a) Acquisition, development, major rehabilitation, planning, or feasibility study projects that are consistent with the outdoor recreation goals and objectives contained in the SCORP, the recreation elements of local comprehensive plans and local master plans or both. Projects may support traditional outdoor recreation settings such as parks, or funds may be provided for: projects that ensure natural and cultural resource protection while maintaining public access for recreation; projects that protect public open space; bicycle recreation; non-motorized water recreation; trails for non-motorized recreation; or emerging new outdoor recreation trends. Only outdoor park and recreation areas and facilities are eligible.

(b) Water based outdoor recreation facilities such as short-term transient moorages and non-motorized boat and watercraft projects, trails, support facilities for non-motorized water recreation, and water access.

(4) Planning Requirements. Project Sponsors participating in the funding assistance program must show that:

(a) There is a current master plan in effect and that the project is consistent with the local comprehensive land use plan and SCORP,

(b) There is not a current master plan in effect, but the project is consistent with the local comprehensive land use plan and SCORP, or

(c) The project request is for planning assistance.

(5) Application Form. All applications for funding assistance for outdoor park and recreation program projects must be submitted on forms as prescribed and supplied by the Department. All applications must be consistent with the Local Government Grant Policies and Procedures Manual and contain the following information:

(a) Program narrative;

(b) Environmental assessment;

(c) Vicinity map;

(d) Project boundary map;

(e) Civil Rights compliance;

(f) Copy of property deed or lease or formal and binding control and tenure agreement showing cooperation with the landowner to ensure long-term use, generally not less than 25 years, of facilities for public recreation;

(g) Preliminary plans and specifications for construction projects;

(h) Estimate of development costs and project construction schedule;

(i) Copy of property Purchase Agreement (for acquisitions only);

(j) Local/County Planning Department Certification/Review;

(k) All required permits and certifications as identified in the Local Government Grant Policies and Procedure Manual;

(l) Government-to-Government Inquiries (Tribal) -- Certification to the Department that the Project Sponsor has communicated their grant proposal to the appropriate federally recognized tribe for the review and determination of tribal interest or concern for those areas of known or suspected tribal archeological resources.

(m) Other documentation that may be required by the Department.

(6) Project Award Procedure:

(a) Upon receipt of the application by the Department, the Grants Program staff shall perform a technical review of all applications and forward eligible large grant applications to the Committee. The Committee will meet to evaluate the applications and make recommendations to the Director for Commission approval. The commission may deny any or all recommendations of the Committee.

(b) Project Sponsors with large project grant requests may be expected to provide a presentation to the Committee under a procedure established by the Department.

(c) Project Sponsors whose projects have been approved by the Commission and are scheduled for funding assistance must submit to the Department the following project information:

(A) Certification by project sponsor of availability of local match;

(B) Preliminary plans and specifications (for construction projects);

(C) Appraisal for acquisition projects. Appraisals must conform to the Uniform Appraisal Standards for Federal Land Acquisitions;

(D) Preliminary title report for acquisitions;

(E) Documented Americans with Disabilities Act Compliance Plan;

(d) The Department will remove those project applications from the Commission approved list that are unable to provide the required documentation required in subsection (c) of this section.

(e) In the event that the funding assistance available cannot fully fund the last priority project, the Project Sponsor will be given the option of reducing the scope of the project. The Department, at its discretion, may pass the available funds to another priority project.

(f) Projects that do not receive funding assistance for the fiscal year submitted will be returned to the applicant without prejudice.

(7) Project Agreement:

(a) A signed State/Local Agreement shall constitute project authorization. No project may begin without a signed State/Local Agreement from the Department.

(b) The Project Sponsor shall have six months from the date of authorization to begin substantial work (e.g. the award of contracts or completion of at least 25 percent of the work, if done by force account). The Department may cancel a grant when the Project not conforming to this schedule, unless the Project Sponsor provides substantial justification to warrant an extension.

(c) The Project Sponsor shall complete and bill all projects by the dates as specified in the State/Local Agreement.

(d) The Department may inspect all projects.

(e) Partial payments up to 90 percent of the grant amount may be billed during the project for work completed. Final payment will be made upon certification of project completion by the Project Sponsor. Real property acquisitions may receive the full grant amount if the funds are to be dispersed in escrow for the closing of a property acquisition.

(f) The Department may provide the Project sponsor partial payments of up to 25 percent of the grant amount after the Department issues the Notice to Proceed and in advance of work completed if a general contractor requires advanced funding prior to construction/development work or ordering materials/supplies.

(g) Project amendments that increase the Local Government Grant award amount will generally not be allowed.

(h) The Project Sponsor must submit requests for time extensions to complete work to the Department in writing and must be approved prior to the expiration of the approved project period as set forth in the State/Local Agreement.

(8) The Project Sponsor shall install and maintain throughout the life of the agreement appropriate signage for each project indicating the Oregon Parks and Recreation Department Grant Program's assistance and shall certify that signage is in place prior to requesting final payment.

Stat. Auth.: ORS 390.180
Stats. Implemented: ORS 390.180
Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04; PRD 4-2008, f. 2-15-08, cert. ef. 3-1-08

736-006-0140
Conversion Requirements

(1) Park and recreation areas and facilities must be dedicated for a minimum of 25 years for park and recreation purposes. Leases for federally owned property must be at least 25 years. If the current lease is within 5 years of termination, a letter of intent to renew the lease will be required from the federal agency. Project sponsors must insure that the land within the project boundary will be used only for park and recreational purposes, Project Sponsor controls or will control the land, and that the Project Sponsor will not change the use of, sell, or otherwise dispose of land within the project boundary, except upon written State approval. If the Project Sponsor converts land within the project boundary to use for other than outdoor park and recreation purposes or disposes of such land by sale or otherwise, applicant must provide replacement property within 24 months of either the conversion or the discovery of the conversion.

(2) If replacement property cannot be obtained within the 24 months, the Project Sponsor will provide payment of the grant program's prorated share of the current fair market value to OPRD. The prorated share is that percentage of the original grant (plus any amendments) as compared to the original project cost(s). The replacement property must be equal to the current fair market value of the converted property, as determined by an appraisal. The recreation utility of the replacement property must also be equal to that of the lands converted or disposed.

(3) If conversion should occur through processes outside of the Project Sponsor's control such as condemnation or road placement or realignment, the Project Sponsor will be required to pass through to OPRD the prorated share of whatever consideration is provided to the Project Sponsor by the entity that caused the conversion. The monetary value of whatever consideration provided by the taking entity will normally consist of the fair market value of the property established by an appraisal.

(4) Project Sponsors that have not addressed or submitted documentation to the Department or National Park Service (NPS) for review and approval of an active conversion through the Land and Water Conservation Fund Program or the Local Government Grant Program are not eligible to apply for Local Government Grant Program assistance.

(5) Project Sponsors who have addressed a conversion at the local level and have submitted documentation to the Department and/or NPS for review and approval of the conversion through the Land and Water Conservation Fund Program or the Local Government Grant Program may apply for funding assistance.

Stat. Auth.: ORS 390.180
Stats. Implemented: ORS 390.180
Hist.: PRD 6-2004, f. & cert. ef. 5-5-04; PRD 4-2008, f. 2-15-08, cert. ef. 3-1-08

736-006-0150
Emergency Procedure

(1) Under certain conditions such as reduction or increase of these funds an emergency procedure for awarding or canceling grants may be initiated at the discretion of the Director.

(2) In implementing the emergency procedure, the Director shall consider the availability of funds; the scope and need of projects available for funding; the urgency and statewide importance of prospective projects; and the need to expend additional funds that may become available in a timely manner. The Director may propose projects to the Commission for funding under this section and the Commission may waive other requirements of this rule for the purpose of obligating funds in a timely manner.

Stat. Auth.: ORS 390.180
Stats. Implemented: ORS 390.180
Hist.: PRD 7-1999, f. & cert. ef. 11-23-99 ; Renumbered from 736-006-0135, PRD 6-2004, f. & cert. ef. 5-5-04; PRD 4-2008, f. 2-15-08, cert. ef. 3-1-08

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Public Utility Commission, Board of Maritime Pilots Chapter 856

Rule Caption: Makes a temporary fee increase permanent.
Adm. Order No.: BMP 1-2008
Filed with Sec. of State: 1-24-2008
Certified to be Effective: 1-24-08
Notice Publication Date: 1-1-2008
Rules Amended: 856-010-0016
Subject: An unexpired temporary rule was to be repealed. The adopted rule makes the temporary fee increase from $1,500 to $2,500 permanent.
Rules Coordinator: Susan Johnson—(971) 235-1530

856-010-0016
License Fees

The annual license fee for pilots shall be $2,500.

Stat. Auth.: ORS 776
Stats. Implemented: ORS 776.115, 776.355
Hist.: MP 1-1991(Temp), f. 6-19-91, cert. ef. 7-1-91; MP 2-1991, f. & cert. ef. 12-27-91; MP 3-1992(Temp), f. 6-26-92, cert. ef. 7-1-92; MP 4-1992, f. 11-13-92, cert. ef. 12-28-92; BMP 3-2007(Temp), f. & cert. ef. 7-26-07 thru 1-21-08; BMP 1-2008, f. & cert. ef. 1-24-08

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Rule Caption: Amends pilot trainee selection requirements for the Columbia River Bar pilotage ground.
Adm. Order No.: BMP 2-2008
Filed with Sec. of State: 1-24-2008
Certified to be Effective: 1-24-08
Notice Publication Date: 1-1-2008
Rules Amended: 856-010-0018
Subject: Amends the pilot trainee selection requirements and criteria to qualify as a candidate to train on the Columbia River Bar pilotage ground.
Rules Coordinator: Susan Johnson—(971) 235-1530

856-010-0018
Pilot Trainee Selection — Columbia River Bar Pilots

(1) Individuals interested in qualifying as a candidate to train for licensure on the Columbia River Bar pilotage ground shall contact the Board to receive forms and information describing the application, evaluation and selection processes.

(2) Candidates qualified to submit application for Columbia River Bar Pilot Trainee Selection shall first be required to successfully complete a physical agility work-test at a nationally recognized, independent, certified facility designated by the Board. Candidate participation in all further evaluation and selection processes is predicated on successful completion of the physical agility work-test.

(3) Successful completion of a simulator evaluation, administered by a nationally recognized, independent, marine education and training facility designated by the Board. The evaluation is pass/fail.

(4) Trainee selection shall be in accordance with selection criteria and procedures, based upon numerical ranking, promulgated by the Board.

(5) Numerical ranking shall be based upon a point system, with points for providing the following documentation:

(a) Federal license as Master, any ocean, any gross tons (unlimited Master's license) and two years' seatime as Master of an ocean-going merchant ship of no less than 5000 gross tons — 25 points

(b) Signed certification of a 3-day familiarization visit to Astoria — 10 points

(6) Interview: Each applicant shall be offered the opportunity to participate in periodic interviews conducted by the Board. Each person interviewed shall be assigned from 0 to 25 points based upon the following

guidelines: potential as an asset to the pilotage system; stress/environment; personal relations; experience; and other factors deemed relevant by the Board. Applicants who do not have the two years' seatime required by (5)(a) may interview if they have one year seatime experience and demonstrate that they are currently employed in a capacity in which they are earning the required seatime experience.

(7) At such times as vacancies may be forecast or occur within the register of pilots, the Board shall offer the highest ranked individual or individuals the opportunity to be selected for training on the Columbia River Bar pursuant to OAR 856-010-0010(7). The individual selected for training must accept or decline the invitation to train within 30 days of notification. Failing to do so will cause their name to go to the bottom of the ranked applicants' list.

Stat. Auth.: ORS 776
Stats. Implemented: ORS 776.115
Hist.: MP 3-1995, f. & cert. ef. 3-16-95; BMP 1-2002, f. & cert. ef. 8-29-02; BMP 2-2008, f. & cert. ef. 1-24-08

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Rule Caption: Raises the threshold dollar requirement for incident reporting from $10,000 to $25,000.
Adm. Order No.: BMP 3-2008
Filed with Sec. of State: 1-24-2008
Certified to be Effective: 1-24-08
Notice Publication Date: 1-1-2008
Rules Amended: 856-010-0020
Subject: The amendment will increase the threshold dollar amount required for incident reporting in excess of $10,000 to in excess of $25,000.
Rules Coordinator: Susan Johnson—(971) 235-1530

856-010-0020
Incident Reports; Duties to Report

(1) An incident defined as:

(a) An accidental grounding;

(b) An intentional grounding which creates a hazard to navigation, the environment or to the safety of the vessel;

(c) An unintended collision or allision with any object;

(d) Loss of life related to the operation of the vessel;

(e) Serious physical injury related to the operation of the vessel;

(f) Any occurrence resulting in damage to the vessel or other property which may reasonably be expected to be in excess of $25,000, excluding the cost of salvage, cleaning, gas-freeing, drydocking or demurrage; or

(g) Any boarding or unboarding occurrence which places the licensee in peril.

(2) If any incident occurs on a vessel while a licensee or trainee is engaged in the provision of pilotage service for such vessel, the licensee or trainee providing such pilotage service shall file a written report of the incident with the Board. The report shall be filed by the close of business on the fifth calendar day following the incident or within five calendar days after the date upon which the licensee or trainee first became aware of the incident, whichever is later. The report shall be on a form provided by the Board. The report shall include, but not be limited to, the date, time and location of the incident, a detailed narrative description of the nature of the incident and, to the extent known by the licensee or trainee, the cause of the incident and the names and addresses of the witnesses to the incident. In the case of an incident involving loss of life or serious physical injury, the licensee shall immediately notify the Board of the incident.

(3) Any licensee who has reasonable grounds to believe that an incident has occurred and that such incident has not been reported to the Board, shall contact the Board and determine whether a report of the incident has been filed with the Board. If a report of the incident has been filed with the Board, the licensee making the inquiry shall have no further reporting responsibility. If no report of the incident has been filed, the inquiring licensee shall make a written report to the Board regarding the suspected incident. This report, which may be in any reasonable form, shall include a brief statement containing such information about the suspected incident as is known to the reporting licensee. After filing this report, the reporting licensee shall have no further reporting responsibility.

(4) Any person may file a complaint with the board regarding any suspected violation by Board licensees of the statutes and rules regarding pilotage.

(5) Upon receipt of an incident report filed by an involved licensee or by another licensee or upon receipt of a complaint from any person, the board shall conduct an investigation. The Board, on its own initiative, may conduct an investigation involving any matter within its jurisdiction.

(6) Upon receipt of an incident report from another licensee regarding a licensee of the board or upon receipt of a complaint regarding a licensee of the Board, the Board shall provide the involved licensee with a copy of the report or complaint. When the involved licensee receives from the Board a copy of an incident report filed by another licensee or a copy of a complaint filed with the Board, the involved licensee shall provide the Board with a written statement that includes, but is not limited to, a detailed narrative explanation of the occurrence and a detailed response to the statements in the report. The written statement required by the involved licensee shall be filed with the Board at the close of business on the fifth calendar day following receipt of the report from the Board.

Stat. Auth.: ORS 776
Stats. Implemented: ORS 776.115 & 776.118
Hist.: PC 1, f. 10-29-57, ef. 7-1-57; MP 2-1984, f. & ef. 10-4-84; MP 1-1992, f. & cert. ef. 4-29-92; MP 2-1995, f. & cert. ef. 1-24-95; BMP 3-2008, f. & cert. ef. 1-24-08

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Rule Caption: General Housekeeping.
Adm. Order No.: BMP 4-2008
Filed with Sec. of State: 1-24-2008
Certified to be Effective: 1-24-08
Notice Publication Date: 1-1-2008
Rules Amended: 856-001-0000, 856-001-0005, 856-010-0003, 856-010-0010, 856-010-0012, 856-010-0014, 856-010-0015
Subject: General housekeeping to update citations to other laws, delete provisions that have sunset, and makes language consistent with other provisions.
Rules Coordinator: Susan Johnson—(971) 235-1530

856-001-0000
Notice of Proposed Rule

Prior to the adoption, amendment or repeal of any rules, the Board shall give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date of the intended action;

(2) By mailing a copy of the notice to persons on the Board's mailing list established pursuant to ORS 183.335 (7) at least 28 days before the effective date of the rule;

(3) By mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule; and

(4) By mailing or furnishing a copy of the notice to:

(a) The Associated Press;

(b) The following groups:

(A) Columbia River Pilots

(B) Columbia River Bar Pilots;

(C) Yaquina Bay Pilots;

(D) Coos Bay Pilots Association;

(E) Columbia River Steamship Operators Association, Inc.;

(F) Capitol Press Room.

Stat. Auth.: ORS 183 & 776
Stats. Implemented: ORS 183.025, 183.335 & 776.135
Hist.: PC 9, f. & ef. 11-12-76; PC 1-1982, f. & ef. 10-7-82; MP 2-1984, f. & ef. 10-4-84; Renumbered from 856-020-0140; MP 3-1988, f. & cert. ef. 11-9-88 ; MP 1-1996, f. & cert. ef. 5-9-96; BMP 4-2008, f. & cert. ef. 1-24-08

856-001-0005
Model Rules of Procedures

The Model Rules of Procedure under the Administrative Procedures Act adopted by the Attorney General, effective January 1, 2008 are hereby adopted as the rules of procedure for the Board of Maritime Pilots, except as specified under OAR chapter 856, division 030, Ratemaking Procedures.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Board of Maritime Pilots.]
Stat. Auth.: ORS 776
Stats. Implemented: ORS 183.341
Hist.: MP 2-1984, f. & ef. 10-4-84; MP 1-1986, f. & ef. 10-6-86; MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1996, f. & cert. ef. 5-9-96; BMP 1-2002, f. & cert. ef. 8-29-02; BMP 4-2008, f. & cert. ef. 1-24-08

856-010-0003
Definitions

(1) "Barge" — A general term for a heavy, flat bottomed, often rectangular vessel used to carry cargo, usually in sheltered and inland waters but also, sometimes at sea; usually pushed or towed by tug. By U.S. Government definition, barges are any non-self propelled vessels other than houseboats and dredges.

(2) "Loaded tanker" — A tanker whose mean draft equals or exceeds 80 percent of its maximum allowable draft, or whose mean draft exceeds 30 feet.

(3) "Ocean-going vessel" — Any ship actively engaged in carrying cargo or passengers for hire in offshore navigation between ports.

(4) "Pilot" — An individual licensed pursuant to ORS Chapter 776 and any individual who had notified the board that the individual is in a pilot trainee status.

(5) "Pilotage" — The act or business of piloting. Also the fee paid for a pilot's services.

(6) "Piloting" — The act of assisting the master of a vessel in navigating the vessel while it is underway on a pilotage ground.

(7) "Licensed physician" — Means an individual who holds a degree of Doctor of Medicine or Doctor of Osteopathy and has a valid license issued by the Oregon Board of Medical Examiners or the Washington Medical Quality Assurance Commission.

(8) "Ship" — A floating, decked vessel that is self-propelled and regularly carries cargo or passengers for hire or is engaged in military purposes in deep water oceanic navigation. Deep water oceanic navigation is navigation in seas beyond the territorial jurisdiction of the United States.

(9) "Ship turn" — For purposes of OAR 856-010-0010(4), "ship turn" is defined as meaning turning a ship in the Willamette River from a generally upstream orientation to a generally downstream orientation, or from a generally downstream orientation to a generally upstream orientation, which may be made with or without the aid of a tug or towboat.

(10) "Tank barge" — A barge with double bottoms designed to transport liquids.

(11) "Tanker" — A vessel specially constructed for carriage of bulk liquids including, but not limited to, petroleum and its products, chemicals and liquified natural gas.

(12) "Transit" — For purposes of OAR 856-010-0010(4) a "transit" is a complete trip over part of the Columbia and Willamette River pilotage ground, with one end of the trip at Astoria and the other end at Portland or Vancouver harbor. A transit also includes any combination of trip segments between ports or anchorages, which together begin at Astoria and end at Portland or Vancouver harbor, or begin at Portland or Vancouver and end at Astoria.

(13) "Trip" — Any instance of travel by a vessel under the direction of a pilot as required by ORS 776.405 between two points on any of the pilotage grounds defined by ORS 776.025(1) through (4).

(14) "Tug"; "towboat"; "towing vessel" — A strongly built, high-powered vessel of small tonnage specially designed for towing or pushing vessels or for use in berthing large ships.

(15) "Unlimited state-licensed pilot" — An individual who holds an Oregon license to pilot a vessel without any restriction or limitation.

(16) "Upper harbor in Portland" — That portion of the pilotage ground defined by ORS 776.025(2) lying n the Willamette River between the St. Johns Bridge and the Ross Island Bridge.

(17) "Vessel" — Includes every description of water craft, including nondisplacement craft, used or capable of being used as a means of transportation on water, except that, for the purposes of ORS 776.405 (1) (a), a barge is not a vessel.

(18) "Working pilot" — An unlimited state-licensed pilot who regularly provides piloting services for compensation pursuant to the published tariff.

(19) "Pilot apprentice trainee" — For purposes of OAR 856-010-0014, an individual who does not meet the experience requirements of OAR 856-010-0010(3) and (4), and who has been certified by the Board to enter the Apprentice Training Program.

(20) "Pilot trainee" — For purposes of OAR 856-010-0014 and 856-010-0018, an individual who meets the experience requirements of OAR 856-010-0010(3) and (4)(a).

Stat. Auth.: ORS 776.115
Stats. Implemented: ORS 775.405
Hist.: MP 1-1992, f. & cert. ef. 4-29-92; MP 3-1995, f. & cert. ef. 3-16-95; MP 2-1996, f. & cert. ef. 8-1-96; BMP 4-2008, f. & cert. ef. 1-24-08

856-010-0010
Original Licensing Requirements

In addition to the qualifications required for licensing of pilots under ORS 776, the applicant shall:

(1) Present an application in writing to the administrator of the board on the form provided by the board for the pilotage ground for which the applicant intends to become licensed. The application shall be filed not less than 30 days prior to appearance before the board for a written examination and may be supplemented at any time until the examination is taken. The board shall consider the application and upon approval, the written examination will be scheduled. The examination shall be proctored by the board's administrator. The examination for each pilotage ground shall be prepared by the board with the assistance of the board's licensed training organization for that pilotage ground. The examination will test for skill and knowledge of those factors identified in ORS 776.035(2) and 776.325(1)(b). The examination will be graded by the board member from the pilotage ground for which the applicant is seeking a license. If requested by the training course monitor, up to two additional pilots selected by the training course monitor and approved by the board may participate with the board member in grading the exam. The examination will be pass/fail.

(2) Accompany the application with a physical examination form provided by the Board and signed by an Oregon or Washington licensed physician verifying that the applicant meets the physical and mental criteria in subsections (a) through and including (l):

(a) Eyesight: Has visual acuity of at least 20/200 in each eye uncorrected and correctable to at least 20/40 in each eye as determined by Snellen test or its equivalent unless applicant qualified for a waiver from the Officer in Charge, Marine Inspection, or the Commandant, U.S. Coast Guard. Vision correctable to 20/40 in each eye is sufficient to satisfy the requirements of this subsection if the applicant carries a spare pair of correcting lenses while performing piloting duties;

(b) Color perception: Has normal color vision per pseudo isochromatic plates, Ishihara or Keystone test. If the applicant fails this test, the Farnsworth or Williams Lantern tests or their equivalent may be used to determine the applicant's ability to distinguish primary colors;

(c) Hearing: An audiometer test is only required if the applicant has, or is suspected to have, impaired hearing. A hearing loss of over 40 decibels is considered impaired hearing;

(d) Heart: Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure;

(e) Blood pressure: Has no current clinical diagnosis of high blood pressure. Blood pressure shall be recorded with either spring or mercury column type of sphygmomanometer. If the blood pressure is consistently above 160/90 mm. Hg, further tests may be necessary to determine whether the applicant is qualified to pilot a vessel;

(f) Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control;

(g) Has no established medical history or clinical diagnosis of a respiratory dysfunction;

(h) Has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic muscular, neuromuscular, or vascular disease;

(i) Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness;

(j) Has no mental, nervous, organic, or functional disease or psychiatric disorder;

(k) Has submitted to a test indicating the applicant is free of illegal substance abuse. Testing will be for the presence of Cocaine, Opiates, Marijuana (THC), Amphetamines and PCP (phencyclidine). Testing will be in accordance with the Department of Transportation (Coast Guard) guidelines outlined in the Code of Federal Regulations 46, CFR § 16. Urine specimens are to be analyzed by a laboratory that meets DHHS regulations set forth by the National Institute of Drug Abuse (NIDA); and

(l) Has no current clinical diagnosis of alcoholism, unless the applicant has completed an in-patient program of rehabilitation and treatment under the care of a physician;

(m) Based on information on the physical examination form, and any other medical information or opinions provided to the Board by the applicant, the Board will determine whether the applicant's health is satisfactory for performance of the duties of a maritime pilot.

(3) Have actual experience as a pilot handling ships over the pilotage ground for which a state license is sought and state in the application the names of ships piloted, dates, draft, gross tonnage, and length over all, as specified in (but not limited to) (4), (5), (6) and/or (7) in this section, and:

(a) Hold a valid license as Master endorsed for Radar Observer issued by the U.S. Coast Guard;

(b) Hold an unlimited federal pilot's endorsement for the ground for which a state license is sought; and

(c) Have served at least two years as Master aboard vessels, or when applying for a license over the Columbia and Willamette River pilotage ground, have completed a program of apprenticeship training which has been approved by the Board.

(4) In addition to the requirements in OAR 856-010-0010(1), (2), (3), to qualify for a Grade "C" license over the Columbia and Willamette River pilotage ground, the applicant shall, prior to taking the board's examination required under section (1) above:

(a) Have served at least 730 active working days as captain of towing vessels on the Columbia River and its tributaries, or have completed a program of apprenticeship training which has been approved by the Board, as specified in OAR 856-010-0014;

(b) Complete at least six trips under the supervision of an unlimited state-licensed pilot within 270 days preceding the examination while on the bridge of a ship of not less than 500 feet length over-all (L.O.A.) through the bridges in the upper harbor in Portland, up to and including the Broadway Bridge, which shall be made with and without the aid of a tug or towboat, including at least one trip in each direction, and also including at least six ship turns in the Willamette River;

(c) Complete at least 110 transits while on the bridge of a ship of not less than 500 feet L.O.A. within 270 days preceding the examination, with at least 70 of these transits made under the supervision of an unlimited state-licensed pilot and at least 80 of the transits completed within 150 days after the first transit is completed;

(d) When combining trip segments to establish a transit, each trip segment may be used only once;

(e) Complete at least six trips under the supervision of an unlimited state-licensed pilot within the 270 days preceding the examination while on the bridge of a ship of not less than 500 feet L.O.A. in a combination of the following directions, with at least three trips in each direction:

(A) From the Willamette River, turning east (upstream) into the Columbia River; and

(B) From the Columbia River upstream of the mouth of the Willamette River, turning south into the Willamette River.

(f) Complete at least 10 trips in either direction between Astoria and Longview or Kalama under the supervision of an unlimited state-licensed pilot.

(g) Train at least 35 additional days as directed by the training course monitor, with assignments chosen at the discretion of the training course monitor that may include, but need not be limited to, shipboard training, electronic navigation training, manned model training, attendance at meetings with maritime-related governmental agencies or exposure to maritime related administrative activities.

(h) Present recommendations from the training course monitor and from at least ten unlimited state-licensed pilots who participated in the training, certifying that the applicant has demonstrated sufficient knowledge and shiphandling skills to pilot ocean-going ships up to 570 feet L.O.A. on the pilotage ground.

(5) When applying for a license on the Coos Bay bar pilotage ground, the applicant shall:

(a) Hold a valid license as Master endorsed for Radar Observer issued by the U.S. Coast Guard and shall have served at least two years as Master aboard vessels;

(b) Obtain an unlimited federal pilot's endorsement for the Coos Bay bar pilotage ground;

(c) Complete at least one hundred (100) crossings of the Coos Bay bar while under the supervision of an unlimited state-licensed Coos Bay bar pilot, with at least ten crossings with each unlimited state-licensed Coos Bay bar pilot and with at least 25 of the bar crossings completed during hours of darkness;

(d) Dock and undock at least 25 ships under the supervision of an unlimited state-licensed pilot;

(e) Make at least 25 trips through each of the bridges; and

(f) Submit letters from each of the Coos Bay bar pilots who have supervised the training of the applicant, certifying that the applicant has demonstrated local knowledge of the pilotage ground and shiphandling skills sufficient to pilot ocean-going ships on the pilotage ground.

(6) When applying for a license on the Yaquina Bay bar pilotage ground the applicant shall:

(a) Hold a valid license as Master endorsed for Radar Observer issued by the U.S. Coast Guard and shall have served at least two years as Master aboard vessels;

(b) Obtain an unlimited federal pilot's endorsement for the Yaquina Bay bar pilotage ground;

(c) Complete at least one hundred (100) crossings of the Yaquina Bay bar while under the supervision of an unlimited state-licensed Yaquina Bay bar pilot, or after completing one year of piloting with a state license in Coos Bay, the number of bar crossings at Yaquina Bay may be reduced to 12, with at least one such crossing with each unlimited state-licensed Yaquina Bay bar pilot and with at least twenty-five percent (25%) of the bar crossings completed during the hours of darkness;

(d) Dock and undock at least 25 ships under the supervision of an unlimited state-licensed Yaquina Bay bar pilot, or after completing one year of piloting with a state license in Coos Bay, the number of dockings and undockings may be reduced to 12;

(e) Make at least twenty-five (25) trips through the bridge, or after completing one year of piloting with a state license in Coos Bay, the number of trips may be reduced to 12; and

(f) Submit letters from each of the Yaquina Bay bar pilots who have supervised training of the applicant, certifying that the applicant has demonstrated local knowledge of the pilotage ground and shiphandling skills sufficient to pilot ocean-going ships on the pilotage ground.

(7) When applying for an original license on the Columbia River bar pilotage ground the applicant shall:

(a) Hold a valid license issued by the U.S. Coast Guard as "Unlimited Master any oceans — any tonnage", endorsed for Radar Observer;

(b) Have served at least two years as Master of an offshore merchant ship of 5,000 gross tons or more, certified by Certificates of Discharge or Continuous Discharge Book;

(c) Obtain a federal pilot's endorsement for the Columbia River bar pilotage ground, after which a minimum of one hundred (100) crossings of the Columbia River bar shall be made under the supervision of an unlimited state-licensed pilot, and make crossings with at least five unlimited state-licensed Columbia River bar pilots;

(d) Be on board a minimum of ten ships docking or undocking from the Astoria Port Docks, Tongue Point, and other facilities;

(e) Make approximately twenty-five percent (25%) of the crossings of the Columbia River bar during the hours of darkness.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 776.115
Stats. Implemented: ORS 776.115, 776.300
Hist.: PC 1, f. 10-29-57, ef. 7-1-57; PC 7, f. 6-13-73, ef. 7-15-73; MP 2-1984, f. & ef. 10-4-84; MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1992, f. & cert. ef. 4-29-92; MP 3-1995, f. & cert. ef. 3-16-95; MP 1-1996, f. & cert. ef. 5-9-96; BMP 2-1999, f. & cert. ef. 6-24-99; BMP 3-2001, f. & cert. ef. 10-30-01; BMP 1-2003, f. & cert. ef. 2-26-03; BMP 3-2006, f. 9-29-06, cert. ef. 10-1-06; BMP 1-2007, f. 1-25-07, cert. ef. 1-26-07; BMP 2-2007, f. & cert. ef. 5-22-07; BMP 4-2008, f. & cert. ef. 1-24-08

856-010-0012
Degrees of Licenses for the Columbia and Willamette River Pilotage Ground

(1) Grade "C" License: The initial license issued by the Board to a pilot for the Columbia and Willamette River pilotage ground shall only authorize the pilot to pilot vessels under 570 feet length over-all (L.O.A.).

(2) To obtain a Grade "B" License while holding a Grade "C" License: In order to obtain authority from the Board to pilot vessels between 570 feet L.O.A. and 700 feet L.O.A. on the Columbia and Willamette River pilotage ground, an applicant must meet the following requirements:

(a) Have a minimum of six months service on the pilotage ground;

(b) Have made a minimum of 30 transits on the pilotage ground piloting ships of between 300 and 570 feet L.O.A.;

(c) Have made a minimum of 30 transits on the pilotage ground on ships greater than 570 feet L.O.A. under the supervision of a minimum of ten different pilots, with not less than five years experience while holding unlimited state licenses for the pilotage ground. The training course monitor and a minimum of ten different pilots from the Board's licensed training organization holding unlimited or Grade "A" state licenses, must have certified to the Board that, in their opinion, the applicant has sufficient local knowledge and shiphandling skills to pilot vessels between 570 feet L.O.A. and 700 feet L.O.A. on the pilotage ground;

(d) The requirements specified in subsections (b) and (c) of this section must have been met during the six months preceding application for authority to pilot vessels between 570 feet L.O.A. and 700 feet L.O.A.; and

(1) Grade "C" License: The initial license issued by the Board to a pilot for the Columbia and Willamette River pilotage ground shall only authorize the pilot to pilot vessels under 570 feet length over-all (L.O.A.).

(2) To obtain a Grade "B" License while holding a Grade "C" License: In order to obtain authority from the Board to pilot vessels from and including 570 feet L.O.A. up to 700 feet L.O.A. on the Columbia and Willamette River pilotage ground, an applicant must meet the following requirements:

(a) Complete at least 180 days service on the pilotage ground while holding a Grade "C" license;

(b) Complete at least 30 transits on the pilotage ground piloting ships of between 300 and 570 feet L.O.A.;

(c) Complete at least 25 transits on ships 570 feet L.O.A. or greater under the supervision of a minimum of ten different pilots, at least six of whom have held unlimited state licenses for at least 5 years;

(d) Complete at least 5 trips in either direction between Astoria and either Longview or Kalama on ships 570 feet L.O.A. or greater under the supervision of an unlimited state-licensed pilot;

(e) Train at least 5 additional days as directed by the training course monitor, with assignments chosen at the discretion of the training course monitor;

(f) Present recommendations from the training course monitor and from at least ten pilots holding unlimited or Grade "A" state licenses who participated in the training, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot vessels from and including 570 feet L.O.A. up to 700 feet L.O.A.; and

(g) The requirements specified in subsections (b), (c), (d),and (e) of this section must have been met during the 180 days preceding application for authority to pilot vessels from and including 550 feet L.O.A. up to 700 feet L.O.A.; and

(h) When the foregoing requirements are met, the Board shall issue a license to the applicant authorizing the applicant to pilot vessels which are less than 700 feet L.O.A., except that the applicant shall not pilot tankers, or vessels with a draft of 38 feet or greater, on the pilotage ground.

(3) To obtain a Grade "A" License while holding a Grade "B" License: In order to obtain authority from the Board to pilot vessels from and including 700 feet L.O.A. up to 800 feet L.O.A. on the Columbia and Willamette River pilotage ground, an applicant must meet the following requirements:

(a) Complete at least 270 days service on the pilotage ground while holding a Grade "B" license;

(b) Complete at least 40 transits piloting ships of between 300 and 700 feet L.O.A. as a state-licensed pilot;

(c) Complete at least 20 transits on ships 700 feet L.O.A. or greater while under the supervision of at least ten unlimited state-licensed pilots;

(d) Complete 2 trips from dock to dock or from an anchorage to a dock under the supervision of unlimited state-licensed pilots while on ships 700 feet L.O.A. or greater, with each trip including a 180 degree turn before docking;

(e) Make at least 6 trips under the supervision of unlimited state-licensed pilots within the 270 days preceding the application while on the bridge of a ship 500 feet L.O.A. or greater, with at least three trips in each of the following directions:

(A) From the Willamette River, turning east (upstream) into the Columbia; and

(B) From the Columbia River upstream of the mouth of the Willamette River, turning south into the Willamette River;

(f) Train at least 5 additional days as directed by the training course monitor, with assignments chosen at the discretion of the training course monitor;

(g) Present recommendations from the training course monitor and from at least ten pilots who participated in the training, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot vessels from and including 700 feet L.O.A. up to 800 feet L.O.A. on the pilotage ground;

(h) The requirements specified in subsections (b), (c), (d), (e) and (f) of this section must have been met during the 270 days preceding application for authority to pilot vessels from and including 700 feet L.O.A. up to 800 feet L.O.A.; and

(i) When the foregoing requirements are met, the Board shall issue a license to the applicant authorizing the applicant to pilot vessels which are less than 800 feet L.O.A. on the pilotage ground, except that the applicant shall not pilot tankers, or vessels with a draft of 38 feet or greater.

(4) To obtain an Unlimited License while holding a Grade "A" License: In order to obtain authority from the Board to pilot vessels on the Columbia and Willamette River pilotage ground without any limitation on the length and draft of the vessels, including tankers and vessels with a draft of 38 feet or deeper, an applicant must meet the following requirements:

(a) Complete at least 180 days service on the pilotage ground while holding a Grade "A" license;

(b) Complete at least 30 transits on ships of between 300 and 800 feet L.O.A. during the 180 days preceding application for an unlimited license;

(c) Complete 4 trips on ships 570 feet L.O.A. or greater from dock to dock or from an anchorage to a dock while under the supervision of unlimited state-licensed pilots, with each trip including a 180 degree turn before docking;

(d) Complete at least 6 trips within the 180 days preceding the application under the supervision of unlimited state-licensed pilots while on the bridge of a ship 500 feet L.O.A. or greater, with at least three trips in each of the following directions:

(A) From the Willamette River, turning east (upstream) into the Columbia; and

(B) From the Columbia River upstream of the mouth of the Willamette River, turning south into the Willamette River;

(e) Train at least 5 additional days as directed by the training course monitor, with assignments chosen at the discretion of the training course monitor;

(f) While holding a Grade "B" or Grade "A" license, complete at least ten transits on ships greater than 800 feet L.O.A. while under the supervision of ten different pilots. Five of these transits must be supervised by pilots with not less than five years experience as unlimited state-licensed pilots;

(g) Present recommendations from the training course monitor and from at least ten pilots who participated in training, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot vessels 800 feet L.O.A. or greater on the pilotage ground;

(h) While holding a Grade "B" or Grade "A" license, complete at least 12 transits on tankers (including at least nine transits on loaded tankers) while under the supervision of at least six different state-licensed pilots with not less than five years' experience as unlimited state-licensed pilots;

(i) Present recommendations from the training course monitor and from at least six pilots who participated in training on tankers, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot tankers on the pilotage ground and understands the risks and hazards peculiar to piloting tankers on the pilotage ground;

(j) While holding a Grade "B" or a Grade "A" license, complete at least twelve transits on ships with drafts greater than 38 feet while under the supervision of at least six different state-licensed pilots with not less than five years' experience as unlimited state-licensed pilots;

(k) Present recommendations from the training course monitor and from at least six pilots who participated in training on vessels with drafts greater than 38 feet, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot vessels with drafts greater than 38 feet;

(l) While holding a Grade "C", Grade "B" or Grade "A" license, complete a United States Coast Guard approved course in automatic radar plotting aids.

(m) When the foregoing requirements are met, the Board shall issue an unlimited license to the applicant authorizing the applicant to pilot vessels of any length and draft, including tankers, on the pilotage ground.

(5) Each grade of license will be valid for one year. No license except an unlimited license may be renewed.

Stat. Auth.: ORS 776
Stats. Implemented: ORS 776.315
Hist.: MP 2-1985, f. & ef. 6-7-85; MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1992, f. & cert. ef. 4-29-92; BMP 3-2001, f. & cert. ef. 10-30-01; BMP 1-2005, f. & cert. ef. 11-29-05; BMP 1-2007, f. 1-25-07, cert. ef. 1-26-07; BMP 4-2008, f. & cert. ef. 1-24-08

856-010-0014
Apprentice Training Program

(1) Application for a Certificate as a Pilot Apprentice Trainee for the Columbia and Willamette River pilotage shall be made on a form provided by the Board.

(2) The Board of Maritime Pilots shall certify from among the eligible applicants the best qualified individual or individuals for apprenticeship. Selection shall be in accordance with selection criteria procedures, based upon numerical ranking, promulgated by the Board of Maritime Pilots.

(3) No more than two apprentices shall be in the apprenticeship-training program at any time. The Board shall accept new apprentices into training at intervals of two years or longer.

(4) Numerical ranking of apprentice applicants shall be based upon a 100-point system, with points for each of the following categories:

(a) Academic: Completion of a four-year course of study at an accredited college or university or maritime academy will be awarded five points and receipt of a graduate degree will be awarded 10 points. An applicant's college grade point average on a 4.0 scale shall be multiplied by a factor of 1.25. The maximum total points under this section are 15.

(b) Previous Maritime Experience: Applicants shall be awarded points up to a maximum of 35 based on federal licensure and other evidence of experience as follows:

(A) Master of Towing Vessels (Inland Waterways): two per year (25 maximum).

(B) Master of Towing Vessels (Ocean): one per year (25 maximum).

(C) Master, Vessels Greater than 1,600 Tons: 2 per year (25 maximum).

(D) Master, Vessels 1,600 Tons or Less: one per year (25 maximum).

(E) Chief, Second or Third Mate on Vessels Greater than 1,600 Tons or Deckhand Experience on Towboats on Inland Waters: 1/2 (.5) per year.

(F) First Class Pilot Endorsement for Columbia and Willamette River, Astoria to Portland/Vancouver: 10.

(G) First Class Pilot Endorsement for Any Other U.S. Inland Waterway: 5.

(c) Interview: Every applicant shall be interviewed by the Board of Maritime Pilots. Each person interviewed shall be assigned from 0 to 25 points based upon objective scoring guidelines published by the Board of Maritime Pilots.

(5) The apprentice candidate with the highest point total shall be awarded a Certificate of Apprenticeship by the Board and enter the apprentice training program. Said Certificate shall terminate upon satisfactory completion of the apprentice training program or upon the termination of the apprentice for cause or resignation.

(6) Training and qualification of pilot apprentices are subject to the following provisions:

(a) The term of apprenticeship for every pilot apprentice trainee shall be a minimum of three years.

(b) The apprentice training and qualification program shall include the satisfactory completion of an Apprentice Training Course approved by the Board of Maritime Pilots. The apprentice training and qualification program shall consist of both the approved Apprentice Training Course and the term of apprentice training.

(c) Satisfactory completion of the Apprentice Training Course, as approved by the Board of Maritime Pilots, requires that the pilot apprentice trainee must have satisfactorily completed the following training activities:

(A) 750 vessel movements between Astoria and Portland or Vancouver under the supervision of state licensed pilots; and

(B) 250 vessel movements under the supervision of state licensed pilots between any two points on the pilotage grounds selected by the Course Monitor based upon his or her evaluation of the pilot apprentice trainee's skills and training needs. Assignments under this subsection may include, but are not necessarily limited to, transits between Astoria and Portland or Vancouver.

(C) Up to 30 days per year of additional industry related training that the Course Monitor, in his or her discretion, may assign based upon the Course Monitor's evaluation of the pilot apprentice trainee's skills and training needs, and which may include courses in bridge resource management for pilots, advanced radar plotting aids and simulated emergency shiphandling.

(d) In order to satisfactorily complete this training course, every apprentice must ride with a majority of the pilots, on every route, day and night, ebb and flood tides, and on every size category of vessel calling at the port. The curriculum of the approved course requires that apprentices learn to direct the movement of vessels, apply the proper rules of the nautical road and other maritime procedures, and interface and coordinate with other affected vessels and facilities.

(e) During each vessel movement to which the apprentice is assigned, the apprentice shall accompany the licensed pilot assigned to the vessel. The licensed pilot serves as the expert-master and interacts with the apprentice in observational and mastery learning process. The licensed pilot is obligated to interact with the apprentice to a degree sufficient to teach skills and impart information and to assess the apprentice's progress during periods of "hands on" piloting by the apprentice under supervision by the pilot.

(f) The progress of every apprentice must be marked semi-annually during his or her term of apprentice training by the pilots with whom he or she has received instruction in the areas of: Procedures, skillfulness, communications, and attitude.

(g) Every apprentice must receive satisfactory grades from the majority of the pilots during each semiannual progress report period. A 3.2 grade point average on a 4.0 scale, in every area of grading, is required as the minimal satisfactory grade. This minimal grade shall be obtained during the final progress report period in order for an apprentice to receive a certificate that he or she has satisfactorily completed this training course. The Course Monitor shall semiannually advise each apprentice regarding his or her progress and shall also advise the Board of Maritime Pilots.

(h) Failure to receive satisfactory grades during the Apprentice Training Course can result in the termination of the apprentice-training program for any apprentice at any point in the program by the Board of Maritime Pilots.

(i) The discovery that any apprentice fails to satisfy the physical requirements for federal licensure shall be just cause for the termination of any such apprentice, without regard to the grades received in the Apprentice Training Course.

(j) Upon satisfactory completion of the approved Apprentice Training Course, the apprentice will be awarded a Certificate of Completion by the designated Course Monitor.

(7) Satisfactory completion of the Apprentice Training Program requires that the apprentice obtain a federal First Class Pilot license for the grounds from Astoria to Portland and Vancouver. However, any federal licensure as a federal First Class Pilot obtained by any apprentice before the completion of the apprenticeship training and qualification program shall not terminate nor shorten the three-year minimum term of apprentice training.

(8) No person shall represent himself or herself as an apprentice unless he or she has been approved and certified as an apprentice by the Board of Maritime Pilots. No pilot shall be required to train any uncertified person on board any vessel subject to the jurisdiction of the Board of Maritime Pilots. Any uncertified person posing as an apprentice aboard any vessel subject to the jurisdiction of the Board of Maritime Pilots shall be considered in violation of ORS 776.405.

(9) Upon the successful completion of the minimum three year apprenticeship training and qualification program, including certification by the Course Monitor of satisfactory completion of the Apprentice Training Course, the pilots shall provide the Board of Maritime Pilots with the name and complete training record of every successful apprentice along with their recommendations regarding his or her prospective licensure by the Board.

(10) Nothing shall prohibit the Board of Maritime Pilots from periodically reviewing the progress of any apprentice undergoing training, and reviewing the progress reports on every apprentice that have been submitted by the pilots.

(11) Every person who successfully completes the Apprenticeship Training Course shall begin the regular pilot training program for Class C, Class B, Class A and Unlimited licenses, upon the opening of a position by either the anticipated retirement or resignation of a licensed pilot, or the Board-approved increase in the number of pilots.

(12) If no person has successfully completed the Apprenticeship Training Course at the time a need for a pilot trainee arises, then the Board shall appoint a person who meets the requirements of OAR 856-010-0010(2) and (4)(a), and who has been selected by the Board from qualified applicants pursuant to procedures and criteria set forth in subsections (13), (14), and (15) below.

(13) Applicants for trainee positions under subsection (12) above must submit their applications to the Board of Maritime Pilots on forms provided by the Board. When the board determines that a need for a trainee pursuant to subsection (12) exists, it shall select from among the eligible applicants the best qualified for training. Selection shall be based upon numerical ranking according to the point system set forth in subsection (14) below.

(14) Applicants for trainee positions under subsection (12) above shall be ranked based upon a point system, with points awarded for each of the following categories:

(a) Academic: Graduation from high school or equivalent certification: 10 points. Two or more years at an accredited college or university: five points. Post-graduate or professional degree: five points. Completion of a four-year course of study at an accredited maritime academy: 15 points. Maximum total points under this section are 25.

(b) Previous Maritime Experience and Licensure: First Class Pilot License from Tansey point, Oregon to Ryan Point, Washington on the Columbia River, and from Kelley Point, Oregon to the Ross Island Bridge on the Willamette River: 25 points. Federal pilotage endorsement on the Columbia River from Vancouver, Washington to Pasco, Washington: five points. Federal unlimited radar observer endorsement: five points. 1,460 or more active working days as master of towing vessels on the Columbia River and tributaries: five points. Additional certified training in each of the following categories: Bridge Resource Management, Emergency Medical Training, Hazardous Materials, Marine Firefighting, Oil Spill Control: one point each, up to a maximum of five points. Maximum total points under this section are 45.

(c) Interview: Every applicant with a combined point total of 50 or more from points awarded under subsections (14)(a) and (14)(b), shall be interviewed by three or more members of the Board, provided at least one member is a public member, one member is a pilot member, and one member is a member engaged in the activities of a company that operates commercial ocean-going vessels. Each person interviewed shall be assigned from 0 to 35 points based on the interviewee's poise and confidence, potential as an asset to the pilotage system, recommendations from within the maritime community, knowledge of trade and commerce on the Columbia

River System, and such other factors as may be deemed relevant by the Board.

(15) Trainees selected by the Board shall be free to join the organization of pilots of their choosing upon completion of their training. No trainee may join an organization of pilots until after training is complete, except that trainees may associate with an organization of pilots on a provisional, temporary basis that ends upon receipt of an unlimited state pilot's license. Any such provisional, temporary association between trainees and organizations of pilots shall not obligate the trainee to join any particular organization of pilots after training is complete.

Stat. Auth.: ORS 776.115
Stats. Implemented: ORS 776.115 & 776.300
Hist.: MP 3-1995, f. & cert. ef. 3-16-95; MP 4-1995, f. & cert. ef. 8-16-95; BMP 1-1998, f. & cert. ef. 6-15-98; BMP 1-1999, f. & cert. ef. 2-19-99; BMP 1-2002, f. & cert. ef. 8-29-02; BMP 4-2008, f. & cert. ef. 1-24-08

856-010-0015
Renewal of License

(1) Application for renewal of license shall be made on a form provided by the board, signed by the applicant, accompanied by the physical examination form provided by the board and presented to the administrator of the board at least thirty (30) days prior to expiration of license.

(2) All state-licensed pilots shall be required to have an annual physical examination by an Oregon or Washington licensed physician within ninety (90) days prior to expiration of their license, the physical requirements for which are the same as for the original license as specified in OAR 856-010-0010(2), except for drug testing.

(3) All state-licensed pilots shall, within six months prior to the expiration of their license, submit to a test indicating licensee is free of illegal substance abuse. Testing will be for the presence of Cocaine, Opiates, Marijuana (THC), Amphetamines and PCP (phencyclidine). Testing will be in accordance with the Department of Transportation (Coast Guard) guidelines outlined in the Code of Federal Regulations 46, CFR § 16. Urine specimens are to be analyzed by a laboratory that meets DHHS regulations set forth by the National Institute of Drug Abuse (NIDA); or provide proof to the board that licensee is participating in a US Coast Guard approved random drug testing program;

(4) All applicants for renewal of licenses shall submit a photocopy of their currently applicable United States government license with radar endorsement issued by the United States Coast Guard.

(5) Failure of a licensed pilot to comply with all requirements for renewal of license shall constitute the failure to submit a complete application for renewal and will result in the withholding of the renewal license.

(6) Every applicant for renewal of an unlimited license shall certify that, during the sixty-three (63) months prior to the expiration date of their license, the applicant completed continuing professional development courses in bridge resource management for pilots, manned model simulated ship handling and electronic navigation systems. An applicant who is unable to complete these requirements within the time allowed due to unexpected, emergency circumstances may request a waiver and the Board may, upon good cause shown, permit a license renewal for one year without these requirements being met, provided that all required certifications must be made by the applicant at the time application for renewal is made the following year.

(7) Each license issued is valid for one year and only the unlimited state license may be renewed.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 776
Stats. Implemented: ORS 776.115(4)(a)
Hist.: PC 1, f. 10-29-57, ef. 7-1-57; MP 2-1984, f. & ef. 10-4-84; MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1992, f. & cert. ef. 4-29-92; MP 1-1995, f. & cert. ef. 5-9-96; BMOP 1-2000, f. & cert. ef. 12-6-00; BMP 4-2006, f. 9-28-06, cert. ef. 10-6-06; BMP 1-2007, f. 1-25-07, cert. ef. 1-26-07; BMP 4-2008, f. & cert. ef. 1-24-08

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Real Estate Agency
Chapter 863

Rule Caption: Advertising rules for real estate licenses.
Adm. Order No.: REA 1-2008(Temp)
Filed with Sec. of State: 1-18-2008
Certified to be Effective: 1-18-08 thru 7-16-08
Notice Publication Date:
Rules Amended: 863-015-0125
Subject: The licensed name or registered business name of the principal real estate broker, sole practitioner real estate broker, or property manager must be prominently displayed, immediately noticeable, and conspicuous in all advertising related to professional real estate activity. If advertising includes the licensee's name, the licensee's licensed name must be used or a common derivative of the licensee's first name may be used. A real estate broker must submit all advertising to the principal real estate broker for review and approval prior to releasing advertising to the public. A principal real estate broker is responsible for advertising that states the principal real estate broker's licensed name of registered business name. Advertising in electronic media has specific requirements. Advertising using the term "team" or "group" has specific requirements.
Rules Coordinator: Laurie Skillman—(503) 378-4170, ext. 237

863-015-0125
Advertising

(1) As used in this rule, "advertising" and "advertisement" include all forms of representation, promotion and solicitation disseminated in any manner and by any means for any purpose related to professional real estate activity, including, without limitation, advertising by mail; telephone, cellular telephone, and telephonic advertising; the Internet, E-mail, electronic bulletin board and other similar electronic systems; and business cards, signs, lawn signs, and billboards.

(2) Advertising by a licensee, in process and in substance, must:

(a) Be identifiable as advertising of a real estate licensee;

(b) Be truthful and not deceptive or misleading;

(c) Not state or imply that the real estate broker or property manager associated with a principal real estate broker is the person responsible for operating the real estate brokerage or is a sole practitioner or principal broker;

(d) Not state or imply that the licensee is qualified or has a level of expertise other than as currently maintained by the licensee; and

(e) Be done only with the written permission of the property owner(s) or owner(s') authorized agent.

(3) Advertising that includes the licensee's name must:

(a) Use the licensee's licensed name; or

(b) Use a common derivative of the licensee's first name and the licensee's licensed last name.

(4) The licensed name or registered business name of the principal real estate broker, sole practitioner real estate broker, or property manager must be prominently displayed, immediately noticeable, and conspicuous in all advertising.

(5) Except as provided in section (8) of this rule, a real estate broker must:

(a) Submit proposed advertising to the licensee's principal broker for review and receive the principal broker's approval before publicly releasing any advertisement; and

(b) Keep a record of the principal broker's approval and make it available to the Agency upon request.

(6) Except as provided in section (8) of this rule, a principal real estate broker:

(a) Is responsible for all advertising approved by the principal broker that states the principal real estate broker's licensed name or registered business name; and

(b) Must review all advertising of a real estate broker or a property manager who is associated with the principal real estate broker.

(7) A principal real estate broker may delegate direct supervisory authority and responsibility for advertising originating in a branch office to the principal broker who manages the branch office if such delegation is in writing.

Stat. Auth.: ORS 696.385
Stats. Implemented: ORS 696.020 & 696.301(1), (4)
Hist.: REA 1-2002, f. 5-31-02, cert. ef. 7-1-02; REA 1-2003(Temp), f. 2-27-03, cert. ef. 2-28-03 thru 8-27-03; REA 3-2003, f. 7-28-03, cert. ef. 8-1-03; REA 1-2005, f. 5-5-05, cert. ef. 5-6-05; REA 3-2006(Temp), f. 12-28-06, cert. ef. 1-1-07 thru 6-29-07; REA 3-2007, f. & cert. ef. 6-29-07; REA 1-2008(Temp), f. & cert. ef. 1-18-08 thru 7-16-08

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Secretary of State, Archives Division
Chapter 166

Rule Caption: Update and clarify the General Records Retention Schedule for Educational Service Districts and School Districts.
Adm. Order No.: OSA 1-2008
Filed with Sec. of State: 1-30-2008
Certified to be Effective: 1-30-08
Notice Publication Date: 1-1-2008
Rules Amended: 166-400-0010

Subject: Updating and revising existing OAR 166-400-0010 which related to the retention of records generated by Educational Services District, School Districts and Schools. Revisions include clarification of language due to typographical error and also the addition of a new records series.
Rules Coordinator: Julie Yamaka—(503) 378-5199

166-400-0010
Administrative Records

NOTE: Inclusion of a records series in this schedule does not require the series be created. If a record is created electronically, it can be retained in electronic format only as long as the retention period is 99 years or less.

(1) Activity and Room Scheduling Records documenting scheduling and reservations related to public participation and use of various agency activities, events, classes and facilities. Includes schedules, logs, lists, requests, and similar records. Minimum retention: 1 year

(2) Activity Reports, General Daily, weekly, monthly, or similar reports documenting the activities of employees. Useful for compiling annual reports, planning and budgeting, monitoring work progress and other purposes. Usually tracks type of activity, employees and/or volunteers involved, time spent on activity, work completed, and related information in narrative or statistical form. Minimum retention: 2 years

(3) Annual Reports documenting the program or primary functional activities and accomplishments of the office for the previous year. These are often compiled from monthly, quarterly, or other subsidiary activity reports. Usually includes statistics, narratives, graphs, diagrams, and similar information. Minimum retention: Permanent

(4) Association and Organization Membership Records document the membership and participation of the school, district, or ESD in professional and educational associations and organizations. Records may include but are not limited to meeting announcements and agendas; promotional information; meeting, workshop, and conference records; rules and regulations; reports; proposals and planning records; surveys and questionnaires; meeting minutes; and related documentation and correspondence. This series does not include individual faculty or staff membership records unless such membership is paid for by the school, district, or ESD. Minimum retention: 3 years after school year in which records were created

(5) Audit Records, Internal Records document the examination of the agency's fiscal condition, internal control, and compliance policies and procedures. Records may also document performance or other financially related audits by agency or contracted auditors. Records may include audit reports, supporting documentation, comments, and correspondence. Minimum retention: 10 years

(6) Calendars and Scheduling Records documenting and facilitating routine planning, scheduling, and similar actions related to meetings, appointments, trips, visits, and other activities. Includes calendars, appointment books, notes, telephone messages, diaries, and similar records. Depending on content, some telephone messages and similar records may merit inclusion in related program or project files. This applies to records that contain significant information that is not summarized or otherwise included in reports or similar documents. *Calendar and Scheduling information written in personal day planners or recorded on handheld electronic organizers (i.e. PalmPilots) may be public records under ORS Chapter 192. Information contained in electronic organizers is subject to the same retention as the paper record unless the information is kept in another format for the duration of the retention period. Minimum retention: 1 year.*

(7) Bond Election Records document the process whereby bond measures to finance school construction and improvements are approved by the voters. Records may include but are not limited to certified copies of election results; county election filing forms; precinct and district maps; election tax levy history; type of election; proposals; assessor's certification; statistical reports to the Oregon Department of Education; and related correspondence and documentation. SEE ALSO Bond Records in the Financial Records section. Minimum retention: 5 years after school year in which bond matures

(8) Child Care Facility License Records document the annual licensing of school child care facilities by the Employment Department, Child Care Division. Records may include but are not limited to sanitation inspection reports; fire safety reports; fire and other emergency drill records; staff development and training records; staff criminal history checks; staff qualification forms; time sheets, staff first aid cards; staff driving records; staff orientation records; official license; Child Care Division inspection reports and certification; and related correspondence and documentation. Minimum retention: (a) If license expired or renewed: 1 year after expiration or renewal (b) If license revoked: 3 years after revoked

(9) Committee and Board Meeting Records document the activities, decisions, and proceedings of regularly scheduled, special, executive session, or emergency meetings of governing bodies and committees of the school, district, or ESD. Governing bodies may include boards, advisory councils, commissions, site councils, committees, advisory groups, and task forces. Records may include but are not limited to meeting minutes, agendas and agenda packets, exhibits, resolutions, staff reports, sound recordings, membership lists, meeting books, significant correspondence and memorandum, and other supporting documentation. SEE ALSO Budget Records in the Financial Records section. Minimum retention: (a) School board meeting minutes and agendas: Permanent (b) Exhibits, other minutes, and supporting records: 5 years after school year in which records were created (c) Sound recordings, if transcribed or abstracted: 1 year after minutes approved

(10) Committee and Board Member Records document the election or appointment of school, district, or ESD board, budget committee, and other committee members. Records may include but are not limited to date of election and installation, length of term, zone or district represented, and related biographical information about each board or committee member. Minimum retention: 5 years after term expires.

(11) Conference and Workshop Records document conferences, seminars, workshops, and training activities attended or sponsored by school, district, or ESD personnel. Records may include but are not limited to agendas, reports, speeches, program records, conference or seminar descriptions and schedules, participant lists, fee records, planning records, evaluations, registration material, handouts, and related correspondence and documentation. Records may also include documentation of attendance for certification, continuing education, or in-service training requirements. Minimum retention: (a) Significant program records - school, district, or ESD sponsored: 5 years after school year in which records were created (b) Other records: 2 years after school year in which records were created

(12) Contracts and Agreements Records document the negotiation, execution, completion, and termination of legal agreements between the school, district, or ESD and other parties, including the Oregon Department of Education. Records include the official contract or agreement, amendments, exhibits, addenda, legal records, contract review records, and related correspondence and documentation. Records do not include leases or property records. Minimum retention: (a) Contracts or agreements documenting building construction, alterations, or repair: 10 years after substantial completion as defined by ORS 12.135(3). (b) Other contracts and agreements: 6 years after expiration.

(13) Correspondence: Records that: 1. document communications created or received by an agency AND 2. directly relate to an agency program or agency administration AND 3. are not otherwise specified in the Educational Service Districts, School Districts and Schools General Records Retention Schedule (OAR 166-400) or in educational service districts, school districts and schools special schedules or in ORS 192.170. Records may include but are not limited to letters, memoranda, notes and electronic messages that communicate formal approvals, directions for action, and information about contracts, purchases, grants, personnel and particular projects or programs. **Disposition**: File with the associated program or administrative records. Retentions for program records are found in state agency special schedules; retentions for administrative records are typically found in the State Agency General Records Retention Schedule. Communications not meeting the above criteria do not need to be filed and may be retained as needed

(14) Eighth Grade Examination Records document the examinations given to eighth grade students. Records may include but are not limited to examinations; examinations registers; diploma lists; and related documentation. These records are no longer being created. Minimum retention: Permanent

(15) Fax Reports

Records document facsimile transactions of the agency. Reports may also be used for billing purposes. Information includes date and time fax transmitted or received and recipient/sender's fax number.

Minimum retention: (a) Retain if used for billing: 3 years (b) Retain all other reports: 1 year

(16) Food/Nutrition Service Program Records document the operation of school food/nutrition service programs. Records may include but are not limited to operations reports; child nutrition program reviews; food service financial records; food supply inventory records; free and reduced price lunch applications and reimbursement claim records; meal production and menu records; meal ticket inventory records; sanitation inspection reports; summer food services records; and related documentation and cor-

respondence. Retention: 3 years (or as specified by 7 CFR 210.7-28 and 225.6-16).

(17) Health Log Book Records document the daily activities of and visits to the Health Room/School Nurses Office. Record may include but not limited to student's name, time of visit, reason for visit/ailment, action taken, parental notification, was student sent home or returned to class. Minimum Retention: Retain 6 years after school year in which created, destroy.

(18) Immunization Records, Administrative Records document the review and report of the immunization status of students to the County health department and the exclusion of students who do not meet the minimum immunization requirements. Records may include but are not limited to the annual Primary Review Summary, school copies of Exclusion Orders for No Record, school copies of Exclusion Orders for Incomplete Information/Insufficient Information, and related documentation. SEE ALSO Student Immunization Records in the Student Education Records section. Retention: 1 year.

(19) Legal Case Records document a school, district, or ESD's legal actions by in-house or outside counsel. Records may include but are not limited to litigation records, correspondence, staff opinions, research findings, and background notes relating to specific cases. Cases may include but are not limited to Tort Liability Claims, Civil Service Commission cases, unemployment and discrimination cases, bid protests and contract disputes, student/parent complaints, and employee complaints. Minimum retention: 10 years after final disposition of case

(20) Legal Opinion and Advice Records document the legal opinions and advice given to schools, districts, or ESDs by a lawyer or the Attorney General. Records may include legal advice given to private schools. Records may include but are not limited to requests for opinions; opinions; letters of advice; and related correspondence. Minimum retention: (a) Retain copies of legislative bills, statutes: 6 years (b) Retain Administrative Rule Preparation Records: 10 years after appeal of rule (c) Retain all other records: Permanent

(21) Legislative Tracking Records document the development and monitoring of legislation which may have an impact on the programs or policies of a school, district, or ESD. Records may include but are not limited to concept statements, proposals, bill logs, fiscal and organizational impact analysis papers, copies of bills, testimony summaries, committee reports, agendas, record of action, and related correspondence and documentation. Minimum retention: 2 years.

(22) Lobbyist Records

Records document lobbyist and lobbyist employer activities and are used to report to these activities to the Government Standards and Practices Commission. Records may include but are not limited to expenditure reports, registration statements, termination records, guidelines, and correspondence. Minimum retention:

(a) Retain expenditure reports: 4 years (b) Retain all other records: 5 years after last activity

(23) Mitigation Program Records document the establishment and maintenance of the agency mitigation programs, plans, and procedures. Records may include mitigation plans and strategies, policies, procedures, seismic surveys and structural upgrade records of agency facilities, project reports, hazard mitigation grant records, and related documentation, which may include capital improvement records. SEE ALSO the Emergency Management section. Minimum retention: (a) Retain adopted plans: Permanent (b) Retain all other records: For the life of the structure

(24) Notary Public Log Books Records documenting notarial transactions completed by a notary public and employed by a government agency. Agencies may retain logbooks by agreement with the notary after their separation from employment. *Agencies retaining notary public log books without notary agreements should consult their legal counsel and/or the Secretary of State, Corporation Division for retention instruction*. Minimum retention: 7 years after date of commission expiration

(25) Oregon School Register Records document student enrollment, attendance, and membership in elementary and secondary schools and forms the basis for student attendance reporting to the Oregon Department of Education. The register contains student's name and other personally identifiable information, attendance, indication of student non-residency or withdrawal, program membership, whether student was promoted or retained at end of school year, and related information. Minimum retention: Permanent.

(26) Organization Records document the lines of organizational hierarchy and administrative responsibility within a program, school, district, or ESD. Records may include but are not limited to drafts and final charts or diagrams, statements, studies, and related documentation. Minimum retention: 4 years after superseded or obsolete

(27) Parent-Teacher Organization Records document the history, development, policies, and actions of parent-teacher organizations under the jurisdiction of the District. Records may include but are not limited to minutes; constitutions and by-laws; committee records; budget and accounting records; handbooks; officer and member rosters; scrapbooks; photographs; and related documentation and correspondence. Minimum retention:

(a) Retain minutes, constitutions, by-laws, and committee records 10 years after school year in which records were created. (b) Retain all other records 3 years after school year in which records were created.

(28) Policy and Planning Records document the development, assessment, and review of school, district, or ESD policies, programs, and activities. Records may include but are not limited to board policy and district-wide administrative rules; authorizing bulletins and advisories; mission, policy, and goal statements; finalized policy statements and directives; by-laws; regulations; strategic plans; management plans; and related documentation. Minimum retention: (a) Retain annual board adopted policy and district-wide administrative rules, official copy: Permanent (b) Retain planning documents: 10 years (c) Retain working papers and draft material: 1 year after school year in which final document produced.

(29) Policy Statements and Directives Series documents review, assessment, development, and authorization of an agency's formal policies and procedures that have been approved by a governing body. Records may include authorizing bulletins and advisories, mission and goal statements, manuals, and final policy statements and directives. Information often includes policy and procedure numbers, revision dates, subject identification, narrative description, authorization information, and effective date. SEE ALSO Policy and Procedure Guidelines and Manuals in this section. Minimum retention: 10 years after superseded or obsolete

(30) Procedure Manuals Records document internal development and guidelines for consistency and continuity in the operation of a school, district, or ESD department or office. Records may include but are not limited to manuals documenting departmental and program procedures; basic secretarial/clerical instructional procedures; handbooks; desk manuals; emergency response plans; safety plans and procedures; and related documentation and correspondence. Minimum retention: (a) Retain routine clerical manuals: 2 years after superseded or obsolete (b) Retain manuals relating to specific construction and/or engineering projects: 10 years after substantial completion, as defined by ORS 12.135(3) (c) Retain one copy of all other manuals: Permanent

(31) Professional Membership Records documenting institutional or agency-paid individual memberships and activities in professional organizations. Minimum retention: 3 years

(32) Public Notice Records documenting compliance with laws requiring public notice of government activities. Subjects include assessments, elections, land use changes, public meetings and hearings, sale of property, and others. Records include public or legal notices, certificates, affidavits of publication, and similar documents. SEE ALSO Competitive Bid Records in the Financial section for public notices related to bid openings and awards. Minimum retention: 3 years

(33) Reports and Studies Records document the school, district, or ESD's curriculum offerings, programs, services, problems, projects, student achievements, financial status, staffing, operations, and activities. Reports may be required to be submitted to the Oregon Department of Education or to other state, federal, or private agencies. Reports may be annual reports compiled from monthly, quarterly, or other subsidiary activity reports. Records may include but are not limited to narrative and statistical reports, studies, performance measures, annual reviews, surveys, plans, proposals, progress reports, evaluation reports, financial data and reports, staffing reports, student attendance accounting reports, accreditation studies, summaries, and other types of reports and documentation. Minimum retention: (a) Retain annual reports and studies with historical value or policy implications: Permanent (b) Retain other reports and studies: 5 years or as required by government or agency

(c) Retain working papers and draft material: 1 year after school year in which final document produced.

(34) Requests and Complaints Records documenting complaints or requests concerning a variety of agency responsibilities not specified elsewhere in this general schedule. Information often includes name, phone number, and address of person making request or complaint, narration of request or complaint, name of person responding to request or complaint, dates of related activities, and other data. (If a specific request or complaint is listed in another records series under a functional area such as law

enforcement in this general schedule, the retention period specified in that functional area supersedes the retention period listed in this series.) SEE ALSO Correspondence. Minimum retention: 2 years after last action

(35) Routing and Job Control Records used to control the routine flow of documents and other items and actions in and between offices in the agency. Includes routing slips, job control records, status cards, receipts for records charged-out, batch slips, and similar records. Minimum retention: 1 year

(36) School Census Records document the number of students of school age within the county, district, or school. Records may contain but are not limited to the names, ages, birth dates, and address of students; information about the parents or guardians; and related documentation. The actual census-reporting requirement ended in 1971 and this record is no longer being created. Minimum retention: Permanent

(37) School, District, Or ESD History Records document important organizational changes, significant events, celebrations, programs, and projects of the ESD, district, or school. Records may include but are not limited to newsletters, press releases, publications, reports and articles, institution histories, biographies and records of past administrators, faculty, or staff, photographs, scrapbooks, newspaper clippings, and related documentation. SEE ALSO Publications in this section. Retention: Permanent

(38) Special Education Census Reports Records document the number of special education students served by the school and district included in annual census reports to the Oregon Department of Education. Records may include but are not limited to annual reports and district summary reports which includes total number of students and students per district, age of students, and handicapping condition of students; student census information; placement and services provided records; agency information; number of special education teachers; and related documentation. Minimum retention: 5 years after school year in which records were created

(39) Special Event and Celebration Records: Records documenting agency-sponsored celebrations of special and historic occasions such as centennials, pioneer days, and similar events. Provides a record of planning and promotional efforts, public attendance and response, major speeches and dedications, and other significant aspects of the celebration. These significant records may include studies, publications, photographs, attendance summaries, final reports, and other significant documents. This series also includes routine documentation related to implementing the promotion and organization of the event. These often include lists, rosters, correspondence, memoranda, volunteer information, and related records. Records may also include scrapbooks, but does not include newsclippings. Newsclippings are not public records and may be discarded. Minimum retention: (a) Retain records documenting significant aspects of the event: Permanent (b) Retain all other records: two years after event

(40) Staff Meeting Records document the activities, decisions, and proceedings of school, district, or ESD staff meetings. Records may include but are not limited to minutes, agendas, notes, reports, and related documentation. Minimum retention: Until end of school year.

(41) Standardization Records document the process of standardization visits from the Oregon Department of Education to schools, districts, or ESDs. Records may include but are not limited to self-evaluation reports, on-site inspection reports; waiver authorizations; letters of concern; plans of correction; schedules; and related correspondence and documentation. Minimum retention: 6 years after school year in which records were created.

(42) Student Information and Demographic Records document the composition of the student population in a variety of sequences, groupings, and lists. Records include demographic profiles of students; student record cards; and other manual or computer produced lists organized by school, class, special program, or other grouping. Records may include but are not limited to student identification information including name, address, birth date, birthplace, parents, and guardians; student demographics including gender, ethnicity, and age; attendance; enrollment dates; previous school attended; student grades and transcript data; health and immunization information; handicapped status; and related documentation. Minimum retention: (a) Retain years ending in 0 and 5 Permanent (b) Retain all others 5 years

(43) Student Organization Administrative Records document the history, development, and policies of student organizations, including student clubs, government, and publications. Records may include but are not limited to student organization annual review forms; minutes; constitutions and bylaws; committee, subcommittee, and task force records; student senate bill and resolution records; handbooks; officer and member rosters; scrapbooks; photographs; and related documentation and correspondence. SEE ALSO Student Organization Financial Records in the Financial Section. Minimum retention:

(a) Retain constitution and bylaws: Until superseded or obsolete (b) Retain all other records: 2 years after school year in which records were created.

(44) Superintendent of Schools Records document the official and financial affairs of the superintendent of schools concerning teachers, students, and schools located in the county. Records may include but are not limited to annual statements on the condition of common (public) schools in the county; school district boundary records; school district accounts; book purchases; and related documentation. Information contained in the records may include financial information, school curricula, boundary descriptions, facilities, and enrollment and attendance data. These records are no longer being created. Minimum retention: Permanent.

(45) Surveys, Polls, and Questionnaires Records documenting the measurement of public opinion by or for the agency related to various issues, actions, and concerns. May include surveys, polls, questionnaires, summaries, abstracts and significant related records. Examples of summaries include studies which incorporate the significant results of public opinion surveys, abstracts of questionnaires designed to determine the skills and interests of citizens volunteering for agency service, and other records which distill survey data into summary form. Minimum Retention: (a) Retain summary reports and abstracts: 3 years (b) Retain all other records: Until summary report is completed or 3 years, whichever is sooner

(46) Test Administration Records document the administration of assessment, placement, diagnostic, credit by exam, and other tests. Records may include but are not limited to rosters of test takers; testing rules and regulations; test administration records; examiner's manuals; exams and tests; test order and payment records; placement and test results; summary reports of results; and related correspondence and documentation. Minimum retention: 3 years after school year in which records were created.

(47) Work Orders Records documenting requests and authorizations, according to existing contracts or agreements, for needed services and repairs to agency property and equipment. May include copy center work orders, printing orders, telephone service and installation requests, repair authorizations, and similar records. Minimum Retention: (a) Retain work completed by county personnel: 1 year (b) Retain work completed by outside vendors: 3 years

(48) Work Schedules and Assignments Records documenting the scheduling and assigning of shifts, tasks, projects, or other work to agency employees. Useful for budget and personnel planning and review, assessing employee work performance, and other purposes. May include calendars, schedules, lists, charts, rosters, and related records. Minimum retention: 5 years

(49) Year 2000 (Y2K) Planning Records document the planning and development of agency Y2K contingency plans. Records may include but are not limited to meeting minutes, correspondence, draft plans, work notes, plan test results, and final plan. Information includes type of systems vulnerable to Y2K, level of priority, and party responsible for system solution or troubleshooting. Minimum retention: 5 years

Stat. Auth.: ORS 192 & 357, Other Auth. Code of Federal Regulations Title 34
Stats. Implemented: ORS 192 & 357
Hist.: OSA 6-1997, f. & cert. ef. 4-22-97; Renumbered from 166-405-0010, OSA 1-2006, f. & cert. ef. 4-17-06; OSA 1-2008, f. & cert. ef. 1-30-08

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Secretary of State, Elections Division
Chapter 165

Rule Caption: Reporting Deadlines During a Special Legislative Session.
Adm. Order No.: ELECT 1-2008(Temp)
Filed with Sec. of State: 1-29-2008
Certified to be Effective: 1-29-08 thru 7-27-08
Notice Publication Date:
Rules Adopted: 165-012-1020
Subject: This proposed temporary rule sets forth the filing deadlines for contributions received during a special legislative session.
Rules Coordinator: Brenda Bayes—(503) 986-1518

165-012-1020
Reporting Deadlines During a Special Legislative Session

Any contribution received by any person described in ORS 260.076 during a special or supplemental legislative session is due no later than two

business days after the receipt of the contribution. The transaction must be filed no later than midnight on the day the transaction is due.

Stat. Auth.: ORS 246.150
Stats. Implemented: ORS 260.076
Hist.: ELECT 1-2008(Temp), f. & cert. ef. 1-29-08 thru 7-27-08

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Teacher Standards and Practices Commission
Chapter 584

Rule Caption: Amends 584-060-0051 to eliminate building level restrictions and 584-017-0185 to eliminate the work sample at two auth. levels.
Adm. Order No.: TSPC 1-2008(Temp)
Filed with Sec. of State: 2-15-2008
Certified to be Effective: 2-15-08 thru 8-13-08
Notice Publication Date:
Rules Amended: 584-017-0185, 584-060-0051
Subject: 1) 584-017-0185: Allows flexibility for approved programs as it relates to school placement for student teaching and practica experiences.

2) 584-060-0051: Eliminates the language related to buildings and classroom (self-contained and departmentalized) from the Elementary Authorization for Initial and Continuing Teaching Licenses.
Rules Coordinator: Victoria Chamberlain—(503) 378-6813

584-017-0185
Evidence of Effectiveness

(1) The unit assures that candidates provide evidence of effectiveness to foster student learning.

(2) Each student teacher preparing for an Initial I Teaching License assembles and analyzes two work samples to document the candidate's ability to demonstrate knowledge, skills and competencies as designated in OAR 584-017-0100. It is recommended but not required that if a candidate is seeking more than one authorization level, that one work sample is completed for each authorization level. Work samples include:

(a) Context of the school and classroom is explained, learners with special needs, TAG learners, ESOL learners and learners from diverse cultural and social backgrounds are described, adaptations for their learning needs are discussed, and prerequisite skills required for the unit are considered;

(b) Goals for the unit of study, which is generally two to five weeks in length, that vary in kind and complexity, but that include concept attainment and application of knowledge and skills;

(c) Instructional plans to accomplish the learning goals of the group(s) of students that include differentiation of instruction for all students listed in (a);

(d) Data on learning gains resulting from instruction, analyzed for each student, and summarized in relation to students' level of knowledge prior to instruction;

(e) Interpretation and explanation of the learning gains, or lack thereof; and

(f) A description of the uses to be made of the data on learning gains in planning subsequent instruction and in reporting student progress to the students and their parents.

(g) Purposeful attention to literacy instruction based upon content requirements, appropriate authorization level and student needs in at least one subject.

(3) Each candidate preparing for a Continuing Teaching License assembles a collection of evidence that documents the candidate's advanced knowledge, skills and competencies as designated in OAR 584-017-0160. The collection of evidence includes:

(a) Long term goals of study based on content goals and district standards that determine the knowledge and skills each student needs;

(b) Instructional plans that incorporate knowledge of subject matter, the developmental levels of the students and research-based educational practices that are sensitive to individual differences and diverse cultures;

(c) Evidence of the ability to establish a classroom climate that is conducive to learning for all students;

(d) Data on student progress toward attainment of long term goals, refinement of plans for instruction and establishment of alternative goals for students when necessary;

(e) Evidence of collaboration with parents, colleagues and community members to provide assistance to students and their families to promote learning;

(f) Evidence of the use of emerging research on teaching, learning and school improvement; and

(g) Evidence of participation in designing, evaluating and improving opportunities for teaching.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120, 342.147 & 342.165
Hist.: TSPC 4-2001, f. & cert. ef. 9-21-01; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 7-2004, f. & cert. ef. 8-25-04; TSPC 8-2005, f. & cert. ef. 10-21-05; TSPC 1-2008(Temp), f. & cert. ef. 2-15-08 thru 8-13-08

584-060-0051
Teaching Authorization Levels

(1) Teachers must prepare for one or more authorization levels at the early childhood, elementary, middle or high school levels in addition to satisfying the Objectives for Initial Teaching License in OAR 584-017-0100.

(2) Demonstrated competency at these developmental levels indicates the teacher knows, understands and can apply developmental psychology and learning theory appropriate to student age and grade within cultural and community contexts, and can apply an articulated philosophy of education capable of ensuring that students at a particular authorization level will learn to think critically and integrate knowledge across disciplines.

(3) A first Initial Teaching License is authorized for levels on the basis of professional education, experience, previous licensure, and specialized academic course work.

(4) Early Childhood Education (ECE) Authorization: The early childhood education (ECE) authorization level requires completion of an approved program including passing the commission-approved multiple subjects examination (MSE) together with completion of a practicum experience with students in prekindergarten (pre k) through grade four (4) in a school designated as a pre-primary school, a primary school, or an elementary school. (See, OAR 584-017-0110 for ECE authorization competencies and OAR 584-017-0175 for adding an authorization level to a license.)

(a) The ECE authorization level is valid for any multiple subjects teaching assignment, except assignments in subsection (b) below, in prekindergarten (pre k) through grade four (4) in a school designated as a preprimary school, a primary school, or an elementary school.

(b) The ECE authorization level with a multiple subjects endorsement is not valid for assignments requiring a specialization endorsement such as art, music, ESOL, ESOL/bilingual, physical education, adaptive physical education, library media, reading or special education under OAR 584-060-0071 without the accompanying specialty endorsement on the license.

(5) Elementary (ELEM) Authorization: The Elementary (ELEM) authorization level requires completion of an approved program including passing the commission-approved multiple subjects examination (MSE) together with completion of a practicum experience with students in one or more grades between grades three (3) through eight (8). (See, OAR 584-017-0120 for ELEM authorization competencies and OAR 584-017-0175 for adding an authorization level to a license.)

(a) The ELEM authorization level is valid for any multiple subjects teaching assignment, except assignments in subsection (b) below, in grades three (3) through eight (8).

(b) The ELEM authorization level with a multiple subjects endorsement is not valid for assignments requiring specialization endorsement such as art, music, ESOL, ESOL/bilingual, physical education, adaptive physical education, library media, reading or special education under OAR 584-060-0071 without the accompanying specialty endorsement on the license.

(c) The ELEM authorization is valid for assignments in special education in grades three (3) through eight (8) in a school designated as an elementary school; middle school; or junior high school.

(d) The ELEM authorization alone does not meet the requirements for highly qualified teacher (HQT) as defined by the federal law. Separate subject-matter competency in the core-academic areas is required in grades seven (7) and eight (8). [See Division 100 for further clarification.]

(6) The Middle-Level (ML) Authorization: The Middle-Level (ML) authorization level for candidates seeking multiple subjects endorsement requires completion of an approved program including passing the commission-approved multiple subjects examination (MSE) together with completion of a practicum experience with students in one or more grades between grades five (5) through nine (9). The placement may only be in the nine (9) grade if it is located in a middle school or junior high school. Additionally, the ML authorization requires in-depth knowledge of one subject-matter or specialty endorsement appropriate to middle-level teaching assignments. (See, OAR 584-017-0130 for further ML authorization requirements; 584-060-0062 for ML endorsements; and 584-017-0175 for adding an authorization level to a license.)

(a) The ML authorization is valid for any multiple subjects teaching assignment, except assignments in subsection (b) below, in grades five (5)

through nine (9) of a school designated as an elementary, middle, or junior high school, or high school.

(b) The ML authorization level with a multiple subjects endorsement is not valid for assignments requiring specialization endorsement such as art, music, ESOL, ESOL/bilingual, physical education, adaptive physical education, library media, reading or special education under OAR 584-060-0071 without the accompanying specialty endorsement on the license.

(7) The high school authorization level requires completion of an approved program and qualification for at least one subject-matter endorsement appropriate to secondary schools by passing the required Commission-approved test or tests of subject mastery in the endorsement area, together with completion of a practicum experience with students in one or more grades between grades nine (9) through twelve (12). The high school (HS) authorization is valid for teaching one or more integrated or departmentalized subjects, with which the license must be endorsed, in grades nine (9) through twelve (12) of a school designated as a high school. (See OAR 584-017-0140 for HS authorization requirements; 584-060-0062 for HS endorsements; and 584-017-0175 for adding an authorization level to a license.)

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120–143, 342.153, 342.165 & 342.223–232

Hist.: TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 4-2002, f. & cert. ef. 5-21-02; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 2-2005, f. & cert. ef. 4-15-05; TSPC 4-2005(Temp), f. & cert. ef 5-6-05 thru 9-30-05; TSPC 7-2005, f. & cert. ef. 8-24-05; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 1-2008(Temp), f. & cert. ef. 2-15-08 thru 8-13-08

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Veterinary Medical Examining Board
Chapter 875

Rule Caption: Accepts Canadian veterinary experience for license eligibility; adds requirements for veterinary interns and supervisors; adds record keeping requirement; adds late fees and grace period for Certified Veterinary Technicians; allows Certified Veterinary Technicians to implant microchips.

Adm. Order No.: VMEB 1-2008

Filed with Sec. of State: 2-11-2008

Certified to be Effective: 2-11-08

Notice Publication Date: 11-1-2007

Rules Amended: 875-005-0005, 875-010-0026, 875-010-0050, 875-010-0090, 875-015-0030, 875-030-0030, 875-030-0040, 875-030-0050

Subject: 875-005-0005 Clarifies definition of 'conviction of cruelty to animals' for veterinarians' reporting purposes.

875-010-0026(2) Clarifies initial license eligibility to include experience in Canada.

875-010-0026(3) Requires veterinary intern to notify Board of change in supervision.

875-010-0050(8) Clarifies veterinarians' obligations for supervising veterinary interns.

875-010-0050(b) Adds requirement that supervising veterinarian document and make available to Board,

if requested, decision to allow intern to work independently.

875-010-0050(3) Adds requirement that supervising veterinarian notify Board if no longer supervising intern.

875-010-0090 Adds exemption for reporting Continuing Education for veterinarians and veterinary technicians with less than one year of practice experience.

875-015-0030 Requires date of entry of patient information that is made subsequent to treatment of the patient.

875-030-0030(5)(a) Adds $10 late fee for renewals received by January 31st.

875-030-0030(5)(b) Adds $20 late fee for renewals received by February 28th or 29th.

875-030-0030(5)(c) Adds $25 late fee for renewals received by April th.

875-030-0030(5)(d) Adds 21-month grace period after license lapses; provides criteria for renewing after

Grace period.

875-030-0040 Adds injection of permanent identification device, under direct supervision of veterinarian, to duties permitted of a Certified Veterinary Technician.

875-030-0050 Adds injection of permanent identification device to duties not allowed of a non-certified person.

Rules Coordinator: Lori V. Makinen—(971) 673-0223

875-005-0005
Definitions

(1) "Agency": Any animal control department, humane society, or facility which contracts with a public agency or arranges to provide animal sheltering services and is certified by the Euthanasia Task Force and registered by the State Board of Pharmacy.

(2) "Board": The Oregon State Veterinary Medical Examining Board.

(3) "Board of Pharmacy": The Oregon State Board of Pharmacy.

(4) "Certified Euthanasia Technician or "CET". A person who is recognized by an agency as a paid or volunteer staff member and is instructed and certified by the Euthanasia Task Force pursuant to ORS 475.190(4). Any person who was trained prior to October 15, 1983 in euthanasia methods, in the course provided by Multnomah County Animal Control and the Oregon Humane Society, and who has been subsequently certified by the Euthanasia Task Force.

(5) "Comprehensive": Pertaining to all animal species.

(6) "Conviction of Cruelty to Animals": for purposes of ORS 686.130(11) is defined to include but not limited to animal abuse in the first or second degree, aggravated animal abuse in the first degree, and animal neglect in the first degree.

(7) "Client": An entity, person, group or corporation that has entered into an agreement with

(8) "Designated Agent": A CET who is responsible for the withdrawal and return of sodium pentobarbital from the drug storage cabinet.

(9) "Good Standing and Repute": As used in ORS 686.045(1), means:

(a) A university accredited by the American Veterinary Medical Association (AVMA); or

(b) A foreign school listed by the AVMA whose graduates are eligible to apply for a certificate through the Educational Commission for Foreign Veterinary Graduates (ECFVG) committee of the AVMA, or other programs approved by the Board.

(10) "Herd or Flock Animal": Animals managed as a group only for economic gain including but not limited to breeding, sale, show, food production, or racing.

(11) "Lethal Drug": Sodium pentobarbital or any other drug approved by the Task Force, the Board and the Board of Pharmacy, and used for the purpose of humanely euthanizing injured, sick, homeless or unwanted domestic pets and other animals.

(12) "Mobile Clinic": A vehicle, including but not limited to a camper, motor home, trailer, or mobile home, used as a veterinary medical facility. A mobile clinic is not required for house calls or farm calls.

(13) Surgery Procedure:

(a) "Aseptic Surgery": Aseptic surgical technique exists when everything that comes in contact with the surgical field is sterile and precautions are taken to ensure sterility during the procedure.

(b) "Antiseptic Surgery": Antiseptic surgical technique exists when care is taken to avoid bacterial contamination. (c) Any injection or implant of a small permanent identification device is considered surgery.

(14) "Supervision" means that each act shall be performed by any employee or volunteer in the practice only after receiving specific directions from a licensed veterinarian.

(a) "Direct" supervision under this provision means both the certified veterinary technician and the licensed veterinarian are on the premises at the same time;

(b) "Immediate" supervision under this provision means that the supervising veterinarian is in the immediate vicinity of where the work is being performed and is actively engaged in supervising this work throughout the entire period it is being performed;

(15) "Task Force": The Euthanasia Task Force appointed by the Board pursuant to ORS 686.510 consisting of no fewer than five members, and who are either certified euthanasia technicians or licensed veterinarians.

(16) "Veterinary Client Patient Relationship (VCPR)": Except where the patient is a wild or feral animal or its owner is unknown; a VCPR shall exist when the following conditions exist: The veterinarian must have sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has seen the animal within the last year and is personally acquainted with the care of the animal by virtue of a physical examination of the animal or by medically appropriate and timely visits to the premises where the animal is kept.

(17) "Veterinary Medical Facility": Any premise, unit, structure or vehicle where any animal is received and/or confined and veterinary medicine is practiced, except when used for the practice of veterinary medicine pursuant to an exemption under ORS 686.040.

Stat. Auth.: ORS 686.210
Stats. Implemented: ORS 475.190, 609.405, 686.130, 686.255 & 686.510
Hist.: VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06; VMEB 1-2008, f. & cert. ef. 2-11-08

875-010-0026
Initial Licenses

Upon approval of all required application materials, the applicant will be granted a license to practice veterinary medicine in Oregon. The licensee may activate the license at any time.

(1) The initial license fee shall be $100.

(2) If the applicant has satisfactorily completed one year's experience, in the United States or its territories or provinces, or in Canada, an active veterinary license will be issued and will expire on the next following December 31. Licensee shall renew the license according to OAR 875-010-0065.

(3) If applicant has less than one year's experience, an Intern Permit will be issued. The Intern Permit will expire following the total number of days necessary to complete one year's practice experience, under supervision of an Oregon licensed veterinarian, pursuant to ORS 686.085 and OAR 875-010-0050:

(a) Upon completion of the internship, Intern may apply for an active license, pursuant to OAR 875-010-0065. Late fees up to $150 will apply for each month the application is late if the Intern has continued to practice veterinary medicine in Oregon after expiration of the Intern Permit;

(b) The supervising veterinarian shall provide a signed statement that Intern has satisfactorily completed the internship and Intern shall submit this statement to complete the license renewal application.

Stat. Auth.: ORS 686.210
Stats. Implemented: ORS 686.095 & 686.255
Hist.: VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 1-2008, f. & cert. ef. 2-11-08

875-010-0050
Supervision of Interns

An Intern Permit is issued for the purpose of providing a supervised internship to veterinarians who have less than one (1) year experience following graduation from a veterinary school or college as defined in OAR 875-005-0005(8).

(1) "Supervision," as used in ORS 686.085, requires an Oregon licensed veterinarian to provide supervision of the Intern as follows:

(a) Direct supervision of the Intern for each and every procedure until such time as the supervising veterinarian reasonably concludes that the Intern has sufficient training and experience to competently conduct a particular procedure, or class of procedures, independently;

(b) The supervising veterinarian shall document and make available to the Board, if requested, the documentation used in making the decision to allow the Intern to work independently.

(c) The supervising veterinarian need not continue to directly supervise that procedure or class of procedures, upon the supervisor's determination that competency has been achieved by the Intern; however, the supervising veterinarian shall continue to reasonably monitor the results thereof;

(d) The supervising veterinarian shall continue to directly supervise all procedures for which the supervisor has not yet made a competency determination.

(2) However, in no event may the supervising veterinarian:

(a) Be absent from the veterinary clinic for more than 14 consecutive days, or more than 21 total days, in a six month period, exclusive of weekends;

(b) Conduct the supervision from a separate clinic.

(3) The supervising veterinarian shall notify the Board within 15 calendar days if an Intern is no longer under that veterinarian's supervision.

Stat. Auth.: ORS 686.210
Stats. Implemented: ORS 686.085
Hist.: VE 6-1978, f. & ef. 7-10-78; VME 2-1994, f. & cert. ef. 11-30-94; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 1-2008, f. & cert. ef. 2-11-08

875-010-0090
Continuing Education Requirements (CE)

(1) All active licensees, including veterinarians and certified veterinary technicians, must comply with the CE provided in this rule in order to renew their licenses. An active veterinary licensee is one who practices in Oregon for 30 calendar days or more in each year. A veterinarian or veterinary technician who has less than one year of practice experience is not required to report CE until the next reporting period following completion of one year of experience.

(2) "Inactive" veterinary licensees need not comply with the educational requirements, and may renew their licenses in an "inactive" status. An "inactive" licensee is one who practices in Oregon for less than 30 calendar days in each year. There is no 'inactive' category for certified veterinary technician licenses.

(3) Active licensees wishing to obtain a renewal of their license must complete the minimum required number of CE hours every two years. Veterinarians shall report 30 hours of CE to the Board with license renewals for every odd-numbered year. Certified veterinary technicians shall report 15 hours of CE to the Board for every even-numbered year beginning January 2008. The required hours may be satisfied with any combination of the following continuing education activities:

(a) Attendance at scientific workshops or seminars approved by the Board.

(b) A maximum of four hours for veterinarians or two hours for certified veterinary technicians reading approved scientific journals. One subscription to an approved journal is equal to one hour of credit.

(c) A maximum of six hours for veterinarians or three hours for certified veterinary technicians of workshops or seminars on non-scientific subjects relating to the practice of veterinary medicine such as communication skills, practice management, stress management, or chemical impairment.

(d) A maximum of 15 hours for veterinarians or 7.5 hours for certified veterinary technicians of audio or video recordings, electronic, computer or interactive materials or programs on scientific or non-scientific subjects, as set forth in subsection (3)(c) above, and prepared or sponsored by any of the organizations defined in subsection (4) below. The sponsor must supply written certification of course completion.

(4) Workshops, seminars, and prepared materials on scientific and non-scientific subjects relating to veterinary medicine sponsored by the following organizations are approved:

(a) American Veterinary Medical Association (AVMA) and Canadian Veterinary Medical Association (CVMA);

(b) Specialty and allied groups of the American Veterinary Medical Association and Canadian Veterinary Medical Association;

(c) Regional meetings such as the Inter-Mountain Veterinary Medical Association, Central Veterinary Conference, and Western Veterinary Conference;

(d) Any state or province veterinary medical association;

(e) Any local or regional veterinary medical association;

(f) The American Animal Hospital Association;

(g) American and Canadian Veterinary Schools accredited by the American Veterinary Medical Association;

(h) All state veterinary academies;

(I) Animal Medical Center, New York;

(j) Angel Memorial Medical Center;

(k) Other programs receiving prior approval by the Board;

(l) The Board may approve other sponsors for lectures or prepared materials upon written request by the attending veterinarian or the sponsor.

(5) The following scientific journals are approved by the Board to satisfy all or a portion of the two hours of non-lecture CE activities:

(a) Journal of the American Veterinary Medical Association;

(b) Journal of the Canadian Veterinary Medical Association;

(c) The Journal of Veterinary Research;

(d) Veterinary Medicine;

(e) Small Animal Clinician;

(f) Modern Veterinary Practice;

(g) Publications of the AVMA/CVMA Approved Constituent Specialty Groups;

(h) Compendium of Continuing Education;

(I) Journal of American Animal Hospital Association;

(j) Other publications approved in advance by the Board.

(6) Study in a graduate resident program at an AVMA-approved veterinary school will satisfy the CE requirements for the year in which the veterinarian is enrolled in such program.

(7) Reporting CE credits:

(a) At the time of making application for license renewal in years when CE reporting is required, the veterinarian shall certify on the application form that 30 hours of CE, and the veterinary technician shall certify on the application form that 15 hours of CE, as set forth in this rule have been satisfied. Proof of participation in such CE programs must be kept by the licensee for a period of at least two years, and the licensee must permit the Board or any of its agents or designees to inspect CE records. Any such fail-

ure to keep these records or produce them to the Board, its agents or designees shall constitute grounds for non-renewal of the license, or, if the license has been issued for that year, for revocation of the license;

(b) Proof of compliance with the CE requirement of this rule may be supplied through registration forms at lectures, certificates issued by the sponsors of lectures, subscriptions to journals, and other documentation approved by the Board.

(8) The Board may approve CE programs presented by non-veterinarians, if program content is pertinent or complementary to veterinary medicine.

Stat. Auth.: ORS 686.210
Stats. Implemented: ORS 686.410 - 686.420
Hist.: VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06; VMEB 1-2008, f. & cert. ef. 2-11-08

875-015-0030
Minimum Veterinary Practice Standards

Each veterinary medical facility shall comply with the following:

(1) Medical Records: A legible individual record shall be maintained for each animal. However, the medical record for a litter may be recorded either on the dam's record or on a litter record until the individual animals are permanently placed or reach the age of three months. Records for herd or flock animals may be maintained on a group or client basis. All records shall be readily retrievable and must be kept for a minimum of three (3) years following the last treatment or examination. However, three (3) years may not be adequate for liability purposes.

Records shall include, but are not limited to, the following information:

(a) Name or initials of the veterinarian responsible for entries; any written entry to a medical record that is made subsequent to the date of treatment or service must include the date that the entry was added.

(b) Name, address and telephone number of the owner and/or client;

(c) Name, number of other identification of the animal and/or herd or flock;

(d) Species, breed, age, sex, and color or distinctive markings, where applicable, each individual animal;

(e) Vaccination history, if known, shall be part of the medical record;

(f) Beginning and ending dates of custody of the animal;

(g) Pertinent history and presenting complaint;

(h) A physical exam shall be performed to establish or maintain a VCPR and each time an animal is presented with a new health problem, unless the animal's temperament precludes examination, or physical exam is declined by the owner. For each physical exam the following conditions shall be evaluated and findings documented when applicable by species, even if such condition is normal:

(A) Temperature;

(B) Current weight;

(C) Body condition;

(D) Eyes, ears, nose and throat;

(E) Oral cavity;

(F) Respiratory system including auscultation of the thorax;

(G) Palpation of the abdomen;

(H) Lymph nodes;

(I) Musculoskeletal system;

(J) Neurological system;

(K) Genito/urinary system;

(L) All data obtained by instrumentation;

(M) Diagnostic assessment;

(N) If relevant, a prognosis of the animal's condition;

(O) Diagnosis or tentative diagnosis at the beginning of custody of animal;

(P) Treatments and intended treatment plan, medications, immunizations administered, dosages, frequency and route of administration;

(Q) All prescription or legend drugs dispensed, ordered or prescribed shall be recorded including: dosage, frequency, quantity and directions for use. Legend drugs, in original unopened manufacturer's packaging, dispensed or ordered, for herd use. Any changes made by telecommunications shall be recorded; Legend drugs in original unopened manufacturer's packaging dispensed or ordered for herd use are exempt from this rule. Legend and prescription drugs are as defined by the U.S. Food and Drug Administration in 'FDA and the Veterinarian'.

(R) Surgical procedures shall include a description of the procedure, name of the surgeon, type of sedative/anesthetic agent(s) used, dosage, route of administration, and strength, if available in more than one strength;

(S) Progress of the case while in the veterinary medical facility;

(T) Exposed radiographs shall have permanent facility and animal identification;

(U) If a client waives or declines any examinations, tests, or other recommended treatments, such waiver or denial shall be noted in the records.

(2) Surgery: Surgery shall be performed in a manner compatible with current veterinary practice with regard to anesthesia, asepsis or antisepsis, life support and monitoring procedures, and recovery care. The minimum standards for surgery shall be:

(a) Aseptic surgery shall be performed in a room or area designated for that purpose and isolated from other activities during the procedure. A separate, designated area is not necessarily required for herd or flock animal surgery or antiseptic surgery;

(b) The surgery room or area shall be clean, orderly, well-lighted and maintained in a sanitary condition;

(c) All appropriate equipment shall be sterilized:

(A) Chemical disinfection ("cold sterilization") shall be used only for field conditions or antiseptic surgical procedures;

(B) Provisions for sterilization shall include a steam pressure sterilizer (autoclave) or gas sterilizer (e.g., ethylene oxide) or equivalent.

(d) For each aseptic surgical procedure, a separate sterile surgical pack shall be used for each animal. Surgeons and surgical assistants shall use aseptic technique throughout the entire surgical procedure;

(e) Minor surgical procedures shall be performed at least under antiseptic surgical techniques;

(f) All animals shall be prepared for surgery as follows:

(A) Clip and surgically prepare the surgical area for aseptic surgical procedures;

(B) Loose hair must be removed from the surgical area;

(C) Scrub the surgical area with appropriate surgical soap;

(D) Disinfect the surgical area;

(E) Drape the surgical area appropriately.

(3) A veterinarian shall use appropriate and humane methods or anesthesia, analgesia and sedation to minimize pain and distress during any procedures and shall comply with the following standards:

(a) Animals shall have a documented physical exam conducted prior to the administration of a sedation or anesthetic, which is necessary for veterinary procedures, unless the temperament of the patient precludes an exam prior to the use of chemical restraint;

(b) An animal under general anesthesia for a medical or surgical procedure shall be under observation during recovery from anesthesia until the patient is awake and in sternal recumbency;

(c) A method of cardiac monitoring shall be available and may include a stethoscope or electronic monitor;

(d) Where general anesthesia is performed in a hospital or clinic for companion animal species (excluding farm animals), anesthetic equipment available shall include an oxygen source, equipment to maintain an open airway and a stethoscope;

(e) Anesthetic procedures and anesthetics used shall be documented;

(f) Adequate means for resuscitation including intravenous catheter and fluids shall be available;

(g) Emergency drugs shall be immediately available at all times;

(h) While under sedation or general anesthesia, materials shall be provided to help prevent loss of body heat;

(i) Appropriate pain management shall be made available to the animal;

(4) Library: A library of appropriate and current veterinary journals and textbooks or access to veterinary internet resources shall be available for ready reference.

(5) Laboratory: Veterinarians shall have the capability for use of either in-house or outside laboratory service for appropriate diagnostic testing of animal samples.

(6) Biologicals and Drugs: The minimum standards for drug procedures shall be:

(a) All controlled substances shall be stored, maintained, administered, dispensed and prescribed in compliance with federal and state laws and manufacturers' recommendations;

(b) Legend drugs shall be dispensed, ordered or prescribed based on a VCPR and shall be labeled with the following:

(A) Name of client and identification of animal(s);

(B) Date dispensed;

(C) Complete directions for use;

(D) Name, strength, dosage and the amount of the drug dispensed;

(E) Manufacturer's expiration date;

(F) Name of prescribing veterinarian and veterinary medical facility.

(c) No biological or drug shall be administered or dispensed after the expiration date, for a fee.

(7) A veterinarian shall not use, or participate in the use of, any form of advertising or solicitation which contains a false, deceptive or misleading statement or claim:

(a) Specialty Services: Veterinarians shall not make a statement or claim as a specialist or specialty practice unless the veterinarian is a diplomate of a recognized specialty organization of the American Veterinary Medical Association;

(b) The public shall be informed of their options when an animal will be left unattended in the hospital.

(8) The veterinarian shall be readily available or has arranged for emergency coverage or follow-up evaluation in the event of adverse reaction or the failure of the treatment regimen.

Stat. Auth.: ORS 686.210
Stats. Implemented: ORS 686.130
Hist.: VME 5-1992, f. & cert. ef. 12-10-92; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06; VMEB 1-2008, f. & cert. ef. 2-11-08

875-030-0030
Issuance of Certificates, Fees, Renewals for Certified Veterinary Technicians

(1) Upon filing a complete application and meeting all the criteria of OAR 875-030-0010, the Board will issue the applicant a certificate that the person is certified a veterinary technician.

(2) Each certification shall expire on December 31st of each year.

(3) On or about November 1 of each year, the Board will send a renewal application to the last known address of the certified veterinary technician on file with the Board. Each certified veterinary technician shall keep the Board advised of the certified veterinary technician's address at all times. The Board shall be entitled to rely on its records, regardless whether the certified veterinary technician actually keeps the Board so advised.

(4) Veterinary technician certificates may be renewed annually without re-examination upon timely application. A renewal application accompanied by the annual fee of $25 must be returned to the Board postmarked no later than December 31st of each year in order to be considered timely filed.

(a) Renewal forms received or postmarked between January 1st and 31st will incur a late fee of $10.

(b) Renewal forms received or postmarked between February 1st and February 28 or 29 will incur a late fee of $20.

(c) Renewal forms received or postmarked between March 1st and April 30 will incur a late fee of $25.

(d) If the veterinary technician's certification lapses, a 21-month grace period begins. The veterinary technician may renew the certification within the 21-month period by paying the maximum delinquent fee and the current annual renewal fee, and by providing documentation of veterinary technician activities, including having completed 15 hours of approved continuing education, during the interim. After 21 months, the certification may be revoked and the veterinary technician may have to requalify for certification by taking an examination specified by the board.

Stat. Auth.: ORS 686.210
Stats. Implemented: ORS 686.255 & 686.350 - 686.370
Hist.: VE 5, f. & ef. 8-3-76; VME 3-1983, f. & ef. 1-21-83; VME 2-1989, f. 8-29-89, cert. ef. 10-1-89; VME 1-1991, f. & cert. ef. 1-24-91; VME 3-1991, f. & cert. ef. 12-9-91; VME 3-1992, f. & cert. ef. 10-9-92; Renumbered from 875-010-0025; VMEB 1-2008, f. & cert. ef. 2-11-08

875-030-0040
Supervision of Certified Veterinary Technicians

(1) All duties of certified veterinary technicians must be performed under the supervision of a licensed veterinarian. At minimum, 'supervision' means that each act shall be performed by the certified veterinary technician only after receiving specific directions from a licensed veterinarian.

(2) Certified veterinary technicians may perform the following acts:

(a) Obtain and record information:

(A) Complete admission records, including recording the statements made by the client concerning the patient's problems and history. The certified veterinary technician may also record the technician's own observations of the patient. However, the certified veterinary technician cannot state or record his or her opinion concerning diagnosis of the patient;

(B) Maintain daily progress records, surgery logs, X-ray logs, Drug Enforcement Administration (DEA) logs, and all other routine records as directed by the supervising veterinarian.

(b) Prepare Patients, Instruments, Equipment and Medicant for Surgery:

(A) Prepare and sterilize surgical packs;

(B) Clip, surgically scrub, and disinfect the surgical site in preparation for surgery;

(C) Administer preanesthetic drugs as prescribed by the supervising veterinarian;

(D) Position the patient for anesthesia;

(E) Induce anesthesia as prescribed by the supervising veterinarian;

(F) Operate anesthetic machines, oxygen equipment, and monitoring equipment.

(c) Collect specimens and perform laboratory procedures:

(A) Collect urine, feces, sputum, and all other excretions and secretions for laboratory analysis;

(B) Collect blood samples for laboratory analysis;

(C) Collect skin scrapings;

(D) Perform routine laboratory procedures including urinalysis, fecal analyses, hematological and serological examinations.

(d) Apply and remove wound and surgical dressings, casts, and splints;

(e) Assist the veterinarian in diagnostic, medical, and surgical proceedings:

(A) Monitor and record the patient's vital signs;

(B) Medically bathe the patient;

(C) Administer topical, oral hypodermic, and intravenous medication as directed by the supervising veterinarian;

(D) Operate X-ray equipment and other diagnostic imaging equipment;

(E) Take electrocardiograms, electroencephalograms, and tracings;

(F) Perform dental prophylaxis, including operating ultrasonic dental instruments pursuant to OAR 875-015-0050.

(G) Perform extractions under the immediate supervision of a licensed veterinarian.

(H) Administer rabies vaccine under the direct supervision of a licensed veterinarian.

(I) Under direct supervision of a veterinarian, inject or implant a permanent identification device.

(3) Certified veterinary technicians may perform other acts not specifically enumerated herein under the supervision of a veterinarian licensed to practice veterinary medicine in the State of Oregon. However, nothing in this section shall be construed to permit a veterinarian technician to do the following:

(a) Make any diagnosis;

(b) Prescribe any treatments;

(c) Perform surgery, except as an assistant to the veterinarian;

(d) Sign a rabies vaccination or any other animal health certificate.

Stat. Auth.: ORS 686.210
Stats. Implemented: ORS 686.350 - 686.370
Hist.: VE 5, f. & ef. 8-3-76; VME 3-1983, f. & ef. 1-21-83; VME 2-1989, f. 8-29-89, cert. ef. 10-1-89; VME 1-1991, f. & cert. ef. 1-24-91; VME 3-1991, f. & cert. ef. 12-9-91; VME 3-1992, f. & cert. ef. 10-9-92; Renumbered from 875-010-0025; VMEB 1-2002(Temp), f. & cert. ef. 4-23-02 thru 10-20-02; Administrative correction 12-2-02; VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06; VMEB 1-2008, f. & cert. ef. 2-11-08

875-030-0050
Practice Limitations for Individuals not Certified as Veterinary Technicians

Persons who are not certified by this Board as veterinary technicians may perform under the supervision of a licensed veterinarian all acts that a certified veterinary technician may perform except for OAR 875-030-0040(2)(b)(E), (induce anesthesia), (2)(e)(D) (operate X-ray equipment) unless the person has completed 20 hours training in radiograph safety as required by the Oregon State Health Division (OAR 333-106-0055), and (875-030-0040(I)) (inject or implant a permanent identification device).

Stat. Auth.: ORS 686.210
Stats. Implemented: ORS 686.350 - 686.370
Hist.: VE 5, f. & ef. 8-3-76; VME 3-1983, f. & ef. 1-21-83; VME 2-1989, f. 8-29-89, cert. ef. 10-1-89; VME 1-1991, f. & cert. ef. 1-24-91; VME 3-1991, f. & cert. ef. 12-9-91; VME 3-1992, f. & cert. ef. 10-9-92; Renumbered from 875-010-0025; VMEB 1-2002(Temp), f. & cert. ef. 4-23-02 thru 10-20-02; Administrative correction 12-2-02; VMEB 1-2008, f. & cert. ef. 2-11-08

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Rule Caption: Allows Certified Veterinary Technicians to obtain entire 15 hours of required Continuing Education through 'interactive' media.
Adm. Order No.: VMEB 2-2008(Temp)
Filed with Sec. of State: 2-11-2008
Certified to be Effective: 2-11-08 thru 8-9-08
Notice Publication Date:
Rules Amended: 875-010-0090

Subject: Allows Certified Veterinary Technicians to obtain entire 15 hours of required Continuing Education credits via 'interactive' electronic media.
Rules Coordinator: Lori V. Makinen—(971) 673-0223

875-010-0090
Continuing Education Requirements (CE)

(1) All active licensees, including veterinarians and certified veterinary technicians, must comply with the CE provided in this rule in order to renew their licenses. An active veterinary licensee is one who practices in Oregon for 30 calendar days or more in each year.

(2) "Inactive" veterinary licensees need not comply with the educational requirements, and may renew their licenses in an "inactive" status. An "inactive" licensee is one who practices in Oregon for less than 30 calendar days in each year. There is no 'inactive' category for certified veterinary technician licenses.

(3) Active licensees wishing to obtain a renewal of their license must complete the minimum required number of CE hours every two years. Veterinarians shall report 30 hours of CE to the Board with license renewals for every odd-numbered year. Certified veterinary technicians shall report 15 hours of CE to the Board for every even-numbered year beginning January 2008. The required hours may be satisfied with any combination of the following continuing education activities:

(a) Attendance at scientific workshops or seminars approved by the Board.

(b) A maximum of four hours for veterinarians or two hours for certified veterinary technicians reading approved scientific journals. One subscription to an approved journal is equal to one hour of credit.

(c) A maximum of six hours for veterinarians or three hours for certified veterinary technicians of workshops or seminars on non-scientific subjects relating to the practice of veterinary medicine such as communication skills, practice management, stress management, or chemical impairment.

(d) A maximum of 15 hours for veterinarians of audio or video recordings, electronic, computer or interactive materials or programs on scientific or non-scientific subjects, as set forth in subsection (3)(c) above, and prepared or sponsored by any of the organizations defined in subsection (4) below. The sponsor must supply written certification of course completion. Certified veterinary technicians may report all required 15 hours of required CE under the provisions of this subsection.

(4) Workshops, seminars, and prepared materials on scientific and non-scientific subjects relating to veterinary medicine sponsored by the following organizations are approved:

(a) American Veterinary Medical Association (AVMA) and Canadian Veterinary Medical Association (CVMA);

(b) Specialty and allied groups of the American Veterinary Medical Association and Canadian Veterinary Medical Association;

(c) Regional meetings such as the Inter-Mountain Veterinary Medical Association, Central Veterinary Conference, and Western Veterinary Conference;

(d) Any state or province veterinary medical association;

(e) Any local or regional veterinary medical association;

(f) The American Animal Hospital Association;

(g) American and Canadian Veterinary Schools accredited by the American Veterinary Medical Association;

(h) All state veterinary academies;

(i) Animal Medical Center , New York;

(j) Angel Memorial Medical Center;

(k) Other programs receiving prior approval by the Board;

(l) The Board may approve other sponsors for lectures or prepared materials upon written request by the attending veterinarian or the sponsor.

(5) The following scientific journals are approved by the Board to satisfy all or a portion of the two hours of non-lecture CE activities:

(a) Journal of the American Veterinary Medical Association;

(b) Journal of the Canadian Veterinary Medical Association;

(c) The Journal of Veterinary Research;

(d) Veterinary Medicine;

(e) Small Animal Clinician;

(f) Modern Veterinary Practice;

(g) Publications of the AVMA/CVMA Approved Constituent Specialty Groups;

(h) Compendium of Continuing Education;

(i) Journal of American Animal Hospital Association;

(j) Other publications approved in advance by the Board.

(6) Study in a graduate resident program at an AVMA-approved veterinary school will satisfy the CE requirements for the year in which the veterinarian is enrolled in such program.

(7) Reporting CE credits:

(a) At the time of making application for license renewal in years when CE reporting is required, the veterinarian shall certify on the application form that 30 hours of CE, and the veterinary technician shall certify on the application form that 15 hours of CE, as set forth in this rule have been satisfied. Proof of participation in such CE programs must be kept by the licensee for a period of at least two years, and the licensee must permit the Board or any of its agents or designees to inspect CE records. Any such failure to keep these records or produce them to the Board, its agents or designees shall constitute grounds for non-renewal of the license, or, if the license has been issued for that year, for revocation of the license;

(b) Proof of compliance with the CE requirement of this rule may be supplied through registration forms at lectures, certificates issued by the sponsors of lectures, subscriptions to journals, and other documentation approved by the Board.

(8) The Board may approve CE programs presented by non-veterinarians, if program content is pertinent or complementary to veterinary medicine.

Stat. Auth.: ORS 686.210
Stats. Implemented: ORS 686.410 - 686.420
Hist.: VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06; VMEB 1-2008, f. & cert. ef. 2-11-08; VMEB 2-2008(Temp), f. & cert. ef. 2-11-08 thru 8-9-08

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141-085-0115	1-1-2008	Amend	1-1-2008
141-085-0121	1-1-2008	Amend	1-1-2008
141-085-0126	1-1-2008	Amend	1-1-2008
141-085-0131	1-1-2008	Amend	1-1-2008
141-085-0136	1-1-2008	Amend	1-1-2008
141-085-0141	1-1-2008	Amend	1-1-2008
141-085-0146	1-1-2008	Amend	1-1-2008
141-085-0156	1-1-2008	Amend	1-1-2008
141-085-0161	1-1-2008	Amend	1-1-2008
141-085-0166	1-1-2008	Amend	1-1-2008
141-085-0171	1-1-2008	Amend	1-1-2008
141-085-0176	1-1-2008	Amend	1-1-2008
141-085-0256	1-1-2008	Amend	1-1-2008
141-085-0257	1-1-2008	Amend	1-1-2008
141-085-0421	1-1-2008	Amend	1-1-2008
141-085-0425	1-1-2008	Amend	1-1-2008
141-085-0430	1-1-2008	Amend	1-1-2008
141-089-0100	1-1-2008	Amend	1-1-2008
141-089-0105	1-1-2008	Amend	1-1-2008
141-089-0110	1-1-2008	Amend	1-1-2008
141-089-0115	1-1-2008	Amend	1-1-2008
141-089-0120	1-1-2008	Amend	1-1-2008
141-089-0135	1-1-2008	Amend	1-1-2008
141-089-0140	1-1-2008	Amend	1-1-2008
141-089-0150	1-1-2008	Amend	1-1-2008
141-089-0155	1-1-2008	Amend	1-1-2008
141-089-0157	1-1-2008	Adopt	1-1-2008
141-089-0170	1-1-2008	Amend	1-1-2008

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141-089-0185	1-1-2008	Amend	1-1-2008
141-089-0190	1-1-2008	Amend	1-1-2008
141-089-0192	1-1-2008	Adopt	1-1-2008
141-089-0205	1-1-2008	Amend	1-1-2008
141-089-0215	1-1-2008	Amend	1-1-2008
141-089-0225	1-1-2008	Amend	1-1-2008
141-089-0230	1-1-2008	Amend	1-1-2008
141-089-0245	1-1-2008	Amend	1-1-2008
141-089-0260	1-1-2008	Amend	1-1-2008
141-089-0265	1-1-2008	Amend	1-1-2008
141-089-0280	1-1-2008	Amend	1-1-2008
141-089-0285	1-1-2008	Amend	1-1-2008
141-089-0290	1-1-2008	Amend	1-1-2008
141-089-0295	1-1-2008	Amend	1-1-2008
141-089-0300	1-1-2008	Amend	1-1-2008
141-089-0302	1-1-2008	Adopt	1-1-2008
141-089-0400	1-1-2008	Amend	1-1-2008
141-089-0405	1-1-2008	Amend	1-1-2008
141-089-0415	1-1-2008	Amend	1-1-2008
141-089-0420	1-1-2008	Amend	1-1-2008
141-089-0423	1-1-2008	Adopt	1-1-2008
141-089-0500	1-1-2008	Amend	1-1-2008
141-089-0505	1-1-2008	Amend	1-1-2008
141-089-0515	1-1-2008	Amend	1-1-2008
141-089-0520	1-1-2008	Amend	1-1-2008
141-089-0550	1-1-2008	Amend	1-1-2008
141-089-0555	1-1-2008	Amend	1-1-2008
141-089-0560	1-1-2008	Amend	1-1-2008
141-089-0565	1-1-2008	Amend	1-1-2008
141-089-0570	1-1-2008	Amend	1-1-2008
141-089-0572	1-1-2008	Adopt	1-1-2008
141-089-0585	1-1-2008	Amend	1-1-2008
141-089-0595	1-1-2008	Amend	1-1-2008
141-089-0600	1-1-2008	Amend	1-1-2008
141-089-0605	1-1-2008	Amend	1-1-2008
141-089-0607	1-1-2008	Adopt	1-1-2008
141-090-0005	1-1-2008	Amend	1-1-2008
141-090-0010	1-1-2008	Amend	1-1-2008
141-090-0015	1-1-2008	Amend	1-1-2008
141-090-0020	1-1-2008	Amend	1-1-2008
141-090-0025	1-1-2008	Amend	1-1-2008
141-090-0030	1-1-2008	Amend	1-1-2008
141-090-0032	1-1-2008	Adopt	1-1-2008
141-090-0035	1-1-2008	Amend	1-1-2008
141-090-0040	1-1-2008	Amend	1-1-2008
141-090-0045	1-1-2008	Amend	1-1-2008
141-090-0050	1-1-2008	Amend	1-1-2008
141-090-0055	1-1-2008	Amend	1-1-2008
141-102-0000	1-1-2008	Amend	1-1-2008
141-102-0020	1-1-2008	Amend	1-1-2008
141-102-0030	1-1-2008	Amend	1-1-2008
141-102-0045	1-1-2008	Repeal	1-1-2008
150-118.005	1-1-2008	Repeal	2-1-2008
150-18.385-(A)	1-1-2008	Amend	2-1-2008
150-293.250(2)	2-15-2008	Amend	3-1-2008
150-305.145(3)	1-1-2008	Amend	2-1-2008
150-305.220(2)	1-1-2008	Amend	2-1-2008
150-305.270(10)	1-1-2008	Amend	2-1-2008
150-305.270(4)-(A)	1-1-2008	Amend	2-1-2008
150-305.992	1-1-2008	Amend	2-1-2008
150-307.262(2)	1-1-2008	Repeal	2-1-2008
150-309.115(1)-(A)	1-1-2008	Repeal	2-1-2008
150-311.676	1-1-2008	Amend	2-1-2008
150-311.676-(B)	1-1-2008	Repeal	2-1-2008
150-311.684	1-1-2008	Amend	2-1-2008
150-311.689	1-1-2008	Amend	2-1-2008
150-311.806-(A)	1-1-2008	Amend	2-1-2008
150-314.258	1-1-2008	Adopt	2-1-2008
150-314.280-(E)	1-1-2008	Amend	2-1-2008
150-314.280-(G)	1-1-2008	Amend	2-1-2008
150-314.280-(H)	1-1-2008	Amend	2-1-2008
150-314.280-(I)	1-1-2008	Amend	2-1-2008
150-314.280-(J)	1-1-2008	Amend	2-1-2008
150-314.280-(K)	1-1-2008	Amend	2-1-2008
150-314.280-(L)	1-1-2008	Amend	2-1-2008
150-314.308	1-1-2008	Adopt	2-1-2008
150-314.415.(7)	1-1-2008	Amend	2-1-2008
150-314.425-(B)	1-1-2008	Adopt	2-1-2008
150-314.615-(D)	1-1-2008	Amend	2-1-2008
150-314.615-(E)	1-1-2008	Amend	2-1-2008
150-315.262	1-1-2008	Amend	2-1-2008
150-315.354(5)	1-1-2008	Amend	2-1-2008
150-315.521	1-1-2008	Adopt	2-1-2008
150-316.127-(E)	1-1-2008	Amend	2-1-2008
150-316.127(10)	1-1-2008	Adopt	2-1-2008
150-317.092	1-1-2008	Adopt	2-1-2008
150-317.705(3)(a)	1-1-2008	Amend	2-1-2008
150-317.705(3)(b)	1-1-2008	Amend	2-1-2008
150-321.307(4)	1-1-2008	Repeal	2-1-2008
150-321.485(4)	1-1-2008	Repeal	2-1-2008
150-323.320(1)(b)	2-4-2008	Adopt(T)	3-1-2008
151-001-0005	12-13-2007	Amend(T)	1-1-2008
151-001-0010	12-13-2007	Amend(T)	1-1-2008
151-020-0045	12-13-2007	Amend(T)	1-1-2008
160-010-0600	1-1-2008	Adopt	1-1-2008
160-010-0610	1-1-2008	Adopt	1-1-2008
160-010-0620	1-1-2008	Adopt	1-1-2008
160-010-0630	1-1-2008	Adopt	1-1-2008
160-050-0180	1-15-2008	Amend	2-1-2008
160-050-0190	1-15-2008	Amend	2-1-2008
160-050-0200	1-15-2008	Amend	2-1-2008
160-050-0210	1-15-2008	Amend	2-1-2008
160-050-0215	1-15-2008	Adopt	2-1-2008
160-050-0220	1-15-2008	Amend	2-1-2008
160-050-0230	1-15-2008	Amend	2-1-2008
160-050-0240	1-15-2008	Amend	2-1-2008
160-050-0250	1-15-2008	Amend	2-1-2008
160-050-0280	1-15-2008	Amend	2-1-2008
160-100-0200	1-15-2008	Amend	1-1-2008
165-002-0020	12-31-2007	Amend	2-1-2008

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165-005-0130	12-31-2007	Amend	2-1-2008
165-007-0030	12-31-2007	Amend	2-1-2008
165-010-0005	12-31-2007	Amend	2-1-2008
165-010-0085	12-31-2007	Adopt	2-1-2008
165-012-0005	12-31-2007	Amend	2-1-2008
165-012-1020	1-29-2008	Adopt(T)	3-1-2008
165-013-0010	12-31-2007	Amend	2-1-2008
165-013-0020	12-31-2007	Amend	2-1-2008
165-014-0005	12-31-2007	Amend	2-1-2008
165-014-0027	12-31-2007	Repeal	2-1-2008
165-014-0030	12-31-2007	Amend	2-1-2008
165-014-0031	12-31-2007	Adopt	2-1-2008
165-014-0032	12-31-2007	Adopt	2-1-2008
165-014-0100	12-31-2007	Adopt	2-1-2008
165-014-0110	12-31-2007	Amend	2-1-2008
165-014-0260	12-31-2007	Amend	2-1-2008
165-014-0270	12-31-2007	Amend	2-1-2008
165-014-0275	12-31-2007	Adopt	2-1-2008
165-014-0280	12-3-2007	Adopt	1-1-2008
165-020-0005	12-31-2007	Amend	2-1-2008
165-020-0020	12-31-2007	Amend	2-1-2008
165-020-0021	12-31-2007	Adopt	2-1-2008
165-020-0035	12-31-2007	Amend	2-1-2008
165-020-0045	12-31-2007	Repeal	2-1-2008
165-020-0050	12-31-2007	Amend	2-1-2008
165-020-0055	12-31-2007	Amend	2-1-2008
165-021-0000	12-31-2007	Repeal	2-1-2008
165-021-0005	12-31-2007	Repeal	2-1-2008
165-021-0010	12-31-2007	Repeal	2-1-2008
166-400-0010	1-30-2008	Amend	3-1-2008
166-500-0015	11-29-2007	Amend	1-1-2008
170-061-0200	12-27-2007	Adopt	2-1-2008
170-071-0005	11-20-2007	Amend(T)	1-1-2008
199-010-0068	1-2-2008	Adopt(T)	2-1-2008
213-001-0010	4-12-2008	Adopt	2-1-2008
213-003-0001	1-1-2008	Amend	2-1-2008
213-017-0002	1-1-2008	Amend	2-1-2008
213-017-0003	1-1-2008	Amend	2-1-2008
213-017-0004	1-1-2008	Amend	2-1-2008
213-017-0006	1-1-2008	Amend	2-1-2008
213-017-0007	1-1-2008	Amend	2-1-2008
213-017-0008	1-1-2008	Amend	2-1-2008
213-017-0009	1-1-2008	Amend	2-1-2008
213-017-0010	1-1-2008	Amend	2-1-2008
213-018-0050	1-1-2008	Amend	2-1-2008
213-018-0068	1-1-2008	Adopt	2-1-2008
230-140-0000	1-29-2008	Adopt(T)	3-1-2008
230-140-0010	1-29-2008	Adopt(T)	3-1-2008
230-140-0020	1-29-2008	Adopt(T)	3-1-2008
230-140-0030	1-29-2008	Adopt(T)	3-1-2008
230-140-0040	1-29-2008	Adopt(T)	3-1-2008
250-010-0075	12-10-2007	Adopt(T)	1-1-2008
250-020-0221	1-15-2008	Amend	2-1-2008
255-060-0011	1-11-2008	Amend	2-1-2008
259-008-0010	1-15-2008	Amend(T)	2-1-2008
259-008-0010(T)	1-15-2008	Suspend	2-1-2008
259-008-0060	1-15-2008	Amend	2-1-2008
259-009-0070	1-15-2008	Amend	2-1-2008
274-012-0001	1-7-2008	Amend(T)	2-1-2008
274-012-0100	1-7-2008	Amend(T)	2-1-2008
274-012-0120	1-7-2008	Amend(T)	2-1-2008
274-030-0500	1-1-2008	Amend	2-1-2008
274-030-0500	2-4-2008	Amend	3-1-2008
274-030-0500(T)	1-1-2008	Repeal	2-1-2008
274-030-0505	1-1-2008	Amend	2-1-2008
274-030-0505(T)	1-1-2008	Repeal	2-1-2008
274-030-0506	1-1-2008	Amend	2-1-2008
274-030-0506(T)	1-1-2008	Repeal	2-1-2008
274-030-0510	1-1-2008	Amend	2-1-2008
274-030-0510(T)	1-1-2008	Repeal	2-1-2008
274-030-0515	1-1-2008	Amend	2-1-2008
274-030-0520	1-1-2008	Amend	2-1-2008
274-030-0520(T)	1-1-2008	Repeal	2-1-2008
274-030-0535	1-1-2008	Amend	2-1-2008
274-030-0545	1-1-2008	Amend	2-1-2008
274-030-0545(T)	1-1-2008	Repeal	2-1-2008
274-030-0550	1-1-2008	Amend	2-1-2008
274-030-0550(T)	1-1-2008	Repeal	2-1-2008
274-030-0555	1-1-2008	Amend	2-1-2008
274-030-0555(T)	1-1-2008	Repeal	2-1-2008
274-030-0560	1-1-2008	Amend	2-1-2008
274-030-0560(T)	1-1-2008	Repeal	2-1-2008
274-030-0565	1-1-2008	Amend	2-1-2008
274-030-0565(T)	1-1-2008	Repeal	2-1-2008
274-030-0570	1-1-2008	Amend	2-1-2008
274-030-0570(T)	1-1-2008	Repeal	2-1-2008
274-030-0575	1-1-2008	Amend	2-1-2008
274-030-0575(T)	1-1-2008	Repeal	2-1-2008
274-030-0600	1-1-2008	Amend	2-1-2008
274-030-0600(T)	1-1-2008	Repeal	2-1-2008
274-030-0602	1-1-2008	Adopt	2-1-2008
274-030-0602(T)	1-1-2008	Repeal	2-1-2008
274-030-0605	1-1-2008	Repeal	2-1-2008
274-030-0610	1-1-2008	Amend	2-1-2008
274-030-0610(T)	1-1-2008	Repeal	2-1-2008
274-030-0620	1-1-2008	Amend	2-1-2008
274-030-0620(T)	1-1-2008	Repeal	2-1-2008
274-030-0630	1-1-2008	Amend	2-1-2008
274-030-0630(T)	1-1-2008	Repeal	2-1-2008
274-030-0640	1-1-2008	Amend	2-1-2008
274-030-0640(T)	1-1-2008	Repeal	2-1-2008
291-041-0010	2-4-2008	Amend	3-1-2008
291-041-0015	2-4-2008	Amend	3-1-2008
291-041-0016	2-4-2008	Amend	3-1-2008
291-041-0017	2-4-2008	Adopt	3-1-2008
291-041-0020	2-4-2008	Amend	3-1-2008
291-041-0030	2-4-2008	Amend	3-1-2008
291-041-0035	2-4-2008	Amend	3-1-2008
291-041-0040	2-4-2008	Repeal	3-1-2008
291-069-0010	12-1-2007	Suspend	1-1-2008

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291-069-0040	12-1-2007	Suspend	1-1-2008
291-069-0050	12-1-2007	Suspend	1-1-2008
291-069-0060	12-1-2007	Suspend	1-1-2008
291-069-0070	12-1-2007	Suspend	1-1-2008
291-069-0090	12-1-2007	Suspend	1-1-2008
291-069-0100	12-1-2007	Suspend	1-1-2008
291-069-0200	12-1-2007	Adopt(T)	1-1-2008
291-069-0210	12-1-2007	Adopt(T)	1-1-2008
291-069-0220	12-1-2007	Adopt(T)	1-1-2008
291-069-0230	12-1-2007	Adopt(T)	1-1-2008
291-069-0240	12-1-2007	Adopt(T)	1-1-2008
291-069-0250	12-1-2007	Adopt(T)	1-1-2008
291-069-0260	12-1-2007	Adopt(T)	1-1-2008
291-069-0270	12-1-2007	Adopt(T)	1-1-2008
291-069-0280	12-1-2007	Adopt(T)	1-1-2008
291-131-0010	1-25-2008	Amend	3-1-2008
291-131-0015	1-25-2008	Amend	3-1-2008
291-131-0020	1-25-2008	Amend	3-1-2008
291-131-0025	1-25-2008	Amend	3-1-2008
291-131-0030	1-25-2008	Amend	3-1-2008
291-131-0035	1-25-2008	Amend	3-1-2008
291-131-0037	1-25-2008	Amend	3-1-2008
309-011-0100	12-5-2007	Adopt(T)	1-1-2008
309-011-0100	2-12-2008	Suspend	3-1-2008
309-031-0215	12-1-2007	Amend(T)	1-1-2008
309-032-0455	12-11-2007	Amend	1-1-2008
309-032-1190	1-1-2008	Amend(T)	2-1-2008
309-033-0735	1-1-2008	Adopt(T)	2-1-2008
309-114-0000	12-1-2007	Amend(T)	1-1-2008
309-114-0005	12-1-2007	Amend(T)	1-1-2008
309-114-0010	12-1-2007	Amend(T)	1-1-2008
309-114-0015	12-1-2007	Amend(T)	1-1-2008
309-114-0020	12-1-2007	Amend(T)	1-1-2008
309-114-0025	12-1-2007	Amend(T)	1-1-2008
309-118-0015	12-1-2007	Amend(T)	1-1-2008
330--070-0048	12-1-2007	Amend	1-1-2008
330-007-0200	12-13-2007	Adopt	1-1-2008
330-007-0210	12-13-2007	Adopt	1-1-2008
330-007-0220	12-13-2007	Adopt	1-1-2008
330-007-0230	12-13-2007	Adopt	1-1-2008
330-007-0240	12-13-2007	Adopt	1-1-2008
330-007-0250	12-13-2007	Adopt	1-1-2008
330-007-0260	12-13-2007	Adopt	1-1-2008
330-007-0270	12-13-2007	Adopt	1-1-2008
330-007-0280	12-13-2007	Adopt	1-1-2008
330-007-0290	12-13-2007	Adopt	1-1-2008
330-007-0300	12-13-2007	Adopt	1-1-2008
330-007-0310	12-13-2007	Adopt	1-1-2008
330-007-0320	12-13-2007	Adopt	1-1-2008
330-007-0330	12-13-2007	Adopt	1-1-2008
330-070--0013	12-1-2007	Amend	1-1-2008
330-070-0010	12-1-2007	Amend	1-1-2008
330-070-0014	12-1-2007	Amend	1-1-2008
330-070-0021	12-1-2007	Amend	1-1-2008
330-070-0022	12-1-2007	Amend	1-1-2008
330-070-0025	12-1-2007	Amend	1-1-2008
330-070-0026	12-1-2007	Amend	1-1-2008
330-070-0059	12-1-2007	Amend	1-1-2008
330-070-0060	12-1-2007	Amend	1-1-2008
330-070-0064	12-1-2007	Amend	1-1-2008
330-070-0073	12-1-2007	Amend	1-1-2008
330-070-0089	12-1-2007	Amend	1-1-2008
330-070-0091	12-1-2007	Amend	1-1-2008
330-070-0097	12-1-2007	Amend	1-1-2008
330-090-0105	12-1-2007	Amend	1-1-2008
330-090-0110	12-1-2007	Amend	1-1-2008
330-090-0120	12-1-2007	Amend	1-1-2008
330-090-0130	12-1-2007	Amend	1-1-2008
330-090-0135	12-1-2007	Amend	1-1-2008
330-090-0140	12-1-2007	Amend	1-1-2008
330-090-0150	12-1-2007	Amend	1-1-2008
330-135-0010	1-2-2008	Adopt	2-1-2008
330-135-0015	1-2-2008	Adopt	2-1-2008
330-135-0020	1-2-2008	Adopt	2-1-2008
330-135-0025	1-2-2008	Adopt	2-1-2008
330-135-0030	1-2-2008	Adopt	2-1-2008
330-135-0035	1-2-2008	Adopt	2-1-2008
330-135-0040	1-2-2008	Adopt	2-1-2008
330-135-0045	1-2-2008	Adopt	2-1-2008
330-135-0050	1-2-2008	Adopt	2-1-2008
330-135-0055	1-2-2008	Adopt	2-1-2008
330-150-0005	1-30-2008	Adopt	3-1-2008
330-150-0015	1-30-2008	Adopt	3-1-2008
330-150-0020	1-30-2008	Adopt	3-1-2008
330-150-0025	1-30-2008	Adopt	3-1-2008
330-150-0030	1-30-2008	Adopt	3-1-2008
333-008-0000	1-1-2008	Amend	2-1-2008
333-008-0010	1-1-2008	Amend	2-1-2008
333-008-0020	1-1-2008	Amend	2-1-2008
333-008-0025	1-1-2008	Amend	2-1-2008
333-008-0030	1-1-2008	Amend	2-1-2008
333-008-0040	1-1-2008	Amend	2-1-2008
333-008-0050	1-1-2008	Amend	2-1-2008
333-008-0060	1-1-2008	Amend	2-1-2008
333-008-0070	1-1-2008	Amend	2-1-2008
333-008-0080	1-1-2008	Amend	2-1-2008
333-008-0090	1-1-2008	Amend	2-1-2008
333-008-0110	1-1-2008	Amend	2-1-2008
333-008-0120	1-1-2008	Amend	2-1-2008
333-050-0020	1-8-2008	Amend(T)	2-1-2008
333-050-0050	1-8-2008	Amend(T)	2-1-2008
333-050-0120	1-8-2008	Amend(T)	2-1-2008
333-061-0030	2-15-2008	Amend	3-1-2008
333-061-0032	2-15-2008	Amend	3-1-2008
333-061-0034	2-15-2008	Amend	3-1-2008
333-061-0036	2-15-2008	Amend	3-1-2008
333-061-0040	2-15-2008	Amend	3-1-2008
333-061-0043	2-15-2008	Amend	3-1-2008
333-061-0045	2-15-2008	Amend	3-1-2008
333-061-0050	2-15-2008	Amend	3-1-2008

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333-061-0070	2-15-2008	Amend	3-1-2008
333-061-0072	2-15-2008	Amend	3-1-2008
333-061-0076	2-15-2008	Amend	3-1-2008
333-061-0215	2-15-2008	Amend	3-1-2008
333-061-0245	2-15-2008	Amend	3-1-2008
333-061-0250	2-15-2008	Amend	3-1-2008
333-061-0260	2-15-2008	Amend	3-1-2008
333-061-0265	2-15-2008	Amend	3-1-2008
333-536-0005	1-1-2008	Amend	2-1-2008
333-536-0010	1-1-2008	Amend	2-1-2008
333-536-0015	1-1-2008	Amend	2-1-2008
333-536-0020	1-1-2008	Amend	2-1-2008
333-536-0030	1-1-2008	Amend	2-1-2008
333-536-0040	1-1-2008	Amend	2-1-2008
333-536-0050	1-1-2008	Amend	2-1-2008
333-536-0070	1-1-2008	Amend	2-1-2008
333-536-0075	1-1-2008	Amend	2-1-2008
333-536-0080	1-1-2008	Amend	2-1-2008
333-536-0085	1-1-2008	Amend	2-1-2008
333-536-0090	1-1-2008	Amend	2-1-2008
333-536-0095	1-1-2008	Amend	2-1-2008
333-536-0100	1-1-2008	Repeal	2-1-2008
333-536-0105	1-1-2008	Adopt	2-1-2008
333-536-0115	1-1-2008	Adopt	2-1-2008
340-248-0260	11-30-2007	Amend	1-1-2008
407-005-0110	12-1-2007	Amend	1-1-2008
407-012-0005	12-1-2007	Adopt	1-1-2008
407-012-0010	12-1-2007	Adopt	1-1-2008
407-012-0015	12-1-2007	Adopt	1-1-2008
407-012-0020	12-1-2007	Adopt	1-1-2008
407-012-0025	12-1-2007	Adopt	1-1-2008
407-014-0300	1-1-2008	Adopt	2-1-2008
407-014-0305	1-1-2008	Adopt	2-1-2008
407-014-0310	1-1-2008	Adopt	2-1-2008
407-014-0315	1-1-2008	Adopt	2-1-2008
407-014-0320	1-1-2008	Adopt	2-1-2008
407-045-0800	12-3-2007	Adopt(T)	1-1-2008
407-045-0810	12-3-2007	Adopt(T)	1-1-2008
407-045-0820	12-3-2007	Adopt(T)	1-1-2008
407-045-0830	12-3-2007	Adopt(T)	1-1-2008
407-045-0840	12-3-2007	Adopt(T)	1-1-2008
407-045-0850	12-3-2007	Adopt(T)	1-1-2008
407-045-0860	12-3-2007	Adopt(T)	1-1-2008
407-045-0870	12-3-2007	Adopt(T)	1-1-2008
407-045-0880	12-3-2007	Adopt(T)	1-1-2008
407-045-0890	12-3-2007	Adopt(T)	1-1-2008
407-045-0900	12-3-2007	Adopt(T)	1-1-2008
407-045-0910	12-3-2007	Adopt(T)	1-1-2008
407-045-0920	12-3-2007	Adopt(T)	1-1-2008
407-045-0930	12-3-2007	Adopt(T)	1-1-2008
407-045-0940	12-3-2007	Adopt(T)	1-1-2008
407-045-0950	12-3-2007	Adopt(T)	1-1-2008
407-045-0960	12-3-2007	Adopt(T)	1-1-2008
407-045-0970	12-3-2007	Adopt(T)	1-1-2008
407-045-0980	12-3-2007	Adopt(T)	1-1-2008
407-120-0112	1-1-2008	Adopt(T)	2-1-2008
407-120-0112	2-1-2008	Adopt	3-1-2008
407-120-0112(T)	2-1-2008	Repeal	3-1-2008
407-120-0114	1-1-2008	Adopt(T)	2-1-2008
407-120-0114	2-1-2008	Adopt	3-1-2008
407-120-0114(T)	2-1-2008	Repeal	3-1-2008
407-120-0116	1-1-2008	Adopt(T)	2-1-2008
407-120-0116	2-1-2008	Adopt	3-1-2008
407-120-0116(T)	2-1-2008	Repeal	3-1-2008
407-120-0118	1-1-2008	Adopt(T)	2-1-2008
407-120-0118	2-1-2008	Adopt	3-1-2008
407-120-0118(T)	2-1-2008	Repeal	3-1-2008
407-120-0165	1-1-2008	Adopt(T)	2-1-2008
407-120-0165	2-1-2008	Adopt	3-1-2008
407-120-0165(T)	2-1-2008	Repeal	3-1-2008
407-120-0300	1-1-2008	Adopt	2-1-2008
407-120-0310	1-1-2008	Adopt	2-1-2008
407-120-0320	1-1-2008	Adopt	2-1-2008
407-120-0330	1-1-2008	Adopt	2-1-2008
407-120-0340	1-1-2008	Adopt	2-1-2008
407-120-0350	1-1-2008	Adopt	2-1-2008
407-120-0360	1-1-2008	Adopt	2-1-2008
407-120-0370	1-1-2008	Adopt	2-1-2008
407-120-0380	1-1-2008	Adopt	2-1-2008
410-001-0100	1-1-2008	Amend(T)	2-1-2008
410-001-0100	2-1-2008	Am. & Ren.	3-1-2008
410-001-0100(T)	2-1-2008	Repeal	3-1-2008
410-001-0110	1-1-2008	Amend(T)	2-1-2008
410-001-0110	2-1-2008	Am. & Ren.	3-1-2008
410-001-0110(T)	2-1-2008	Repeal	3-1-2008
410-001-0120	1-1-2008	Amend(T)	2-1-2008
410-001-0120	2-1-2008	Am. & Ren.	3-1-2008
410-001-0120(T)	2-1-2008	Repeal	3-1-2008
410-001-0130	1-1-2008	Amend(T)	2-1-2008
410-001-0130	2-1-2008	Am. & Ren.	3-1-2008
410-001-0130(T)	2-1-2008	Repeal	3-1-2008
410-001-0140	1-1-2008	Amend(T)	2-1-2008
410-001-0140	2-1-2008	Am. & Ren.	3-1-2008
410-001-0140(T)	2-1-2008	Repeal	3-1-2008
410-001-0150	1-1-2008	Amend(T)	2-1-2008
410-001-0150	2-1-2008	Am. & Ren.	3-1-2008
410-001-0150(T)	2-1-2008	Repeal	3-1-2008
410-001-0160	1-1-2008	Amend(T)	2-1-2008
410-001-0160	2-1-2008	Am. & Ren.	3-1-2008
410-001-0160(T)	2-1-2008	Repeal	3-1-2008
410-001-0170	1-1-2008	Amend(T)	2-1-2008
410-001-0170	2-1-2008	Am. & Ren.	3-1-2008
410-001-0170(T)	2-1-2008	Repeal	3-1-2008
410-001-0180	1-1-2008	Amend(T)	2-1-2008
410-001-0180	2-1-2008	Am. & Ren.	3-1-2008
410-001-0180(T)	2-1-2008	Repeal	3-1-2008
410-001-0190	1-1-2008	Amend(T)	2-1-2008
410-001-0190	2-1-2008	Am. & Ren.	3-1-2008
410-001-0190(T)	2-1-2008	Repeal	3-1-2008
410-001-0200	1-1-2008	Amend(T)	2-1-2008
410-001-0200	2-1-2008	Am. & Ren.	3-1-2008

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410-050-0100	1-25-2008	Amend	3-1-2008
410-050-0110	1-25-2008	Amend	3-1-2008
410-050-0120	1-25-2008	Amend	3-1-2008
410-050-0130	1-25-2008	Amend	3-1-2008
410-050-0140	1-25-2008	Amend	3-1-2008
410-050-0150	1-25-2008	Amend	3-1-2008
410-050-0160	1-25-2008	Amend	3-1-2008
410-050-0170	1-25-2008	Amend	3-1-2008
410-050-0180	1-25-2008	Amend	3-1-2008
410-050-0190	1-25-2008	Amend	3-1-2008
410-050-0200	1-25-2008	Amend	3-1-2008
410-050-0210	1-25-2008	Amend	3-1-2008
410-050-0220	1-25-2008	Amend	3-1-2008
410-050-0230	1-25-2008	Amend	3-1-2008
410-050-0240	1-25-2008	Amend	3-1-2008
410-050-0250	1-25-2008	Amend	3-1-2008
410-050-0401	1-25-2008	Amend	3-1-2008
410-050-0411	1-25-2008	Amend	3-1-2008
410-050-0421	1-25-2008	Amend	3-1-2008
410-050-0431	1-25-2008	Amend	3-1-2008
410-050-0441	1-25-2008	Repeal	3-1-2008
410-050-0451	1-25-2008	Amend	3-1-2008
410-050-0461	1-25-2008	Amend	3-1-2008
410-050-0471	1-25-2008	Amend	3-1-2008
410-050-0481	1-25-2008	Amend	3-1-2008
410-050-0491	1-25-2008	Amend	3-1-2008
410-050-0501	1-25-2008	Amend	3-1-2008
410-050-0511	1-25-2008	Amend	3-1-2008
410-050-0521	1-25-2008	Amend	3-1-2008
410-050-0531	1-25-2008	Amend	3-1-2008
410-050-0541	1-25-2008	Amend	3-1-2008
410-050-0551	1-25-2008	Amend	3-1-2008
410-050-0561	1-25-2008	Amend	3-1-2008
410-050-0571	1-25-2008	Repeal	3-1-2008
410-050-0581	1-25-2008	Repeal	3-1-2008
410-050-0591	1-25-2008	Amend	3-1-2008
410-050-0601	1-25-2008	Adopt	3-1-2008
410-050-0700	1-25-2008	Amend	3-1-2008
410-050-0710	1-25-2008	Amend	3-1-2008
410-050-0720	1-25-2008	Amend	3-1-2008
410-050-0730	1-25-2008	Amend	3-1-2008
410-050-0740	1-25-2008	Amend	3-1-2008
410-050-0750	1-25-2008	Amend	3-1-2008
410-050-0760	1-25-2008	Amend	3-1-2008
410-050-0770	1-25-2008	Amend	3-1-2008
410-050-0780	1-25-2008	Amend	3-1-2008
410-050-0790	1-25-2008	Amend	3-1-2008
410-050-0800	1-25-2008	Amend	3-1-2008
410-050-0810	1-25-2008	Amend	3-1-2008
410-050-0820	1-25-2008	Amend	3-1-2008
410-050-0830	1-25-2008	Amend	3-1-2008
410-050-0840	1-25-2008	Amend	3-1-2008
410-050-0850	1-25-2008	Amend	3-1-2008
410-050-0860	1-25-2008	Amend	3-1-2008
410-050-0861	1-1-2008	Amend	2-1-2008
410-050-0861	1-25-2008	Amend	3-1-2008
410-050-0870	1-25-2008	Amend	3-1-2008
410-120-0000	1-1-2008	Amend	1-1-2008
410-120-0010	12-5-2007	Adopt(T)	1-1-2008
410-120-1200	1-1-2008	Amend	1-1-2008
410-120-1295	1-1-2008	Amend	1-1-2008
410-120-1320	1-1-2008	Amend	1-1-2008
410-120-1340	1-1-2008	Amend	1-1-2008
410-120-1397	1-1-2008	Amend	1-1-2008
410-120-1560	1-1-2008	Amend	1-1-2008
410-120-1570	1-1-2008	Amend	1-1-2008
410-121-0040	1-1-2008	Amend	1-1-2008
410-121-0135	1-1-2008	Amend	1-1-2008
410-121-0140	1-1-2008	Amend	1-1-2008
410-121-0146	1-1-2008	Amend	1-1-2008
410-121-0148	1-1-2008	Amend	1-1-2008
410-121-0150	1-1-2008	Amend	1-1-2008
410-121-0155	1-1-2008	Amend	1-1-2008
410-121-0160	1-1-2008	Amend	1-1-2008
410-121-0300	1-1-2008	Amend	1-1-2008
410-122-0202	1-1-2008	Amend	1-1-2008
410-122-0203	1-1-2008	Amend	1-1-2008
410-122-0320	1-1-2008	Amend	1-1-2008
410-122-0325	1-1-2008	Amend	1-1-2008
410-122-0330	1-1-2008	Amend	1-1-2008
410-122-0380	1-1-2008	Amend	1-1-2008
410-122-0662	1-1-2008	Adopt	1-1-2008
410-122-0678	1-1-2008	Amend	1-1-2008
410-122-0720	1-1-2008	Amend	1-1-2008
410-123-1000	1-1-2008	Amend	1-1-2008
410-123-1040	1-1-2008	Repeal	1-1-2008
410-123-1060	1-1-2008	Amend	1-1-2008
410-123-1100	1-1-2008	Amend	1-1-2008
410-123-1160	1-1-2008	Amend	1-1-2008
410-123-1200	1-1-2008	Amend	1-1-2008
410-123-1220	1-1-2008	Amend	1-1-2008
410-123-1240	1-1-2008	Amend	1-1-2008
410-123-1260	1-1-2008	Amend	1-1-2008
410-123-1490	1-1-2008	Amend	1-1-2008
410-123-1620	1-1-2008	Amend	1-1-2008
410-123-1670	1-1-2008	Amend	1-1-2008
410-125-0080	12-20-2007	Amend(T)	2-1-2008
410-127-0060	1-1-2008	Amend	1-1-2008
410-129-0070	1-1-2008	Amend	1-1-2008
410-129-0200	1-1-2008	Amend	1-1-2008
410-130-0200	12-20-2007	Amend(T)	2-1-2008
410-130-0580	12-20-2007	Amend(T)	2-1-2008
410-141-0180	1-1-2008	Amend	1-1-2008
410-141-0480	1-1-2008	Amend	1-1-2008
410-141-0520	12-20-2007	Amend(T)	2-1-2008
410-141-0520(T)	12-20-2007	Suspend	2-1-2008
410-142-0020	1-1-2008	Amend	1-1-2008
410-146-0000	1-1-2008	Amend	1-1-2008
410-146-0020	1-1-2008	Amend	1-1-2008
410-146-0021	1-1-2008	Amend	1-1-2008
410-146-0025	1-1-2008	Repeal	1-1-2008

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410-146-0060	1-1-2008	Amend	1-1-2008
410-146-0075	1-1-2008	Amend	1-1-2008
410-146-0080	1-1-2008	Am. & Ren.	1-1-2008
410-146-0080	1-1-2008	Am. & Ren.	1-1-2008
410-146-0080	1-1-2008	Amend	1-1-2008
410-146-0100	1-1-2008	Amend	1-1-2008
410-146-0120	1-1-2008	Amend	1-1-2008
410-146-0130	1-1-2008	Amend	1-1-2008
410-146-0140	1-1-2008	Amend	1-1-2008
410-146-0160	1-1-2008	Amend	1-1-2008
410-146-0180	1-1-2008	Repeal	1-1-2008
410-146-0200	1-1-2008	Amend	1-1-2008
410-146-0220	1-1-2008	Amend	1-1-2008
410-146-0240	1-1-2008	Amend	1-1-2008
410-146-0340	1-1-2008	Amend	1-1-2008
410-146-0380	1-1-2008	Amend	1-1-2008
410-146-0400	1-1-2008	Repeal	1-1-2008
410-146-0420	1-1-2008	Repeal	1-1-2008
410-146-0440	1-1-2008	Amend	1-1-2008
410-146-0460	1-1-2008	Amend	1-1-2008
410-147-0365	1-1-2008	Amend	1-1-2008
411-085-0005	3-1-2008	Amend(T)	3-1-2008
411-086-0100	3-1-2008	Amend(T)	3-1-2008
411-330-0020	12-28-2007	Amend	2-1-2008
411-330-0020(T)	12-28-2007	Repeal	2-1-2008
411-330-0030	12-28-2007	Amend	2-1-2008
411-330-0030(T)	12-28-2007	Repeal	2-1-2008
411-340-0020	1-1-2008	Amend(T)	2-1-2008
411-340-0060	1-1-2008	Amend(T)	2-1-2008
411-340-0070	1-1-2008	Amend(T)	2-1-2008
411-340-0130	1-1-2008	Amend(T)	2-1-2008
411-340-0150	1-1-2008	Amend(T)	2-1-2008
411-340-0170	1-1-2008	Amend(T)	2-1-2008
413-010-0400	12-1-2007	Amend	1-1-2008
413-010-0410	12-1-2007	Amend	1-1-2008
413-010-0420	12-1-2007	Amend	1-1-2008
413-010-0430	12-1-2007	Amend	1-1-2008
413-010-0440	12-1-2007	Amend	1-1-2008
413-010-0450	12-1-2007	Repeal	1-1-2008
413-010-0460	12-1-2007	Repeal	1-1-2008
413-010-0470	12-1-2007	Repeal	1-1-2008
413-010-0480	12-1-2007	Amend	1-1-2008
413-010-0490	12-1-2007	Repeal	1-1-2008
413-015-0100	12-3-2007	Amend(T)	1-1-2008
413-015-0115	12-3-2007	Amend(T)	1-1-2008
413-015-0115	1-1-2008	Amend(T)	2-1-2008
413-015-0115(T)	12-3-2007	Suspend	1-1-2008
413-015-0115(T)	1-1-2008	Suspend	2-1-2008
413-015-0205	12-3-2007	Amend(T)	1-1-2008
413-015-0205	1-1-2008	Amend(T)	2-1-2008
413-015-0205(T)	1-1-2008	Suspend	2-1-2008
413-015-0210	1-1-2008	Amend(T)	2-1-2008
413-015-0211	1-1-2008	Amend(T)	2-1-2008
413-015-0212	1-1-2008	Amend(T)	2-1-2008
413-015-0215	1-1-2008	Amend(T)	2-1-2008
413-015-0220	1-1-2008	Amend(T)	2-1-2008
413-015-0405	1-1-2008	Amend(T)	2-1-2008
413-015-0415	1-1-2008	Amend(T)	2-1-2008
413-015-0415(T)	1-1-2008	Suspend	2-1-2008
413-015-0520	1-1-2008	Adopt(T)	2-1-2008
413-015-0525	1-1-2008	Adopt(T)	2-1-2008
413-015-0530	1-1-2008	Adopt(T)	2-1-2008
413-015-0535	1-1-2008	Adopt(T)	2-1-2008
413-015-0540	1-1-2008	Adopt(T)	2-1-2008
413-015-0545	1-1-2008	Adopt(T)	2-1-2008
413-015-0550	1-1-2008	Adopt(T)	2-1-2008
413-015-0555	1-1-2008	Adopt(T)	2-1-2008
413-015-0560	1-1-2008	Adopt(T)	2-1-2008
413-015-0565	1-1-2008	Adopt(T)	2-1-2008
413-015-1000	1-1-2008	Amend(T)	2-1-2008
413-070-0600	1-1-2008	Amend(T)	2-1-2008
413-070-0620	1-1-2008	Amend(T)	2-1-2008
413-070-0625	1-1-2008	Amend(T)	2-1-2008
413-070-0640	1-1-2008	Amend(T)	2-1-2008
413-070-0810	1-1-2008	Amend(T)	2-1-2008
413-070-0860	1-1-2008	Amend(T)	2-1-2008
413-070-0880	1-1-2008	Amend(T)	2-1-2008
413-090-0010	1-1-2008	Amend(T)	2-1-2008
413-100-0040	1-1-2008	Suspend	2-1-2008
413-100-0900	1-1-2008	Adopt(T)	2-1-2008
413-100-0905	1-1-2008	Adopt(T)	2-1-2008
413-100-0910	1-1-2008	Adopt(T)	2-1-2008
413-100-0915	1-1-2008	Adopt(T)	2-1-2008
413-100-0920	1-1-2008	Adopt(T)	2-1-2008
413-100-0925	1-1-2008	Adopt(T)	2-1-2008
413-100-0930	1-1-2008	Adopt(T)	2-1-2008
413-100-0935	1-1-2008	Adopt(T)	2-1-2008
413-100-0940	1-1-2008	Adopt(T)	2-1-2008
413-120-0060	12-12-2007	Amend(T)	1-1-2008
413-120-0400	1-1-2008	Amend(T)	2-1-2008
413-120-0410	1-1-2008	Amend(T)	2-1-2008
413-120-0420	1-1-2008	Amend(T)	2-1-2008
413-120-0430	1-1-2008	Suspend	2-1-2008
413-120-0440	1-1-2008	Amend(T)	2-1-2008
413-120-0450	1-1-2008	Amend(T)	2-1-2008
413-120-0455	1-1-2008	Amend(T)	2-1-2008
413-120-0460	1-1-2008	Amend(T)	2-1-2008
413-120-0470	1-1-2008	Amend(T)	2-1-2008
413-200-0210	1-1-2008	Amend(T)	2-1-2008
413-200-0220	1-1-2008	Amend(T)	2-1-2008
413-200-0404	1-1-2008	Adopt(T)	2-1-2008
413-200-0409	1-1-2008	Adopt(T)	2-1-2008
413-200-0414	1-1-2008	Adopt(T)	2-1-2008
413-200-0419	1-1-2008	Adopt(T)	2-1-2008
413-200-0424	1-1-2008	Adopt(T)	2-1-2008
415-010-0005	12-5-2007	Adopt(T)	1-1-2008
415-010-0005	2-12-2008	Suspend	3-1-2008
415-051-0045	12-11-2007	Amend	1-1-2008
436-010-0210	1-2-2008	Amend(T)	1-1-2008
436-010-0220	1-2-2008	Amend(T)	1-1-2008
436-010-0280	1-2-2008	Amend(T)	1-1-2008

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437-001-0215	1-1-2008	Amend	1-1-2008
437-001-0220	1-1-2008	Amend	1-1-2008
437-001-0240	1-1-2008	Amend	1-1-2008
437-001-0255	1-1-2008	Amend	1-1-2008
437-001-0295	12-3-2007	Amend	1-1-2008
437-001-0700	1-1-2008	Amend	2-1-2008
437-001-0706	1-1-2008	Adopt	2-1-2008
437-001-0740	1-1-2008	Amend	2-1-2008
437-002-0100	12-3-2007	Amend	1-1-2008
437-002-0122	12-3-2007	Adopt	1-1-2008
438-005-0046	1-1-2008	Amend	1-1-2008
438-005-0050	1-1-2008	Amend	1-1-2008
438-005-0055	1-1-2008	Amend	1-1-2008
438-006-0020	1-1-2008	Amend	1-1-2008
438-006-0100	1-1-2008	Amend	1-1-2008
438-009-0005	1-1-2008	Amend	1-1-2008
438-009-0010	1-1-2008	Amend	1-1-2008
438-009-0020	1-1-2008	Amend	1-1-2008
438-009-0022	1-1-2008	Amend	1-1-2008
438-009-0025	1-1-2008	Amend	1-1-2008
438-009-0028	1-1-2008	Amend	1-1-2008
438-009-0030	1-1-2008	Amend	1-1-2008
438-009-0035	1-1-2008	Amend	1-1-2008
438-011-0020	1-1-2008	Amend	1-1-2008
438-012-0035	1-1-2008	Amend	1-1-2008
438-015-0005	1-1-2008	Amend	1-1-2008
438-015-0019	1-1-2008	Adopt	1-1-2008
438-015-0022	1-1-2008	Adopt	1-1-2008
438-015-0080	1-1-2008	Amend	1-1-2008
438-019-0030	1-1-2008	Amend	1-1-2008
441-500-0020	1-28-2008	Amend	3-1-2008
441-500-0030	1-28-2008	Amend	3-1-2008
441-710-0500	1-28-2008	Amend	3-1-2008
441-730-0000	12-27-2007	Amend	1-1-2008
441-730-0010	12-27-2007	Amend	1-1-2008
441-730-0015	12-27-2007	Amend	1-1-2008
441-730-0030	1-28-2008	Amend	3-1-2008
441-730-0270	12-27-2007	Amend	1-1-2008
441-730-0275	12-27-2007	Amend	1-1-2008
441-730-0310	12-27-2007	Amend	1-1-2008
441-755-0000	11-30-2007	Adopt	1-1-2008
441-755-0010	11-30-2007	Adopt	1-1-2008
441-755-0100	11-30-2007	Adopt	1-1-2008
441-755-0110	11-30-2007	Adopt	1-1-2008
441-755-0120	11-30-2007	Adopt	1-1-2008
441-755-0130	11-30-2007	Adopt	1-1-2008
441-755-0140	11-30-2007	Adopt	1-1-2008
441-755-0150	11-30-2007	Adopt	1-1-2008
441-755-0160	11-30-2007	Adopt	1-1-2008
441-755-0170	11-30-2007	Adopt	1-1-2008
441-755-0200	11-30-2007	Adopt	1-1-2008
441-755-0210	11-30-2007	Adopt	1-1-2008
441-755-0220	11-30-2007	Adopt	1-1-2008
441-755-0300	11-30-2007	Adopt	1-1-2008
441-755-0310	11-30-2007	Adopt	1-1-2008
443-002-0010	1-2-2008	Amend	2-1-2008
443-002-0030	1-2-2008	Amend(T)	2-1-2008
443-002-0060	1-2-2008	Amend	2-1-2008
443-002-0070	1-2-2008	Amend	2-1-2008
443-002-0095	1-2-2008	Repeal	2-1-2008
443-002-0100	1-2-2008	Amend	2-1-2008
459-007-0110	11-23-2007	Amend	1-1-2008
459-007-0160	11-23-2007	Adopt	1-1-2008
459-007-0290	11-23-2007	Amend	1-1-2008
459-007-0530	11-23-2007	Amend	1-1-2008
459-009-0084	11-23-2007	Amend	1-1-2008
459-009-0085	11-23-2007	Amend	1-1-2008
459-009-0090	11-23-2007	Amend	1-1-2008
459-010-0003	11-23-2007	Amend	1-1-2008
459-010-0014	11-23-2007	Amend	1-1-2008
459-010-0035	11-23-2007	Amend	1-1-2008
459-010-0055	11-23-2007	Amend	1-1-2008
459-011-0050	11-23-2007	Amend	1-1-2008
459-013-0110	11-23-2007	Amend	1-1-2008
459-017-0060	11-23-2007	Amend	1-1-2008
459-045-0030	11-23-2007	Amend	1-1-2008
459-050-0080	11-23-2007	Amend	1-1-2008
459-050-0220	11-23-2007	Amend	1-1-2008
459-070-0001	11-23-2007	Amend	1-1-2008
459-075-0010	11-23-2007	Amend	1-1-2008
459-075-0020	11-23-2007	Adopt	1-1-2008
459-075-0150	11-23-2007	Amend	1-1-2008
459-080-0020	11-23-2007	Adopt	1-1-2008
459-080-0250	11-23-2007	Amend	1-1-2008
461-001-0000	1-1-2008	Amend	2-1-2008
461-001-0000	1-1-2008	Amend(T)	2-1-2008
461-001-0000(T)	1-1-2008	Repeal	2-1-2008
461-001-0035	1-1-2008	Amend	2-1-2008
461-025-0350	1-1-2008	Amend(T)	2-1-2008
461-115-0050	1-28-2008	Amend(T)	3-1-2008
461-115-0700	1-1-2008	Amend	2-1-2008
461-120-0120	1-30-2008	Amend(T)	3-1-2008
461-120-0125	1-30-2008	Amend(T)	3-1-2008
461-120-0310	12-1-2007	Amend(T)	1-1-2008
461-120-0310(T)	12-1-2007	Suspend	1-1-2008
461-135-0082	1-30-2008	Amend(T)	3-1-2008
461-135-0493	12-17-2007	Amend(T)	2-1-2008
461-135-0725	1-1-2008	Amend	2-1-2008
461-135-0780	1-1-2008	Amend	2-1-2008
461-135-0835	1-1-2008	Amend	2-1-2008
461-135-0900	1-30-2008	Amend(T)	3-1-2008
461-135-1102	1-28-2008	Amend(T)	3-1-2008
461-135-1125	1-28-2008	Adopt(T)	3-1-2008
461-140-0220	1-1-2008	Amend	2-1-2008
461-145-0030	1-1-2008	Amend	2-1-2008
461-145-0108	1-1-2008	Amend	2-1-2008
461-145-0180	1-1-2008	Repeal	2-1-2008
461-145-0220	1-1-2008	Amend	2-1-2008
461-145-0580	1-1-2008	Amend	2-1-2008
461-150-0047	1-1-2008	Amend	2-1-2008

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461-155-0250	1-1-2008	Amend	2-1-2008
461-155-0270	1-1-2008	Amend	2-1-2008
461-155-0300	1-1-2008	Amend	2-1-2008
461-155-0320	1-1-2008	Amend(T)	2-1-2008
461-160-0040	1-1-2008	Amend	2-1-2008
461-160-0055	1-1-2008	Amend	2-1-2008
461-160-0410	1-1-2008	Amend	2-1-2008
461-160-0415	1-1-2008	Amend	2-1-2008
461-160-0550	1-1-2008	Amend	2-1-2008
461-160-0580	1-1-2008	Amend	2-1-2008
461-160-0620	1-1-2008	Amend	2-1-2008
461-160-0855	1-1-2008	Adopt	2-1-2008
461-170-0130	1-1-2008	Amend	2-1-2008
461-175-0200	1-1-2008	Amend(T)	2-1-2008
461-175-0270	1-1-2008	Amend	2-1-2008
461-175-0340	1-1-2008	Amend(T)	2-1-2008
461-180-0085	1-1-2008	Amend	2-1-2008
461-190-0201	10-1-2007	Suspend	2-1-2008
461-195-0501	1-1-2008	Amend	2-1-2008
461-195-0501	1-1-2008	Amend(T)	2-1-2008
461-195-0501(T)	1-1-2008	Repeal	2-1-2008
461-195-0511	1-1-2008	Amend	2-1-2008
461-195-0521	1-1-2008	Amend	2-1-2008
461-195-0551	1-1-2008	Amend	2-1-2008
461-195-0551	1-1-2008	Amend(T)	2-1-2008
461-195-0551(T)	1-1-2008	Repeal	2-1-2008
462-160-0110	11-28-2007	Amend(T)	1-1-2008
462-160-0120	11-28-2007	Amend(T)	1-1-2008
462-160-0130	11-28-2007	Amend(T)	1-1-2008
462-200-0630	12-6-2007	Repeal	1-1-2008
471-010-0050	1-7-2008	Suspend	2-1-2008
471-010-0051	1-7-2008	Suspend	2-1-2008
471-010-0052	1-7-2008	Suspend	2-1-2008
471-010-0054	1-7-2008	Suspend	2-1-2008
471-010-0055	1-7-2008	Suspend	2-1-2008
471-010-0057	1-7-2008	Suspend	2-1-2008
471-030-0050	12-3-2007	Amend	1-1-2008
471-030-0052	2-15-2008	Amend(T)	3-1-2008
471-041-0060	1-8-2008	Amend	2-1-2008
543-001-0005	1-17-2008	Amend	3-1-2008
574-050-0005	2-1-2008	Amend	3-1-2008
575-095-0005	1-9-2008	Adopt	2-1-2008
575-095-0010	1-9-2008	Adopt	2-1-2008
575-095-0015	1-9-2008	Adopt	2-1-2008
575-095-0020	1-9-2008	Adopt	2-1-2008
575-095-0025	1-9-2008	Adopt	2-1-2008
575-095-0030	1-9-2008	Adopt	2-1-2008
575-095-0035	1-9-2008	Adopt	2-1-2008
575-095-0040	1-9-2008	Adopt	2-1-2008
575-095-0045	1-9-2008	Adopt	2-1-2008
577-030-0035	1-1-2008	Amend(T)	2-1-2008
580-040-0035	1-14-2008	Amend	2-1-2008
580-043-0060	1-14-2008	Amend	2-1-2008
580-043-0065	1-14-2008	Amend	2-1-2008
580-043-0070	1-14-2008	Amend	2-1-2008
580-043-0075	1-14-2008	Amend	2-1-2008
580-043-0085	1-14-2008	Amend	2-1-2008
580-043-0090	1-14-2008	Amend	2-1-2008
580-043-0095	1-14-2008	Amend	2-1-2008
580-043-0100	1-14-2008	Adopt	2-1-2008
581-011-0140	1-25-2008	Amend	3-1-2008
581-015-2570	12-12-2007	Amend	1-1-2008
581-015-2595	12-12-2007	Amend	1-1-2008
581-020-0060	1-25-2008	Amend	3-1-2008
581-020-0065	1-25-2008	Amend	3-1-2008
581-020-0070	1-25-2008	Amend	3-1-2008
581-020-0075	1-25-2008	Amend	3-1-2008
581-020-0080	1-25-2008	Amend	3-1-2008
581-020-0085	1-25-2008	Amend	3-1-2008
581-020-0090	1-25-2008	Amend	3-1-2008
581-020-0250	12-12-2007	Adopt	1-1-2008
581-022-1065	1-25-2008	Amend	3-1-2008
581-022-1661	12-12-2007	Adopt	1-1-2008
581-022-1940	12-12-2007	Amend	1-1-2008
581-022-1941	12-12-2007	Adopt	1-1-2008
581-023-0104	12-12-2007	Amend	1-1-2008
581-024-0285	12-12-2007	Amend	1-1-2008
582-001-0010	2-4-2008	Amend	3-1-2008
582-030-0005	2-4-2008	Amend	3-1-2008
582-030-0008	2-4-2008	Amend	3-1-2008
582-070-0020	2-4-2008	Amend	3-1-2008
582-070-0025	2-4-2008	Amend	3-1-2008
582-070-0030	2-4-2008	Amend	3-1-2008
583-050-0011	2-7-2008	Amend	3-1-2008
584-017-0185	2-15-2008	Amend(T)	3-1-2008
584-017-0351	12-14-2007	Adopt	1-1-2008
584-019-0002	12-14-2007	Amend	1-1-2008
584-019-0003	12-14-2007	Amend	1-1-2008
584-019-0020	12-14-2007	Repeal	1-1-2008
584-019-0025	12-14-2007	Amend	1-1-2008
584-019-0035	12-14-2007	Amend	1-1-2008
584-019-0040	12-14-2007	Amend	1-1-2008
584-020-0000	12-14-2007	Amend	1-1-2008
584-020-0005	12-14-2007	Amend	1-1-2008
584-020-0010	12-14-2007	Amend	1-1-2008
584-020-0015	12-14-2007	Amend	1-1-2008
584-020-0020	12-14-2007	Amend	1-1-2008
584-020-0025	12-14-2007	Amend	1-1-2008
584-020-0030	12-14-2007	Amend	1-1-2008
584-020-0035	12-14-2007	Amend	1-1-2008
584-020-0040	12-14-2007	Amend	1-1-2008
584-020-0041	12-14-2007	Amend	1-1-2008
584-023-0005	12-14-2007	Amend	1-1-2008
584-023-0015	12-14-2007	Amend	1-1-2008
584-023-0025	12-14-2007	Amend	1-1-2008
584-038-0080	12-14-2007	Amend	1-1-2008
584-038-0335	12-14-2007	Amend	1-1-2008
584-038-0336	12-14-2007	Amend	1-1-2008
584-040-0080	12-14-2007	Amend	1-1-2008
584-040-0310	12-14-2007	Amend	1-1-2008

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584-050-0005	12-14-2007	Amend	1-1-2008
584-050-0006	12-14-2007	Amend	1-1-2008
584-050-0009	12-14-2007	Amend	1-1-2008
584-050-0012	12-14-2007	Amend	1-1-2008
584-050-0015	12-14-2007	Amend	1-1-2008
584-050-0016	12-14-2007	Amend	1-1-2008
584-050-0018	12-14-2007	Amend	1-1-2008
584-050-0019	12-14-2007	Amend	1-1-2008
584-050-0020	12-14-2007	Amend	1-1-2008
584-050-0035	12-14-2007	Amend	1-1-2008
584-050-0040	12-14-2007	Amend	1-1-2008
584-050-0042	12-14-2007	Amend	1-1-2008
584-050-0065	12-14-2007	Amend	1-1-2008
584-050-0066	12-14-2007	Amend	1-1-2008
584-050-0067	12-14-2007	Amend	1-1-2008
584-050-0070	12-14-2007	Amend	1-1-2008
584-052-0032	12-14-2007	Amend	1-1-2008
584-060-0012	12-14-2007	Amend	1-1-2008
584-060-0051	2-15-2008	Amend(T)	3-1-2008
584-070-0011	12-14-2007	Repeal	1-1-2008
584-070-0014	12-14-2007	Amend	1-1-2008
584-070-0021	12-14-2007	Repeal	1-1-2008
603-011-0610	11-28-2007	Amend	1-1-2008
603-011-0620	11-28-2007	Amend	1-1-2008
603-014-0016	2-6-2008	Amend	3-1-2008
603-014-0055	2-6-2008	Amend	3-1-2008
603-014-0065	2-6-2008	Amend	3-1-2008
603-014-0095	2-6-2008	Amend	3-1-2008
603-014-0100	2-6-2008	Repeal	3-1-2008
603-014-0135	2-6-2008	Amend	3-1-2008
603-027-0410	2-15-2008	Amend	3-1-2008
603-027-0420	11-29-2007	Amend(T)	1-1-2008
603-027-0420	2-15-2008	Amend	3-1-2008
603-027-0420(T)	11-29-2007	Suspend	1-1-2008
603-027-0430	11-29-2007	Amend(T)	1-1-2008
603-027-0430	2-15-2008	Amend	3-1-2008
603-027-0430(T)	11-29-2007	Suspend	1-1-2008
603-027-0440	2-15-2008	Amend	3-1-2008
603-027-0470	2-15-2008	Amend	3-1-2008
603-027-0490	2-15-2008	Amend	3-1-2008
603-052-0127	2-8-2008	Amend	3-1-2008
603-052-0129	2-8-2008	Amend	3-1-2008
603-052-0130	2-8-2008	Repeal	3-1-2008
603-052-0132	2-8-2008	Repeal	3-1-2008
603-052-0134	2-8-2008	Repeal	3-1-2008
603-052-0136	2-8-2008	Repeal	3-1-2008
603-052-0138	2-8-2008	Repeal	3-1-2008
603-052-0140	2-8-2008	Repeal	3-1-2008
603-052-0142	2-8-2008	Repeal	3-1-2008
603-052-0145	2-8-2008	Repeal	3-1-2008
603-052-0347	1-11-2008	Amend	2-1-2008
603-052-0360	2-8-2008	Amend	3-1-2008
603-052-0880	1-7-2008	Amend	2-1-2008
603-052-1221	2-8-2008	Amend	3-1-2008
603-052-1230	1-16-2008	Amend	3-1-2008
603-052-1240	1-7-2008	Amend	2-1-2008
603-052-1250	1-16-2008	Amend	3-1-2008
603-054-0016	1-7-2008	Amend	2-1-2008
603-054-0017	1-7-2008	Amend	2-1-2008
603-054-0018	1-7-2008	Amend	2-1-2008
603-054-0024	1-7-2008	Amend	2-1-2008
603-054-0035	2-15-2008	Amend	3-1-2008
620-020-0010	1-25-2008	Adopt	3-1-2008
620-020-0020	1-25-2008	Adopt	3-1-2008
620-020-0030	1-25-2008	Adopt	3-1-2008
623-040-0005	12-3-2007	Adopt	1-1-2008
623-040-0010	12-3-2007	Adopt	1-1-2008
623-040-0015	12-3-2007	Adopt	1-1-2008
629-043-0040	1-1-2008	Amend	2-1-2008
629-043-0041	1-1-2008	Repeal	2-1-2008
629-043-0043	1-1-2008	Repeal	2-1-2008
629-048-0001	1-1-2008	Adopt	2-1-2008
629-048-0005	1-1-2008	Adopt	2-1-2008
629-048-0010	1-1-2008	Adopt	2-1-2008
629-048-0020	1-1-2008	Adopt	2-1-2008
629-048-0100	1-1-2008	Adopt	2-1-2008
629-048-0110	1-1-2008	Adopt	2-1-2008
629-048-0120	1-1-2008	Adopt	2-1-2008
629-048-0130	1-1-2008	Adopt	2-1-2008
629-048-0140	1-1-2008	Adopt	2-1-2008
629-048-0150	1-1-2008	Adopt	2-1-2008
629-048-0160	1-1-2008	Adopt	2-1-2008
629-048-0200	1-1-2008	Adopt	2-1-2008
629-048-0210	1-1-2008	Adopt	2-1-2008
629-048-0220	1-1-2008	Adopt	2-1-2008
629-048-0230	1-1-2008	Adopt	2-1-2008
629-048-0300	1-1-2008	Adopt	2-1-2008
629-048-0310	1-1-2008	Adopt	2-1-2008
629-048-0320	1-1-2008	Adopt	2-1-2008
629-048-0330	1-1-2008	Adopt	2-1-2008
629-048-0400	1-1-2008	Adopt	2-1-2008
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629-048-0500	1-1-2008	Adopt	2-1-2008
635-001-0210	1-1-2008	Amend	2-1-2008
635-004-0018	1-1-2008	Amend	1-1-2008
635-004-0019	11-28-2007	Amend(T)	1-1-2008
635-004-0019	12-11-2007	Amend(T)	1-1-2008
635-004-0019(T)	11-28-2007	Suspend	1-1-2008
635-004-0027	1-1-2008	Amend(T)	2-1-2008
635-004-0033	11-28-2007	Amend(T)	1-1-2008
635-004-0033	1-1-2008	Amend	1-1-2008
635-004-0033(T)	11-28-2007	Suspend	1-1-2008
635-004-0170	11-28-2007	Amend(T)	1-1-2008
635-004-0170	1-1-2008	Amend	1-1-2008
635-005-0005	1-23-2008	Amend	3-1-2008
635-005-0055	12-11-2007	Amend(T)	1-1-2008
635-005-0055	12-14-2007	Amend(T)	1-1-2008
635-005-0055	12-14-2007	Suspend	1-1-2008
635-005-0064	1-23-2008	Amend	3-1-2008
635-005-0065	1-23-2008	Amend	3-1-2008

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635-006-0232	1-15-2008	Amend	2-1-2008
635-006-0850	1-1-2008	Amend(T)	2-1-2008
635-006-0850	1-23-2008	Amend	3-1-2008
635-006-0850(T)	1-23-2008	Repeal	3-1-2008
635-006-0910	1-23-2008	Amend	3-1-2008
635-006-0930	1-23-2008	Amend	3-1-2008
635-006-1015	1-15-2008	Amend	2-1-2008
635-006-1065	1-15-2008	Amend	2-1-2008
635-006-1075	1-15-2008	Amend	2-1-2008
635-011-0100	1-1-2008	Amend	2-1-2008
635-013-0003	1-1-2008	Amend	2-1-2008
635-013-0004	1-1-2008	Amend	2-1-2008
635-014-0080	1-1-2008	Amend	2-1-2008
635-014-0090	1-1-2008	Amend	2-1-2008
635-016-0080	1-1-2008	Amend	2-1-2008
635-016-0090	1-1-2008	Amend	2-1-2008
635-016-0090	1-1-2008	Amend	2-1-2008
635-017-0080	1-1-2008	Amend	2-1-2008
635-017-0090	1-1-2008	Amend	2-1-2008
635-017-0090	1-1-2008	Amend	2-1-2008
635-017-0090	1-9-2008	Amend(T)	2-1-2008
635-017-0090	2-1-2008	Amend(T)	3-1-2008
635-017-0090(T)	2-1-2008	Suspend	3-1-2008
635-017-0095	1-1-2008	Amend	2-1-2008
635-017-0095	1-1-2008	Amend(T)	2-1-2008
635-017-0095	2-11-2008	Amend	3-1-2008
635-017-0095(T)	1-1-2008	Suspend	2-1-2008
635-017-0095(T)	2-11-2008	Repeal	3-1-2008
635-018-0080	1-1-2008	Amend	2-1-2008
635-018-0090	1-1-2008	Amend	2-1-2008
635-019-0080	1-1-2008	Amend	2-1-2008
635-019-0090	1-1-2008	Amend	2-1-2008
635-021-0080	1-1-2008	Amend	2-1-2008
635-021-0090	1-1-2008	Amend	2-1-2008
635-023-0080	1-1-2008	Amend	2-1-2008
635-023-0090	1-1-2008	Amend	2-1-2008
635-023-0095	1-1-2008	Amend	2-1-2008
635-023-0095	1-1-2008	Amend(T)	2-1-2008
635-023-0095	2-11-2008	Amend	3-1-2008
635-023-0095(T)	1-1-2008	Suspend	2-1-2008
635-023-0095(T)	2-11-2008	Repeal	3-1-2008
635-023-0125	1-1-2008	Amend	2-1-2008
635-023-0128	1-1-2008	Amend	2-1-2008
635-023-0130	1-1-2008	Amend	2-1-2008
635-039-0080	1-1-2008	Amend	2-1-2008
635-039-0090	1-1-2008	Amend	2-1-2008
635-041-0050	2-11-2008	Amend	3-1-2008
635-041-0065	1-31-2008	Amend(T)	3-1-2008
635-042-0010	2-11-2008	Amend	3-1-2008
635-042-0130	12-1-2007	Amend(T)	1-1-2008
635-042-0130	1-1-2008	Amend(T)	2-1-2008
635-042-0130	2-11-2008	Amend	3-1-2008
635-042-0130(T)	1-1-2008	Suspend	2-1-2008
635-042-0130(T)	2-11-2008	Repeal	3-1-2008
635-042-0135	1-1-2008	Amend(T)	2-1-2008
635-042-0135	1-31-2008	Amend(T)	3-1-2008
635-042-0135	2-11-2008	Amend	3-1-2008
635-042-0135(T)	1-31-2008	Suspend	3-1-2008
635-042-0135(T)	2-11-2008	Repeal	3-1-2008
635-042-0145	1-31-2008	Amend(T)	3-1-2008
635-042-0160	1-31-2008	Amend(T)	3-1-2008
635-042-0180	1-31-2008	Amend(T)	3-1-2008
635-048-0005	1-1-2008	Amend	2-1-2008
635-048-0010	1-1-2008	Amend	2-1-2008
635-048-0030	1-1-2008	Amend	2-1-2008
635-056-0010	11-19-2007	Amend	1-1-2008
635-056-0020	11-19-2007	Amend	1-1-2008
635-057-0000	11-19-2007	Adopt	1-1-2008
635-060-0023	12-1-2007	Amend	1-1-2008
635-200-0090	12-31-2007	Amend(T)	2-1-2008
641-020-0010	3-22-2008	Adopt	3-1-2008
641-020-0020	3-22-2008	Adopt	3-1-2008
641-020-0030	3-22-2008	Adopt	3-1-2008
642-020-0010	3-22-2008	Adopt	3-1-2008
642-020-0020	3-22-2008	Adopt	3-1-2008
642-020-0030	3-22-2008	Adopt	3-1-2008
644-040-0010	2-15-2008	Adopt	3-1-2008
644-040-0020	2-15-2008	Adopt	3-1-2008
644-040-0030	2-15-2008	Adopt	3-1-2008
646-040-0000	1-23-2008	Adopt	3-1-2008
646-040-0010	1-23-2008	Adopt	3-1-2008
646-040-0020	1-23-2008	Adopt	3-1-2008
655-040-0000	4-1-2008	Adopt	3-1-2008
655-040-0010	4-1-2008	Adopt	3-1-2008
655-040-0020	4-1-2008	Adopt	3-1-2008
657-020-0010	3-22-2008	Adopt	3-1-2008
657-020-0020	3-22-2008	Adopt	3-1-2008
657-020-0030	3-22-2008	Adopt	3-1-2008
660-002-0010	12-10-2007	Amend(T)	1-1-2008
660-002-0015	12-10-2007	Amend(T)	1-1-2008
660-004-0040	2-13-2008	Amend	3-1-2008
660-011-0060	2-13-2008	Amend	3-1-2008
660-021-0010	2-13-2008	Amend	3-1-2008
660-021-0020	2-13-2008	Amend	3-1-2008
660-021-0030	2-13-2008	Amend	3-1-2008
660-021-0040	2-13-2008	Amend	3-1-2008
660-021-0050	2-13-2008	Amend	3-1-2008
660-021-0060	2-13-2008	Amend	3-1-2008
660-021-0070	2-13-2008	Amend	3-1-2008
660-021-0080	2-13-2008	Amend	3-1-2008
660-025-0040	2-13-2008	Amend	3-1-2008
660-027-0005	2-13-2008	Adopt	3-1-2008
660-027-0010	2-13-2008	Adopt	3-1-2008
660-027-0020	2-13-2008	Adopt	3-1-2008
660-027-0030	2-13-2008	Adopt	3-1-2008
660-027-0040	2-13-2008	Adopt	3-1-2008
660-027-0050	2-13-2008	Adopt	3-1-2008
660-027-0060	2-13-2008	Adopt	3-1-2008
660-027-0070	2-13-2008	Adopt	3-1-2008
660-027-0080	2-13-2008	Adopt	3-1-2008
660-041-0000	12-10-2007	Amend(T)	1-1-2008

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660-041-0030	12-10-2007	Amend(T)	1-1-2008
660-041-0040	12-10-2007	Amend(T)	1-1-2008
660-041-0050	12-10-2007	Suspend	1-1-2008
660-041-0060	12-10-2007	Adopt(T)	1-1-2008
660-041-0070	12-10-2007	Adopt(T)	1-1-2008
660-041-0500	12-10-2007	Adopt(T)	1-1-2008
660-041-0510	12-10-2007	Adopt(T)	1-1-2008
660-041-0520	12-10-2007	Adopt(T)	1-1-2008
660-041-0530	12-10-2007	Adopt(T)	1-1-2008
664-020-0010	4-1-2008	Adopt	3-1-2008
664-020-0020	4-1-2008	Adopt	3-1-2008
664-020-0030	4-1-2008	Adopt	3-1-2008
670-020-0010	3-22-2008	Adopt	3-1-2008
670-020-0020	3-22-2008	Adopt	3-1-2008
670-020-0030	3-22-2008	Adopt	3-1-2008
678-030-0000	1-11-2008	Adopt	2-1-2008
678-030-0010	1-11-2008	Adopt	2-1-2008
678-030-0020	1-11-2008	Adopt	2-1-2008
678-030-0030	1-11-2008	Adopt	2-1-2008
731-001-0025	12-24-2007	Amend	2-1-2008
731-005-0450	1-24-2008	Amend(T)	3-1-2008
731-005-0550	12-24-2007	Amend(T)	2-1-2008
734-010-0230	1-24-2008	Amend(T)	3-1-2008
734-010-0260	1-24-2008	Amend(T)	3-1-2008
734-059-0020	12-24-2007	Adopt	2-1-2008
734-059-0025	12-24-2007	Adopt	2-1-2008
734-059-0030	12-24-2007	Adopt	2-1-2008
734-059-0050	12-24-2007	Adopt	2-1-2008
735-010-0045	12-24-2007	Amend	2-1-2008
735-010-0130	2-4-2008	Amend(T)	3-1-2008
735-016-0030	2-4-2008	Amend	3-1-2008
735-016-0040	2-4-2008	Amend	3-1-2008
735-020-0075	11-30-2007	Adopt	1-1-2008
735-024-0070	1-1-2008	Amend(T)	2-1-2008
735-024-0080	1-1-2008	Amend(T)	2-1-2008
735-030-0300	1-1-2008	Adopt	2-1-2008
735-030-0310	1-1-2008	Adopt	2-1-2008
735-030-0320	1-1-2008	Adopt	2-1-2008
735-030-0330	1-1-2008	Adopt	2-1-2008
735-032-0020	1-1-2008	Amend(T)	2-1-2008
735-032-0050	1-1-2008	Amend	2-1-2008
735-040-0040	1-1-2008	Amend(T)	2-1-2008
735-040-0050	1-1-2008	Amend(T)	2-1-2008
735-040-0080	1-1-2008	Amend(T)	2-1-2008
735-040-0090	1-1-2008	Amend(T)	2-1-2008
735-040-0100	1-1-2008	Amend(T)	2-1-2008
735-046-0010	1-1-2008	Amend(T)	2-1-2008
735-046-0050	1-1-2008	Amend(T)	2-1-2008
735-050-0000	2-4-2008	Amend	3-1-2008
735-050-0060	2-4-2008	Amend	3-1-2008
735-050-0062	2-4-2008	Amend	3-1-2008
735-050-0064	2-4-2008	Amend	3-1-2008
735-060-0120	1-1-2008	Amend	2-1-2008
735-062-0000	1-1-2008	Amend	2-1-2008
735-062-0000	2-4-2008	Amend(T)	3-1-2008
735-062-0005	2-4-2008	Amend(T)	3-1-2008
735-062-0010	2-4-2008	Amend(T)	3-1-2008
735-062-0020	2-4-2008	Amend(T)	3-1-2008
735-062-0021	2-4-2008	Adopt(T)	3-1-2008
735-062-0030	2-4-2008	Amend	3-1-2008
735-062-0030	2-4-2008	Amend(T)	3-1-2008
735-062-0050	1-1-2008	Amend	2-1-2008
735-062-0073	1-1-2008	Amend	2-1-2008
735-062-0090	1-1-2008	Amend	2-1-2008
735-062-0090	2-4-2008	Amend(T)	3-1-2008
735-062-0110	2-4-2008	Amend(T)	3-1-2008
735-062-0200	1-1-2008	Amend	2-1-2008
735-062-0320	1-1-2008	Amend	2-1-2008
735-062-0330	1-1-2008	Amend	2-1-2008
735-062-0380	1-1-2008	Amend	2-1-2008
735-062-0390	1-1-2008	Adopt	2-1-2008
735-064-0005	2-4-2008	Amend	3-1-2008
735-064-0040	1-1-2008	Amend	2-1-2008
735-064-0070	1-1-2008	Amend	1-1-2008
735-064-0100	1-25-2008	Amend	3-1-2008
735-064-0220	1-1-2008	Amend	2-1-2008
735-064-0230	1-25-2008	Amend	3-1-2008
735-070-0010	2-4-2008	Amend(T)	3-1-2008
735-070-0080	1-1-2008	Amend	1-1-2008
735-070-0190	12-24-2007	Amend	2-1-2008
735-072-0035	1-1-2008	Amend	2-1-2008
735-074-0080	1-1-2008	Amend	2-1-2008
735-074-0140	1-1-2008	Amend	2-1-2008
735-074-0180	1-1-2008	Amend	2-1-2008
735-074-0260	1-1-2008	Am. & Ren.	2-1-2008
735-074-0270	1-1-2008	Am. & Ren.	2-1-2008
735-074-0280	1-1-2008	Am. & Ren.	2-1-2008
735-074-0290	1-1-2008	Am. & Ren.	2-1-2008
735-076-0002	1-1-2008	Amend	2-1-2008
735-076-0007	1-1-2008	Amend	2-1-2008
735-076-0018	1-1-2008	Amend	2-1-2008
735-076-0020	1-1-2008	Amend	2-1-2008
735-076-0035	1-1-2008	Amend	2-1-2008
735-080-0010	1-1-2008	Repeal	2-1-2008
735-080-0020	1-1-2008	Amend	2-1-2008
735-080-0030	1-1-2008	Repeal	2-1-2008
735-080-0040	1-1-2008	Amend	2-1-2008
735-080-0080	1-1-2008	Amend	2-1-2008
735-090-0000	12-24-2007	Amend	2-1-2008
735-090-0020	12-24-2007	Amend	2-1-2008
735-090-0051	12-24-2007	Amend	2-1-2008
735-090-0120	12-24-2007	Amend	2-1-2008
735-090-0130	12-24-2007	Amend	2-1-2008
735-152-0000	1-1-2008	Amend(T)	2-1-2008
735-152-0040	1-1-2008	Amend(T)	2-1-2008
735-152-0050	1-1-2008	Amend(T)	2-1-2008
735-152-0060	1-1-2008	Amend(T)	2-1-2008
735-158-0000	11-30-2007	Amend	1-1-2008
735-160-0115	12-24-2007	Amend	2-1-2008
736-002-0010	2-15-2008	Amend	3-1-2008
736-002-0020	2-15-2008	Amend	3-1-2008

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736-002-0032	2-15-2008	Adopt	3-1-2008
736-002-0038	2-15-2008	Adopt	3-1-2008
736-002-0040	2-15-2008	Repeal	3-1-2008
736-002-0042	2-15-2008	Adopt	3-1-2008
736-002-0050	2-15-2008	Adopt	3-1-2008
736-002-0052	2-15-2008	Adopt	3-1-2008
736-002-0058	2-15-2008	Adopt	3-1-2008
736-002-0060	2-15-2008	Repeal	3-1-2008
736-002-0070	2-15-2008	Amend	3-1-2008
736-002-0080	2-15-2008	Repeal	3-1-2008
736-002-0082	2-15-2008	Adopt	3-1-2008
736-002-0090	2-15-2008	Repeal	3-1-2008
736-002-0092	2-15-2008	Adopt	3-1-2008
736-002-0100	2-15-2008	Repeal	3-1-2008
736-002-0102	2-15-2008	Adopt	3-1-2008
736-002-0150	2-15-2008	Adopt	3-1-2008
736-002-0160	2-15-2008	Adopt	3-1-2008
736-006-0100	3-1-2008	Amend	3-1-2008
736-006-0110	3-1-2008	Amend(T)	3-1-2008
736-006-0115	3-1-2008	Amend	3-1-2008
736-006-0125	3-1-2008	Amend	3-1-2008
736-006-0140	3-1-2008	Amend	3-1-2008
736-006-0150	3-1-2008	Amend	3-1-2008
736-054-0005	2-15-2008	Amend	3-1-2008
736-054-0010	2-15-2008	Amend	3-1-2008
736-054-0015	2-15-2008	Amend	3-1-2008
736-054-0025	2-15-2008	Amend	3-1-2008
800-010-0015	2-1-2008	Amend	2-1-2008
800-010-0017	2-1-2008	Amend	2-1-2008
800-010-0025	2-1-2008	Amend	2-1-2008
800-010-0030	2-1-2008	Amend	2-1-2008
800-010-0041	2-1-2008	Amend	2-1-2008
800-015-0005	2-1-2008	Amend	2-1-2008
800-015-0010	2-1-2008	Amend	2-1-2008
800-015-0015	2-1-2008	Adopt	2-1-2008
800-015-0030	2-1-2008	Amend	2-1-2008
800-020-0015	2-1-2008	Amend	2-1-2008
800-020-0020	2-1-2008	Amend	2-1-2008
800-020-0022	2-1-2008	Amend	2-1-2008
800-020-0025	2-1-2008	Amend	2-1-2008
800-020-0026	2-1-2008	Amend	2-1-2008
800-020-0030	2-1-2008	Amend	2-1-2008
800-020-0031	2-1-2008	Amend	2-1-2008
800-020-0035	2-1-2008	Amend	2-1-2008
800-025-0020	2-1-2008	Amend	2-1-2008
800-025-0023	2-1-2008	Amend	2-1-2008
800-025-0025	2-1-2008	Amend	2-1-2008
800-025-0030	2-1-2008	Amend	2-1-2008
800-025-0060	2-1-2008	Amend	2-1-2008
800-025-0070	2-1-2008	Amend	2-1-2008
800-030-0025	2-1-2008	Amend	2-1-2008
800-030-0050	2-1-2008	Amend	2-1-2008
801-001-0035	1-1-2008	Amend	2-1-2008
801-010-0340	1-1-2008	Amend	2-1-2008
801-030-0010	1-1-2008	Amend	2-1-2008
801-030-0015	1-1-2008	Amend	2-1-2008
801-030-0020	1-1-2008	Amend	2-1-2008
801-040-0030	1-1-2008	Amend	2-1-2008
804-022-0010	2-4-2008	Amend	3-1-2008
804-025-0020	2-4-2008	Amend	3-1-2008
804-030-0015	2-4-2008	Am. & Ren.	3-1-2008
804-030-0035	2-4-2008	Am. & Ren.	3-1-2008
808-001-0020	1-1-2008	Amend	2-1-2008
808-001-0020	1-1-2008	Amend	2-1-2008
808-002-0020	1-1-2008	Amend	2-1-2008
808-002-0210	1-1-2008	Amend	2-1-2008
808-002-0220	1-1-2008	Amend	2-1-2008
808-002-0220	1-1-2008	Amend	2-1-2008
808-002-0280	1-1-2008	Amend	2-1-2008
808-002-0325	1-1-2008	Amend	2-1-2008
808-002-0328	1-1-2008	Amend	2-1-2008
808-002-0330	1-1-2008	Amend	2-1-2008
808-002-0500	1-1-2008	Amend	2-1-2008
808-002-0540	1-1-2008	Amend	2-1-2008
808-002-0590	1-1-2008	Adopt	2-1-2008
808-002-0625	1-1-2008	Adopt	2-1-2008
808-002-0665	1-1-2008	Amend	2-1-2008
808-002-0870	1-1-2008	Amend	2-1-2008
808-002-0900	1-1-2008	Amend	2-1-2008
808-002-0920	1-1-2008	Amend	2-1-2008
808-003-0010	1-1-2008	Amend	2-1-2008
808-003-0015	1-1-2008	Amend	2-1-2008
808-003-0015	1-1-2008	Amend	2-1-2008
808-003-0020	1-1-2008	Amend	2-1-2008
808-003-0030	1-1-2008	Amend	2-1-2008
808-003-0035	1-1-2008	Amend	2-1-2008
808-003-0035	1-1-2008	Amend	2-1-2008
808-003-0040	1-1-2008	Amend	2-1-2008
808-003-0040	1-1-2008	Amend	2-1-2008
808-003-0045	1-1-2008	Amend	2-1-2008
808-003-0045	1-1-2008	Amend	2-1-2008
808-003-0060	1-1-2008	Amend	2-1-2008
808-003-0090	1-1-2008	Amend	2-1-2008
808-003-0095	1-1-2008	Amend	2-1-2008
808-003-0100	1-1-2008	Amend	2-1-2008
808-003-0105	1-1-2008	Amend	2-1-2008
808-003-0110	1-1-2008	Amend	2-1-2008
808-003-0112	1-1-2008	Amend	2-1-2008
808-003-0125	1-1-2008	Amend	2-1-2008
808-003-0130	1-1-2008	Amend	2-1-2008
808-003-0130	1-1-2008	Amend	2-1-2008
808-003-0135	1-1-2008	Amend	2-1-2008
808-003-018	1-1-2008	Amend	2-1-2008
808-003-0200	1-1-2008	Amend	2-1-2008
808-003-0220	1-1-2008	Amend	2-1-2008
808-003-0225	1-1-2008	Amend	2-1-2008
808-003-0230	1-1-2008	Amend	2-1-2008
808-003-0230	1-1-2008	Amend	2-1-2008
808-003-0235	1-1-2008	Amend	2-1-2008
808-003-0255	1-1-2008	Amend	2-1-2008
808-003-0440	1-1-2008	Amend	2-1-2008

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808-004-0250	1-1-2008	Amend	2-1-2008
808-004-0320	1-1-2008	Amend	2-1-2008
808-004-0340	1-1-2008	Amend	2-1-2008
808-004-0340	1-1-2008	Amend	2-1-2008
808-004-0400	1-1-2008	Amend	2-1-2008
808-004-0450	1-1-2008	Amend	2-1-2008
808-004-0530	1-1-2008	Adopt	2-1-2008
808-004-0540	1-1-2008	Amend	2-1-2008
808-004-0600	1-1-2008	Amend	2-1-2008
808-005-0020	1-1-2008	Amend	2-1-2008
808-005-0020	1-1-2008	Amend	2-1-2008
808-009-0360	1-14-2008	Suspend	2-1-2008
808-030-0010	1-1-2008	Adopt	2-1-2008
808-030-0020	1-1-2008	Adopt	2-1-2008
808-030-0030	1-1-2008	Adopt	2-1-2008
808-030-0040	1-1-2008	Adopt	2-1-2008
808-030-0050	1-1-2008	Adopt	2-1-2008
808-030-0060	1-1-2008	Adopt	2-1-2008
808-030-0070	1-1-2008	Adopt	2-1-2008
808-040-0010	1-1-2008	Adopt	2-1-2008
808-040-0020	1-1-2008	Adopt	2-1-2008
808-040-0025	1-1-2008	Adopt	2-1-2008
808-040-0030	1-1-2008	Adopt	2-1-2008
808-040-0040	1-1-2008	Adopt	2-1-2008
808-040-0050	1-1-2008	Adopt	2-1-2008
808-040-0060	1-1-2008	Adopt	2-1-2008
808-040-0070	1-1-2008	Adopt	2-1-2008
808-040-0080	1-1-2008	Adopt	2-1-2008
811-001-0005	1-31-2008	Amend	1-1-2008
811-010-0085	11-30-2007	Amend	1-1-2008
811-010-0086	11-30-2007	Amend	1-1-2008
811-010-0090	11-30-2007	Amend	1-1-2008
811-010-0093	11-30-2007	Amend	1-1-2008
811-015-0010	11-30-2007	Amend	1-1-2008
811-015-0025	11-30-2007	Amend	1-1-2008
811-021-0005	11-30-2007	Amend	1-1-2008
812-001-0200	1-1-2008	Amend	1-1-2008
812-001-0200	1-2-2008	Amend(T)	2-1-2008
812-002-0140	1-1-2008	Amend	1-1-2008
812-002-0143	1-1-2008	Amend	1-1-2008
812-002-0170	1-1-2008	Adopt	1-1-2008
812-002-0265	1-1-2008	Adopt	1-1-2008
812-002-0420	1-1-2008	Amend	1-1-2008
812-002-0580	1-1-2008	Amend	1-1-2008
812-002-0630	1-1-2008	Adopt	1-1-2008
812-002-0635	1-1-2008	Adopt	1-1-2008
812-002-0640	1-1-2008	Amend	1-1-2008
812-002-0760	1-1-2008	Amend	1-1-2008
812-002-0840	1-1-2008	Repeal	1-1-2008
812-003-0140	1-10-2008	Amend(T)	2-1-2008
812-003-0150	1-1-2008	Amend	1-1-2008
812-003-0155	1-1-2008	Adopt	1-1-2008
812-003-0160	1-1-2008	Amend	1-1-2008
812-003-0170	1-1-2008	Amend	1-1-2008
812-003-0175	1-1-2008	Amend	1-1-2008
812-003-0180	1-1-2008	Amend	1-1-2008
812-003-0190	1-1-2008	Amend	1-1-2008
812-003-0200	1-1-2008	Amend	1-1-2008
812-003-0240	1-1-2008	Amend	1-1-2008
812-003-0250	1-1-2008	Amend	1-1-2008
812-003-0260	1-1-2008	Amend	1-1-2008
812-003-0270	1-10-2008	Amend(T)	2-1-2008
812-003-0280	1-1-2008	Amend	1-1-2008
812-003-0290	1-1-2008	Amend	1-1-2008
812-003-0300	1-1-2008	Amend	1-1-2008
812-003-0310	1-1-2008	Amend	1-1-2008
812-003-0380	1-1-2008	Amend	1-1-2008
812-003-0400	1-1-2008	Amend	1-1-2008
812-004-0240	1-1-2008	Amend	1-1-2008
812-004-0250	1-1-2008	Amend	1-1-2008
812-004-0260	1-1-2008	Amend	1-1-2008
812-004-0560	1-1-2008	Amend	1-1-2008
812-004-0590	1-1-2008	Amend	1-1-2008
812-004-0600	1-1-2008	Amend	1-1-2008
812-005-0200	1-1-2008	Amend	1-1-2008
812-005-0210	1-1-2008	Amend	1-1-2008
812-005-0250	1-1-2008	Amend	1-1-2008
812-005-0270	1-1-2008	Adopt	1-1-2008
812-005-0800	1-2-2008	Amend(T)	2-1-2008
812-008-0040	1-1-2008	Amend	1-1-2008
812-008-0060	1-1-2008	Amend	1-1-2008
812-008-0070	1-1-2008	Amend	1-1-2008
812-008-0110	1-1-2008	Amend	1-1-2008
812-009-0140	1-1-2008	Amend	1-1-2008
812-010-0420	1-1-2008	Amend	1-1-2008
812-010-0470	1-1-2008	Amend	1-1-2008
812-012-0110	1-1-2008	Adopt	1-1-2008
812-012-0130	1-1-2008	Adopt	1-1-2008
812-012-0130	1-18-2008	Amend(T)	3-1-2008
813-120-0001	1-28-2008	Amend	3-1-2008
813-120-0010	1-28-2008	Amend	3-1-2008
813-120-0020	1-28-2008	Amend	3-1-2008
813-120-0030	1-28-2008	Am. & Ren.	3-1-2008
813-120-0040	1-28-2008	Amend	3-1-2008
813-120-0050	1-28-2008	Amend	3-1-2008
813-120-0060	1-28-2008	Amend	3-1-2008
813-120-0070	1-28-2008	Amend	3-1-2008
813-120-0080	1-28-2008	Amend	3-1-2008
813-120-0090	1-28-2008	Amend	3-1-2008
813-120-0100	1-28-2008	Am. & Ren.	3-1-2008
813-120-0110	1-28-2008	Amend	3-1-2008
813-120-0120	1-28-2008	Amend	3-1-2008
813-120-0130	1-28-2008	Amend	3-1-2008
813-120-0140	1-28-2008	Amend	3-1-2008
813-140-0010	12-18-2007	Amend(T)	2-1-2008
813-140-0050	12-18-2007	Amend(T)	2-1-2008
813-140-0090	12-18-2007	Amend(T)	2-1-2008
813-140-0095	12-18-2007	Adopt(T)	2-1-2008
818-001-0087	11-30-2007	Amend	1-1-2008
818-012-0030	11-30-2007	Amend	1-1-2008
818-021-0060	11-30-2007	Amend	1-1-2008

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818-035-0040	11-30-2007	Amend	1-1-2008
818-035-0065	11-30-2007	Amend	1-1-2008
818-042-0040	11-30-2007	Amend	1-1-2008
818-042-0060	11-30-2007	Amend	1-1-2008
818-042-0095	11-30-2007	Adopt	1-1-2008
836-009-0007	12-11-2007	Amend(T)	1-1-2008
836-052-0500	1-1-2008	Amend	1-1-2008
836-052-0508	1-1-2008	Adopt	1-1-2008
836-052-0516	1-1-2008	Amend	1-1-2008
836-052-0526	1-1-2008	Amend	1-1-2008
836-052-0531	1-1-2008	Adopt	1-1-2008
836-052-0546	1-1-2008	Amend	1-1-2008
836-052-0556	1-1-2008	Amend	1-1-2008
836-052-0566	1-1-2008	Amend	1-1-2008
836-052-0576	1-1-2008	Amend	1-1-2008
836-052-0616	1-1-2008	Amend	1-1-2008
836-052-0626	1-1-2008	Amend	1-1-2008
836-052-0636	1-1-2008	Amend	1-1-2008
836-052-0639	1-1-2008	Adopt	1-1-2008
836-052-0656	1-1-2008	Amend	1-1-2008
836-052-0666	1-1-2008	Amend	1-1-2008
836-052-0676	1-1-2008	Amend	1-1-2008
836-052-0696	1-1-2008	Amend	1-1-2008
836-052-0700	1-1-2008	Am. & Ren.	1-1-2008
836-052-0706	1-1-2008	Amend	1-1-2008
836-052-0726	1-1-2008	Amend	1-1-2008
836-052-0736	1-1-2008	Amend	1-1-2008
836-052-0738	1-1-2008	Adopt	1-1-2008
836-052-0740	1-1-2008	Adopt	1-1-2008
836-052-0746	1-1-2008	Amend	1-1-2008
836-052-0756	1-1-2008	Amend	1-1-2008
836-052-0766	1-1-2008	Amend	1-1-2008
836-052-0776	1-1-2008	Amend	1-1-2008
836-052-0786	1-1-2008	Amend	1-1-2008
836-052-1000	1-1-2008	Adopt	2-1-2008
836-053-0016	2-11-2008	Repeal	3-1-2008
836-053-0021	2-11-2008	Amend	3-1-2008
836-053-0026	2-11-2008	Repeal	3-1-2008
836-053-0030	2-11-2008	Amend	3-1-2008
836-053-0040	2-11-2008	Amend	3-1-2008
836-053-0050	2-11-2008	Amend	3-1-2008
836-053-0060	2-11-2008	Amend	3-1-2008
836-053-0065	2-11-2008	Amend	3-1-2008
836-053-0065(T)	2-11-2008	Repeal	3-1-2008
836-053-0910	12-21-2007	Amend(T)	2-1-2008
836-054-0050	1-16-2008	Repeal	3-1-2008
836-054-0055	1-16-2008	Repeal	3-1-2008
836-054-0060	1-16-2008	Repeal	3-1-2008
836-054-0065	1-16-2008	Repeal	3-1-2008
836-071-0130	12-11-2007	Amend(T)	1-1-2008
836-071-0135	12-11-2007	Amend(T)	1-1-2008
836-071-0145	12-11-2007	Amend(T)	1-1-2008
837-012-0520	1-25-2008	Amend(T)	3-1-2008
837-020-0035	11-30-2007	Amend(T)	1-1-2008
837-020-0115	11-30-2007	Amend(T)	1-1-2008
837-035-0000	11-16-2007	Adopt	1-1-2008
837-035-0020	11-16-2007	Adopt	1-1-2008
837-035-0040	11-16-2007	Adopt	1-1-2008
837-035-0060	11-16-2007	Adopt	1-1-2008
837-035-0080	11-16-2007	Adopt	1-1-2008
837-035-0100	11-16-2007	Adopt	1-1-2008
837-035-0120	11-16-2007	Adopt	1-1-2008
837-035-0140	11-16-2007	Adopt	1-1-2008
837-035-0160	11-16-2007	Adopt	1-1-2008
837-035-0180	11-16-2007	Adopt	1-1-2008
837-035-0200	11-16-2007	Adopt	1-1-2008
837-035-0220	11-16-2007	Adopt	1-1-2008
837-035-0240	11-16-2007	Adopt	1-1-2008
837-035-0260	11-16-2007	Adopt	1-1-2008
837-035-0280	11-16-2007	Adopt	1-1-2008
837-035-0300	11-16-2007	Adopt	1-1-2008
837-035-0320	11-16-2007	Adopt	1-1-2008
837-035-0340	11-16-2007	Adopt	1-1-2008
839-001-0150	1-1-2008	Amend	2-1-2008
839-001-0153	1-1-2008	Amend	2-1-2008
839-001-0157	1-1-2008	Repeal	2-1-2008
839-001-0160	1-1-2008	Amend	2-1-2008
839-001-0495	1-1-2008	Adopt	2-1-2008
839-001-0496	1-1-2008	Adopt	2-1-2008
839-001-0740	1-1-2008	Amend	2-1-2008
839-001-0760	1-1-2008	Amend	2-1-2008
839-002-0015	1-1-2008	Adopt	2-1-2008
839-002-0020	1-1-2008	Adopt	2-1-2008
839-002-0025	1-1-2008	Adopt	2-1-2008
839-002-0030	1-1-2008	Adopt	2-1-2008
839-002-0035	1-1-2008	Adopt	2-1-2008
839-002-0040	1-1-2008	Adopt	2-1-2008
839-002-0045	1-1-2008	Adopt	2-1-2008
839-002-0050	1-1-2008	Adopt	2-1-2008
839-002-0055	1-1-2008	Adopt	2-1-2008
839-002-0060	1-1-2008	Adopt	2-1-2008
839-002-0065	1-1-2008	Adopt	2-1-2008
839-002-0070	1-1-2008	Adopt	2-1-2008
839-002-0080	1-1-2008	Adopt	2-1-2008
839-003-0005	1-1-2008	Amend	2-1-2008
839-003-0020	1-1-2008	Amend	2-1-2008
839-003-0055	1-1-2008	Amend	2-1-2008
839-003-0060	1-1-2008	Amend	2-1-2008
839-003-0080	1-1-2008	Amend	2-1-2008
839-003-0090	1-1-2008	Amend	2-1-2008
839-003-0200	1-1-2008	Adopt	2-1-2008
839-003-0205	1-1-2008	Adopt	2-1-2008
839-003-0210	1-1-2008	Adopt	2-1-2008
839-003-0215	1-1-2008	Adopt	2-1-2008
839-003-0220	1-1-2008	Adopt	2-1-2008
839-003-0225	1-1-2008	Adopt	2-1-2008
839-003-0230	1-1-2008	Adopt	2-1-2008
839-003-0235	1-1-2008	Adopt	2-1-2008
839-003-0240	1-1-2008	Adopt	2-1-2008
839-003-0245	1-1-2008	Adopt	2-1-2008

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839-005-0003	1-1-2008	Amend	2-1-2008
839-005-0010	1-1-2008	Amend	2-1-2008
839-005-0016	1-1-2008	Adopt	2-1-2008
839-005-0021	1-1-2008	Amend	2-1-2008
839-005-0026	1-1-2008	Amend	2-1-2008
839-005-0030	1-1-2008	Amend	2-1-2008
839-005-0195	1-1-2008	Adopt	2-1-2008
839-005-0200	1-1-2008	Adopt	2-1-2008
839-005-0205	1-1-2008	Adopt	2-1-2008
839-005-0210	1-1-2008	Adopt	2-1-2008
839-005-0215	1-1-2008	Adopt	2-1-2008
839-005-0220	1-1-2008	Adopt	2-1-2008
839-006-0105	1-1-2008	Amend	2-1-2008
839-006-0130	1-1-2008	Amend	2-1-2008
839-006-0131	1-1-2008	Amend	2-1-2008
839-006-0135	1-1-2008	Amend	2-1-2008
839-006-0136	1-1-2008	Amend	2-1-2008
839-006-0150	1-1-2008	Amend	2-1-2008
839-006-0400	1-1-2008	Repeal	2-1-2008
839-006-0405	1-1-2008	Repeal	2-1-2008
839-006-0410	1-1-2008	Repeal	2-1-2008
839-006-0415	1-1-2008	Repeal	2-1-2008
839-006-0425	1-1-2008	Repeal	2-1-2008
839-007-0075	1-1-2008	Adopt	2-1-2008
839-009-0210	1-1-2008	Amend	2-1-2008
839-009-0240	1-1-2008	Amend	2-1-2008
839-009-0250	1-1-2008	Amend	2-1-2008
839-009-0260	1-1-2008	Amend	2-1-2008
839-009-0280	1-1-2008	Amend	2-1-2008
839-009-0320	1-1-2008	Amend	2-1-2008
839-009-0325	1-1-2008	Adopt	2-1-2008
839-009-0330	1-1-2008	Adopt	2-1-2008
839-009-0335	1-1-2008	Adopt	2-1-2008
839-009-0340	1-1-2008	Adopt	2-1-2008
839-009-0345	1-1-2008	Adopt	2-1-2008
839-009-0350	1-1-2008	Adopt	2-1-2008
839-009-0355	1-1-2008	Adopt	2-1-2008
839-009-0360	1-1-2008	Adopt	2-1-2008
839-009-0362	1-1-2008	Adopt	2-1-2008
839-009-0363	1-1-2008	Adopt	2-1-2008
839-009-0365	1-1-2008	Adopt	2-1-2008
839-010-0000	1-1-2008	Amend	2-1-2008
839-010-0010	1-1-2008	Amend	2-1-2008
839-010-0020	1-1-2008	Amend	2-1-2008
839-010-0040	1-1-2008	Amend	2-1-2008
839-010-0100	1-1-2008	Amend	2-1-2008
839-010-0110	1-1-2008	Repeal	2-1-2008
839-015-0140	1-1-2008	Amend	2-1-2008
839-015-0508	1-1-2008	Amend	2-1-2008
839-015-0509	1-1-2008	Adopt	2-1-2008
839-020-0012	1-1-2008	Amend	2-1-2008
839-020-0015	1-1-2008	Amend	2-1-2008
839-020-0050	1-1-2008	Amend	2-1-2008
839-020-0051	1-1-2008	Adopt	2-1-2008
839-020-0080	1-1-2008	Amend	2-1-2008
839-020-0260	1-1-2008	Amend	2-1-2008
839-020-1010	1-1-2008	Amend	2-1-2008
839-025-0004	1-1-2008	Amend	2-1-2008
839-025-0005	1-1-2008	Adopt	2-1-2008
839-025-0007	1-1-2008	Amend	2-1-2008
839-025-0008	1-1-2008	Amend	2-1-2008
839-025-0010	1-1-2008	Amend	2-1-2008
839-025-0013	1-1-2008	Amend	2-1-2008
839-025-0020	1-1-2008	Amend	2-1-2008
839-025-0025	1-1-2008	Amend	2-1-2008
839-025-0035	1-1-2008	Amend	2-1-2008
839-025-0037	1-1-2008	Amend	2-1-2008
839-025-0080	1-1-2008	Amend	2-1-2008
839-025-0085	1-1-2008	Amend	2-1-2008
839-025-0090	1-1-2008	Amend	2-1-2008
839-025-0095	1-1-2008	Amend	2-1-2008
839-025-0100	1-1-2008	Amend	2-1-2008
839-025-0150	1-1-2008	Amend	2-1-2008
839-025-0200	1-1-2008	Amend	2-1-2008
839-025-0210	1-1-2008	Amend	2-1-2008
839-025-0220	1-1-2008	Amend	2-1-2008
839-025-0230	1-1-2008	Amend	2-1-2008
839-025-0310	1-1-2008	Amend	2-1-2008
839-025-0315	1-1-2008	Adopt	2-1-2008
839-025-0340	1-1-2008	Amend	2-1-2008
839-025-0500	1-1-2008	Amend	2-1-2008
839-025-0520	1-1-2008	Amend	2-1-2008
839-025-0530	1-1-2008	Amend	2-1-2008
839-025-0540	1-1-2008	Amend	2-1-2008
839-025-0700	11-23-2007	Amend	1-1-2008
839-025-0700	1-1-2008	Amend	2-1-2008
839-025-0700	1-4-2008	Amend	2-1-2008
839-025-0700	1-11-2008	Amend	2-1-2008
845-003-0670	2-1-2008	Amend	3-1-2008
845-005-0416	1-1-2008	Adopt(T)	1-1-2008
845-005-0417	1-1-2008	Adopt(T)	1-1-2008
845-005-0420	1-1-2008	Amend(T)	1-1-2008
845-005-0422	1-1-2008	Suspend	1-1-2008
845-005-0423	1-1-2008	Suspend	1-1-2008
845-005-0424	1-1-2008	Amend(T)	1-1-2008
845-005-0425	1-1-2008	Adopt(T)	1-1-2008
845-005-0426	1-1-2008	Adopt(T)	1-1-2008
845-005-0430	2-18-2008	Adopt(T)	3-1-2008
845-005-0440	1-1-2008	Amend	2-1-2008
845-006-0340	1-1-2008	Amend	2-1-2008
845-006-0391	1-1-2008	Adopt(T)	1-1-2008
845-006-0392	1-1-2008	Adopt(T)	1-1-2008
845-006-0395	1-1-2008	Suspend	1-1-2008
845-006-0396	1-1-2008	Amend(T)	1-1-2008
845-006-0398	1-1-2008	Suspend	1-1-2008
845-006-0400	1-1-2008	Adopt(T)	1-1-2008
845-006-0401	1-1-2008	Adopt(T)	1-1-2008
845-006-0451	2-18-2008	Adopt(T)	3-1-2008
845-007-0015	1-1-2008	Amend	2-1-2008
845-015-0141	1-1-2008	Adopt(T)	1-1-2008
845-015-0165	1-1-2008	Amend	2-1-2008

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845-020-0035	3-16-2008	Amend	3-1-2008
847-005-0005	1-22-2008	Amend	3-1-2008
847-008-0037	1-22-2008	Amend	3-1-2008
847-008-0055	1-22-2008	Amend	3-1-2008
847-010-0060	1-22-2008	Amend	3-1-2008
847-010-0064	1-22-2008	Amend	3-1-2008
847-010-0070	1-22-2008	Amend	3-1-2008
847-010-0073	1-22-2008	Amend	3-1-2008
847-020-0155	1-22-2008	Amend	3-1-2008
847-020-0183	1-22-2008	Amend	3-1-2008
847-023-0005	1-22-2008	Amend	3-1-2008
847-050-0020	1-22-2008	Amend	3-1-2008
851-045-0015	11-21-2007	Amend	1-1-2008
851-056-0012	11-21-2007	Amend	1-1-2008
852-001-0001	12-7-2007	Amend	1-1-2008
852-001-0002	12-7-2007	Amend	1-1-2008
852-050-0006	12-7-2007	Amend	1-1-2008
852-080-0030	1-1-2008	Amend	1-1-2008
855-006-0015	2-5-2008	Adopt	3-1-2008
855-041-0061	2-5-2008	Adopt	3-1-2008
856-001-0000	1-24-2008	Amend	3-1-2008
856-001-0005	1-24-2008	Amend	3-1-2008
856-010-0003	1-24-2008	Amend	3-1-2008
856-010-0010	1-24-2008	Amend	3-1-2008
856-010-0012	1-24-2008	Amend	3-1-2008
856-010-0014	1-24-2008	Amend	3-1-2008
856-010-0015	1-24-2008	Amend	3-1-2008
856-010-0016	1-24-2008	Amend	3-1-2008
856-010-0018	1-24-2008	Amend	3-1-2008
856-010-0020	1-24-2008	Amend	3-1-2008
860-038-0005	12-31-2007	Amend	2-1-2008
860-038-0480	12-31-2007	Amend	2-1-2008
863-015-0125	1-18-2008	Amend(T)	3-1-2008
875-005-0005	2-11-2008	Amend	3-1-2008
875-010-0026	2-11-2008	Amend	3-1-2008
875-010-0050	2-11-2008	Amend	3-1-2008
875-010-0090	2-11-2008	Amend	3-1-2008
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875-015-0030	2-11-2008	Amend	3-1-2008
875-030-0030	2-11-2008	Amend	3-1-2008
875-030-0040	2-11-2008	Amend	3-1-2008
875-030-0050	2-11-2008	Amend	3-1-2008
918-020-0094	1-1-2008	Adopt	2-1-2008
918-020-0094(T)	1-1-2008	Repeal	2-1-2008
918-030-0045	1-3-2008	Adopt(T)	2-1-2008
918-030-0200	1-1-2008	Amend	2-1-2008
918-030-0220	1-1-2008	Amend	2-1-2008
918-030-0230	1-1-2008	Amend	2-1-2008
918-098-1012	1-1-2008	Amend	2-1-2008
918-098-1015	1-1-2008	Amend	2-1-2008
918-225-0240	1-1-2008	Amend	2-1-2008
918-225-0345	1-1-2008	Adopt	2-1-2008
918-225-0600	1-1-2008	Amend	2-1-2008
918-225-0610	1-1-2008	Amend	2-1-2008
918-225-0640	1-1-2008	Amend	2-1-2008
918-282-0130	1-1-2008	Amend	2-1-2008
918-282-0210	1-1-2008	Repeal	2-1-2008
918-282-0220	1-1-2008	Amend	2-1-2008
918-282-0240	1-1-2008	Amend	2-1-2008
918-282-0300	1-1-2008	Repeal	2-1-2008
918-282-0310	1-1-2008	Repeal	2-1-2008
918-282-0355	1-1-2008	Amend	2-1-2008
918-400-0280	1-1-2008	Amend	2-1-2008
918-400-0333	1-1-2008	Amend	2-1-2008
918-400-0340	1-1-2008	Amend	2-1-2008
918-400-0380	1-1-2008	Amend	2-1-2008
918-400-0800	1-1-2008	Amend	2-1-2008
918-780-0030	1-1-2008	Amend	2-1-2008
972-040-0000	1-23-2008	Adopt	3-1-2008
972-040-0010	1-23-2008	Adopt	3-1-2008
972-040-0020	1-23-2008	Adopt	3-1-2008