

OREGON BULLETIN

Supplements the 2009 *Oregon Administrative Rules Compilation*

Volume 48, No. 9
September 1, 2009

For July 16, 2009–August 14, 2009



Published by
KATE BROWN
Secretary of State
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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 assists agencies with the notification, filing and publication requirements of the administrative rulemaking 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 changes to individual rules and organize the rule filing forms for permanent retention, the Administrative Rules Unit has developed for each rule a "history" which is located at the end of the 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 in abbreviated form the agency, filing number, year, filing date and effective date. 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 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 online OAR Compilation is updated on the first of each month to include all rule actions filed with the Secretary of State's office by the 15th of the previous month, or by the previous workday if the 15th is on a weekend or holiday. The annual printed *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 Web site 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, Archives Division, 800 Summer Street NE, Salem, OR 97310, (503) 373-0701, Julie.A.Yamaka@state.or.us

2008-2009 Oregon Bulletin Publication Schedule

The Administrative Rules 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 97310. 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 15, 2008	January 1, 2009
January 15, 2009	February 1, 2009
February 13, 2009	March 1, 2009
March 13, 2009	April 1, 2009
April 15, 2009	May 1, 2009
May 15, 2009	June 1, 2009
June 15, 2009	July 1, 2009
July 15, 2009	August 1, 2009
August 14, 2009	September 1, 2009
September 15, 2009	October 1, 2009
October 15, 2009	November 1, 2009
November 13, 2009	December 1, 2009

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 are available from the Administrative Rules Unit, Archives Division, 800 Summer Street NE, Salem, Oregon 97301, (503) 373-0701, or are downloadable at <http://arcweb.sos.state.or.us/banners/rules.htm>

Publication Authority

The *Oregon Bulletin* is published pursuant to ORS 183.360(3). Copies of the original Administrative Orders may be obtained from the Archives Division, 800 Summer Street, Salem, Oregon, 97310; (503) 373-0701. The Archives Division charges for such copies.

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EMERGENCY QUARANTINE ORDER PLANOCOCCUS FICUS (VINE MEALYBUG)

A. Background

Whenever the Director of the Oregon Department of Agriculture determines the fact that an infestation is of such nature that it will be impossible to follow quarantine protocol established pursuant to ORS 561.510 to 561.530, the Director is authorized to declare by written order an emergency quarantine against the movement of any plants or articles which are liable to spread such infestation. ORS 561.560.

After the filing of a quarantine order, it shall be unlawful for any person, firm or corporation to carry, move or transport any plants or articles specified in a quarantine order except as provided in the order or any amendment thereto. ORS 561.560; ORS 561.590.

B. Findings of Fact

1. Vine mealybug, *Planococcus ficus* (Signoret), was first detected in Riverside County, California in 1994. Since that time, infestations have been found in the major grape growing counties of the State of California. Vine mealybug is not known to occur in the State of Oregon. Vine mealybug is a known vector of the grape vine leafroll viruses (GLRaV). It is more effective at spreading GLRaV than other species of mealybugs already present in the State of Oregon.

2. GLRaV has a worldwide distribution in all major grape growing regions. It can reduce berry yields up to 40%, delay fruit maturity, and impede fruit pigmentation. It is considered a significant economic threat in all regions it is found. This virus has a limited distribution in the grape growing areas of State of Oregon.

3. The introduction of vine mealybug into the State of Oregon from infected grapes originating from the State of California would lead to the rapid spread of GLRaV to vineyards in the State of Oregon not already infested.

4. If no pest management practices are adopted, vine mealybug alone can cause 5–40% yield loss in infested vineyards.

5. Vine mealybug can be spread long distance by the movement of infested grape clusters. Insects and eggs found on infested grape clusters survive the winery crushing and de-stemming process.

6. New information concerning the dangers of the movement of vine mealybug life stages on grape clusters only recently became available. Shipments of California grapes to Oregon wineries for wine production are imminent and will happen before the existing permanent quarantine (OAR 603-052-0051) can be amended to offer protection to Oregon's wine industry from the vine mealybug.

C. Conclusions of Law

1. The introduction of vine mealybug poses a significant threat to the State of Oregon's wine industry and the Director may authorize and direct this emergency quarantine order.

2. It shall be unlawful for any person, firm or corporation to carry, move or transport any plants or articles as specified in this order except as provided in this order.

D. Order

(1) Area under quarantine: The entire State of California and any other area where vine mealybug is known to occur.

(2) Commodities Covered in Area Under Quarantine:

(a) All clusters of grapes grown in the State of California.

(b) All life stages of vine mealybug that may occur on any grape vines grown in the State of California or any plant parts from vines grown in the State of California.

(3) Prohibitions in Area Under Quarantine. Clusters of grapes and other covered commodities grown in the quarantine area are not eligible to enter the State of Oregon unless the following conditions are met:

(A) Table grapes must be commercially packed in compliance with USDA recommendations for protecting perishable food products shipped interstate by truck (USDA-Agricultural Marketing Service-Transportation and Marketing Programs, In: Protecting Perishable Foods During Transport by Truck, Handbook No. 669 (2006), pp. 40-41).

(B) The wine grapes have been:

(i) Harvested from a county known to be free of vine mealybug or from a vineyard that has been officially inspected and found free of vine mealybug; or,

(ii) The fruit has been hand harvested from a vineyard infested with vine mealybug and shipped in a covered container. Any pomace resulting from pressing of the wine grapes for juice must be placed in piles located away from vineyard rows and securely covered with clear plastic for four (4) weeks or composted for four (4) weeks before spreading in vineyards rows.

(4) Phytosanitary Certificate Required: All shipments of wine grapes into the State of Oregon from the State of California must be accompanied by a state phytosanitary certificate certifying that the fruit met one of the conditions listed in subsections 3(B) above. Other State or federal quarantines may also apply (e.g. grape quarantine) and may require additional declarations on the phytosanitary certificate.

(5) Effective Date of Quarantine: This quarantine is effective as of the date this order is signed and will continue for 90 days. This date may be extended for a longer period as the Director may determine.

(6) Violation of Quarantine. Violation of any provision of this emergency quarantine order is unlawful and may result in civil penalties of up to \$10,000 as provided in ORS 561.995.

It is so ordered.

DATED this 24th day of July, 2009.

/s/ Katy Coba, Director

Katy Coba, Director

Oregon Department of Agriculture

REQUEST FOR COMMENTS AND NOTICE OF PUBLIC HEARING ON PROPOSED 2009–2013 STATE PLAN ON AGING

HEARING DATE: September 18, 2009 at 2 p.m.

HEARING LOCATION: Human Services Building, 500 Summer Street NE, Rm. 137AB, Salem, Oregon 97301

COMMENTS DUE: September 21, 2009 at 5:00 p.m.

PROPOSAL: The Oregon Department of Human Services' Seniors and People with Disabilities (SPD) Division develops a State Plan on Aging every four years, as required under the Older Americans Act of 1965, as amended. The Plan is a contract with the Administration on Aging (AoA) and allows Oregon to receive funds under Title III and Title VII of the Act. The Plan also provides a vision of and direction for Oregon's aging network for the next four years.

HIGHLIGHTS: SPD is accountable for the implementation of programs for older Oregonians and Oregonians with disabilities. The State Unit on Aging (SUA), a part of SPD, is charged with the purpose and responsibility of implementing Older Americans Act (OAA) programs. The SUA works closely with Oregon's 17 Area Agencies on Aging (AAAs) to create a comprehensive package of services. AAAs provide direct information and services to seniors and people with disabilities across Oregon, while the SUA coordinates distribution of Federal Funds, provides training and technical assistance, and ensures statewide oversight and coordination for OAA programs.

The goals of the proposed State Plan are united around a consistent vision: to ensure that older Oregonians can remain independent, safe, and active in their own homes and communities. The goals are Healthy Aging, Ensuring Alignment of the Aging Network Service Delivery System and the State Policy on Aging (ORS 410), Civic Engagement, Choice and Consumer-Direction, Elder Rights, and Protection for Older Oregonians. Specific objectives, strategies, and outcomes are articulated for each of these goals. By implementing the State Plan's goals and objectives, SPD and the aging network will improve the capacity to provide services, information, outreach, education, and advocacy for older Oregonians. More importantly, it is

OTHER NOTICES

a key component of SPD's mission: to keep older Oregonians independent, healthy, and safe.

HOW TO COMMENT: The proposed State Plan on Aging may be viewed at SPD's website at www.oregon.gov/DHS/spwpd/oaa/index.shtml, or by contacting the State Unit on Aging manager, Elaine Young, at 503-373-1726 or at Elaine.Young@state.or.us. Comments on the proposed State Plan on Aging may be sent to Seniors and People with Disabilities, attn: Christina Hartman, 500 Summer Street NE, E-10, Salem, Oregon 97301-1074. Fax or email comments are acceptable. The Fax number is 503-947-4245 and the email address is Christina.Hartman@state.or.us. Deadline for comments is September 21, 2009 at 5:00 p.m.

THE NEXT STEPS: Upon completion of the comment period, the comments will be addressed. Once the comments have been adequately addressed, the State Plan on Aging will be finalized with an effective date of October 1, 2009.

ACCESSIBILITY INFORMATION: SPD is committed to accommodating people with disabilities. Please notify SPD of any accommodations or if you need information in an alternate format. To make these arrangements, please call Christina Hartman at 503-945-6398 or TTY 503-945-9782

NOTICES OF PROPOSED RULEMAKING

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.

Appraiser Certification and Licensure Board Chapter 161

Rule Caption: Proposed amendment of rules creating new definition, adopting biennial budget and amending pre-requisite licensing requirements.

Date: 10-21-09 **Time:** 9 a.m. **Location:** 3000 Market St. NE, Suite 541
Salem, OR

Hearing Officer: Craig Zell

Stat. Auth.: ORS 182.462, 183.355(1)(a), 674.305(7) & 674.310(2)

Other Auth.: Title XI of the Federal Financial Reform, Recovery & Enforcement Act of 1989 (12 USC 3310 et seq.)

Stats. Implemented: ORS 674.305(7) & 674.310(2)

Proposed Amendments: 161-002-0000, 161-006-0025, 161-010-0035, 161-010-0045

Last Date for Comment: 10-21-09, Close of Hearing

Summary: The Board proposes amendments to Oregon Administrative Rule 161, division 002, Rule 0000 regarding definitions; Division 6, Rule 0025 regarding the Board's 2009–2011 biennium budget; Division 10, Rule 0035 regarding prerequisite education and experience requirements for state certified general appraisers; and Division 10, Rule 0045 regarding prerequisite education and experience requirements for state certified residential appraisers.

Rules Coordinator: Karen Turnbow

Address: Appraiser Certification and Licensure Board, 3000 Market St. NE, Suite 541, Salem, OR 97301

Telephone: (503) 485-2555

Board of Chiropractic Examiners Chapter 811

Rule Caption: Requires informed consent for examinations, open book Ethics and Jurisprudence Examination; Increases board member per diem.

Date: 11-19-09 **Time:** 9:30 a.m. **Location:** Western States Chiropractic College
2900 NE 132nd Ave.
Portland, OR

Hearing Officer: Dave McTeague

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684

Proposed Amendments: 811-035-0005, 811-035-0015, 811-010-0071

Last Date for Comment: 11-19-09, Close of Hearing

Summary: Proposed administrative rules for informed consent for examinations, open book Ethics and Jurisprudence Examination; Increases board member per diem.

Rules Coordinator: Dave McTeague

Address: 3218 Pringle Rd. SE, Suite 150, Salem OR 97302-6311

Telephone: (503) 378-5816

Board of Naturopathic Examiners Chapter 850

Rule Caption: Adds \$25 fee mandated in SB 355 for Prescription Monitoring Program (PMP).

Stat. Auth.: ORS 685.125

Stats. Implemented: ORS 685.100

Proposed Amendments: 850-030-0035

Last Date for Comment: 9-28-09

Summary: Will add a \$25 fee to be charged annually for the Prescription Monitoring Program, effective July 23, 2009. (SB 355)

Rules Coordinator: Anne Walsh

Address: Board of Naturopathic Examiners, 800 NE Oregon St., Suite 407, Portland, OR 97232

Telephone: (971) 673-0193

Rule Caption: Increase annual CE to 35 in 2010, with many restrictions adjusted or removed.

Stat. Auth.: ORS 685.125

Stats. Implemented: ORS 685.102

Proposed Amendments: 850-030-0195, 850-035-0230, 850-040-0210

Last Date for Comment: 9-28-09

Summary: Will remove many restrictions on what CE is approved, while increasing the number of hours required annually to 35.

Rules Coordinator: Anne Walsh

Address: Board of Naturopathic Examiners, 800 NE Oregon St., Suite 407, Portland, OR 97232

Telephone: (971) 673-0193

Department of Administrative Services Chapter 125

Rule Caption: Disposition and Acquisition of Real Property Interests.

Date: 9-16-09 **Time:** 10 a.m. **Location:** DAS Facilities
Wallowa Conference Rm.
1225 Ferry St.
Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 270.015(2), 270.100(1) & (1)(d)

Stats. Implemented: ORS 270.015, 270.100, 270.105, 270.110 & 270.120

Proposed Amendments: 125-045-0210, 125-045-0215, 125-045-0225

Last Date for Comment: 9-16-09, Close of Hearing

Summary: OAR 125-045-0210(1)(b) by capitalizing the word "Any" at the beginning of the sentence and correcting the section numbering starting at (4) through (8) to eliminate a duplication of section (3).

NOTICES OF PROPOSED RULEMAKING

OAR 125-045-0215(2) by allowing a letter of opinion from a licensed real estate professional for “dispositions” as well as acquisitions when determining a fair market value for properties less than \$100,000 in estimated fair market value.

OAR 125-045-0215(3)(a) by capitalizing the word “Shall” at the beginning of the sentence.

OAR 125-045-0225(2) by correcting the word “encourage” to “encouraged”.

OAR 125-045-0225(3)(d) by correcting the word “elect” to “elects”.

OAR 125-045-0225(9)(f) by correcting the word “elect” to “elects”.

OAR 125-045-0225(11), (12) and (13) by correcting punctuation at the end of the sentence from a semi-colon to a period.

OAR 125-045-0225(14)(b) by removing the word “That” at the beginning of the sentence and correcting the punctuation at the end of the sentence from a semi-colon to a period.

Rules Coordinator: Yvonne Hanna
Address: 155 Cottage St. NE Salem, OR 97301
Telephone: (503) 378-2349, ext. 325

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

Rule Caption: Repeal, amend and add rules to clarify, incorporate, and add to requirements and/or benefits.

Date: 9-23-09 **Time:** 3:30-4:30 p.m. **Location:** 1225 Ferry St. SE, Suite B
Board Room
Salem, OR

Hearing Officer: Cherie M. Taylor

Stat. Auth.: ORS 243.125

Other Auth.: ORS 279.845(1)(c)

Stats. Implemented: ORS 183, 192 & 243

Proposed Adoptions: 101-015-0011

Proposed Amendments: 101-010-0005, 101-020-0005, 101-020-0015, 101-020-0037, 101-020-0040, 101-020-0045, 101-020-0060, 101-020-0065, 101-030-0022

Proposed Repeals: 101-001-0020, 101-015-0015

Last Date for Comment: 9-25-09, 5 p.m.

Summary: Repeal is necessary because Rule is not required.

Amendments are necessary to clarify, add and delete definitions, add verification requirements to “other medical insurance” documentation, add minimum contribution amount to Dependent Care Flexible Spending Account, add reimbursement for eligible expenses 30 days after cessation of eligibility, add minimum contribution amount to Health Flexible Spending Arrangement, add Qualified Reservist Distribution, add employee request for contribution pre-payment prior to leave based on FMLA, CBIW or active military leave, and to improve readability.

Adoption is necessary to add Dependent Child requirements, including Child by Affidavit to dependent eligibility, refine full-time student definitions and medically necessary leaves of absences, add dependent certification requirement for full-time students and adds removal of dependent who ages off.

Rules Coordinator: Cherie M. Taylor

Address: Department of Administrative Services, Public Employees' Benefit Board, 1225 Ferry St. SE, Salem, OR 97301

Telephone: (503) 378-6296

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**Department of Community Colleges and
Workforce Development
Chapter 589**

Rule Caption: Distribution of the Small School Base Portion of the Community College Support Fund.

Date: 9-24-09 **Time:** 8 a.m.-12 p.m. **Location:** Public Service Bldg.
255 Capitol St NE
2nd Floor Rm. 215B
Salem OR

Hearing Officer: Linda Hutchins

Stat. Auth.: ORS 326.051, 341.015, 341.022, 341.317, 341.440, 341.525, 341.528, 341.626 & 341.665

Stats. Implemented:

Proposed Amendments: 589-002-0100

Last Date for Comment: 9-24-09, 5 p.m.

Summary: Authority for the distribution of the Community College Support Fund (CCSF) is granted by OAR 589-002-0100. This rule amendment changes the distribution of the CSSF by increasing Small School Base payments per FTE.

The purpose of the Small Schools Base payment is to compensate for the higher cost of providing access to a quality education at Oregon's smaller community colleges. The Base payment is calculated by multiplying a set rate by the number of Weighted Reimbursable FTE as defined by rule.

Currently, the Small School Base payment rate per FTE is \$600 up to 1,100 FTE and \$300 per unrealized FTE up to 1,100 for schools that have less than 1,100 FTE. This rule amendment increases the rate per FTE from \$600 to \$720 per FTE and from \$300 to \$360.

Rules Coordinator: Linda Hutchins

Address: Department of Community Colleges and Workforce Development, Public Service Bldg., 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-2456

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**Department of Consumer and Business Services,
Building Codes Division
Chapter 918**

Rule Caption: Corrects fee methodology used for calculating permit fees on additions in residential construction.

Date: 9-22-09 **Time:** 10:30 a.m. **Location:** 1535 Edgewater St. NW
Salem, OR 97304

Hearing Officer: Aeron Teverbaugh

Stat. Auth.: ORS 455.048 & 455.055

Stats. Implemented: ORS 455.046 & 455.055

Proposed Amendments: 918-050-0100

Last Date for Comment: 9-25-09, 5 p.m.

Summary: The proposed rule corrects the calculation method for valuing permits for additions in residential structures. The current rule lists additions as both “alteration and repair” and “new construction.” The rule clarifies that an addition is “new construction” not “alteration and repair,” which is consistent with the general understanding among jurisdictions and the trades.

Rules Coordinator: Shauna M. Parker

Address: Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309

Telephone: (503) 373-7438

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Rule Caption: Clarifies the administration and conditions for use of the electronic permitting system.

Date: 9-22-09 **Time:** 10 a.m. **Location:** 1535 Edgewater St. NW
Salem, OR 97304

Hearing Officer: Aeron Teverbaugh

Stat. Auth.: ORS 455.095 & 455.097

Stats. Implemented: ORS 455.095, 455.097, 455.125 & 455.129

Proposed Adoptions: 918-050-0850

Last Date for Comment: 9-25-09, 5 p.m.

Summary: This proposed rule clarifies the administration of the statewide electronic permitting (ePermitting) system. It sets forth the responsibilities of contractors using the system and clarifies that misuse of the system can potentially subject a contractor to sanctions. Possible sanctions include: losing the ability to use the ePermitting

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system, civil penalties, and suspension or revocation of individual licenses.

Rules Coordinator: Shauna M. Parker

Address: Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309

Telephone: (503) 373-7438

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Rule Caption: Adopts amendment to 2008 Oregon Residential Specialty Code regarding performance requirements for pool drain covers.

Date: 9-22-09 **Time:** 9:30 a.m. **Location:** 1535 Edgewater St. NW
Salem, OR 97304

Hearing Officer: Mike Ewert

Stat. Auth.: ORS 455.020, 455.110, 455.525 & 455.610

Stats. Implemented: ORS 455.610

Proposed Amendments: 918-480-0010

Last Date for Comment: 9-25-09, 5 p.m.

Summary: The proposed rule adopts an amendment to the 2008 Oregon Residential Specialty Code (ORSC) that establishes performance requirements on drain covers for private pools and spas in residential dwellings. In December 2008, the provisions of a new federal law, the Virginia Graeme Baker Pool and Spa Safety Act, went into effect. The Act requires all swimming pool and spa drain covers available for purchase to meet specific performance expectations. This proposed rule clarifies that the use and installation of drain cover products in Oregon must comply with the requirements set forth in the new law.

Rules Coordinator: Shauna M. Parker

Address: Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309

Telephone: (503) 373-7438

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Department of Consumer and Business Services, Director's Office Chapter 440

Rule Caption: 2010 Workers' Compensation Premium Assessment Rates.

Date: 9-29-09 **Time:** 1 p.m. **Location:** Labor & Industries Bldg.
350 Winter St. NE
Conference Room F
Salem OR

Hearing Officer: Fred Bruyns

Stat. Auth.: ORS 705.135, 656.736 & 756.612

Stats. Implemented: ORS 656.612 & 656.614

Proposed Amendments: 440-045-0020, 440-045-0025

Last Date for Comment: 9-29-09, 5 p.m.

Summary: The director adopts by rule the workers' compensation premium assessment rate that is paid by all employers based on their workers' compensation premium and is collected by the insurer at the time the employer pays the premium. This assessment is used for fund workers' compensation related programs and workplace safety and health programs that serve Oregon employers and workers. In addition, the rule adopts the rate for all self-insured employer groups to fund the Self-Insured Employers Adjustment Reserve and the Self-Insured Employer Group Adjustment Reserve. These reserves are established to assure benefits are available in the event of a financial failure of a self-insured employer or a self-insured employer group. This rulemaking will adopt the assessment percentage that will be in effect from January 1, 2010 to December 31, 2010. Before recommending the 2010 premium assessment rate, review the data, and authorize or disapprove a proposed workers' compensation pure premium insurance rate filing filed by the National Council on Compensation Insurance. We expect the recommendation for the 2010 premium assessment rate to be announced between September 14 and September 17, 2009.

Rules Coordinator: Kristen Miller

Address: Department of Consumer and Business Services, Director's Office, 350 Winter St. NE, PO Box 14480, Salem, OR 97309-0405

Telephone: (503) 947-7283

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Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Adopting Permanent Rules Governing Federal Subsidy for State Program for Continuation of Health Benefit Plans.

Date: 10-6-09 **Time:** 1:30 p.m. **Location:** Labor & Industries Bldg.
350 Winter St. NE,
Conference Rm. E
Salem, OR

Hearing Officer: Jeanette Holman

Stat. Auth.: ORS 731.244 & 743.610

Other Auth.: 2009 OL Ch. 73 (Enrolled HB 2433)

Stats. Implemented: ORS 743.610 & 2009 OL Ch. 73 (Enrolled HB 2433)

Proposed Adoptions: 836-053-0580, 836-053-0855, 836-053-0860, 836-053-0865

Proposed Repeals: 836-053-0580(T), 836-053-0855(T), 836-053-0860(T), 836-053-0865(T)

Last Date for Comment: 10-12-09

Summary: Oregonians who lose their jobs have two options to continue coverage under their group health plan. If their former employer has 20 or more workers, they are eligible under the Consolidated Omnibus Budget Reconciliation Act (COBRA). If their former employer has fewer than 20 workers, they are eligible under Oregon's state continuation law. The federal economic stimulus package extends a 65-percent subsidy for up to nine months of coverage. Recognizing the need for changes to state law to allow Oregonians to obtain the full advantage of the federal subsidy, the Oregon Legislative Assembly enacted House Bill 2433, which extends the period of eligibility for state continuation coverage from six months to nine months and allows the Director of the Department of Consumer and Business Services to adopt rules as necessary to allow Oregonians to take full advantage of the benefits provided by the federal law. On April 28, 2009, the Director adopted temporary rules OAR 836-053-0850T, 836-053-0855T, 836-053-0860T, 836-053-0865T (the temporary rules) that enacted the following provisions to implement House Bill 2433:

- Extend the period of continuation coverage for assistance eligible individuals (AEIs) to provide coverage periods of no less than nine months.
- Allow an independent election of coverage for all qualified beneficiaries.
- Create a second election opportunity for state continuation coverage for AEIs who experienced a qualifying event on or after 09/01/08 and before April 28, 2009 and either did not elect or whose continuation coverage ended for any reason (e.g., lapse due to non-payment, expiration of 6-month coverage period).
- Establish notice requirements for insurers.
- Specify that enrollees who take advantage of the second election opportunity are provided a period of continuous coverage for purposes of calculating creditable coverage.

Because the temporary rules expire on October 24, 2009, these permanent rules will repeal the temporary rules and enact permanent rules that continue the above outlined provisions to implement chapter 73, Oregon Law 2009 (Enrolled House Bill 2433).

Rules Coordinator: Sue Munson

Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Salem, OR 97301

Telephone: (503) 947-7272

NOTICES OF PROPOSED RULEMAKING

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

Rule Caption: Remove ambiguous language and clarify how OMIP is currently and has been administering this rule.

Stat. Auth.: ORS 735.610, 735.615, 735.620 & 735.625(6)

Other Auth.: OMIP Board

Stats. Implemented: ORS 735.625(6)

Proposed Amendments: 443-002-0110

Last Date for Comment: 9-24-09, 5 p.m.

Summary: 443-002-0110 refers to how OMIP administers coordination of benefits when an enrollee is insured by other insurance while being insured through OMIP. The current rule reads that OMIP is the secondary payer to any other health insurance acquired after the OMIP effective date. However, an enrollee could have other health insurance prior to the OMIP effective date and maintain that coverage after the OMIP effective date, if the other insurance was not substantially equivalent in benefits to OMIP. This rule clarifies how OMIP has always interpreted ORS 735.625(6) and does not change administration procedures. This rule goes into effect retroactively to January 1, 2009.

Rules Coordinator: Linnea Saris

Address: 250 Church Street #200, Salem, OR 97301

Telephone: (503) 378-5672

Department of Corrections Chapter 291

Rule Caption: Supplemental Funds to Counties for Treatment of Drug-Affected Persons.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Other Auth.: 2008 OL Ch. 14 & 35

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Proposed Adoptions: 291-031-0220 – 291-031-0260

Last Date for Comment: 10-22-09

Summary: Adoption of these rules is necessary to implement Or Laws 2008 Ch 14 (SB 1087) and Or laws Ch 35 (HB 3638), which require the Department to establish rules to administer a grant program to make supplemental funding available to counties for treatment of drug-affected persons.

Rules Coordinator: Janet R. Worley

Address: Department of Corrections, 2575 Center St. NE, Salem, OR 97301-4667

Telephone: (503) 945-0933

Rule Caption: Retention and Destruction of Offender Records.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Proposed Amendments: 291-070-0130

Last Date for Comment: 10-22-09

Summary: Amendment of this rule is necessary to clarify offender records at community corrections offices will be retained in accordance with the State Archivist schedule.

Rules Coordinator: Janet R. Worley

Address: Department of Corrections, 2575 Center St. NE, Salem, OR 97301-4667

Telephone: (503) 945-0933

Rule Caption: Food Services — Kosher Diets.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Proposed Repeals: 291-084-0010 – 291-084-0040

Last Date for Comment: 10-22-09

Summary: Repeal of the Department's rules is necessary because they are inconsistent with current Department policy and procedures governing inmate access to a kosher diet. As part of a settlement of disputed litigation filed by a non-Jewish inmate, the Department has agreed not to enforce or apply its current administrative rules gov-

erning inmate participation in the Department's kosher diet program, and to work on a developing a new kosher diet policy.

Rules Coordinator: Janet R. Worley

Address: Department of Corrections, 2575 Center St. NE, Salem, OR 97301-4667

Telephone: (503) 945-0933

Department of Energy, Energy Facility Siting Council Chapter 345

Rule Caption: Amend Carbon Dioxide Emission Standard for Non Base Load Electric Generating Facilities.

Date: 10-5-09 **Time:** 10 a.m. **Location:** Oregon Dept. of Energy
625 Marion St. NE
Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 469.470 & 469.503

Stats. Implemented: ORS 469.501 & 469.503

Proposed Amendments: 345-024-0590, 345-001-0010

Last Date for Comment: 10-8-09

Summary: Rule amendments are proposed pursuant to a petition submitted by Portland General Electric Company (PGE) in accordance with OAR 137-001-0070. The proposed amendment to OAR 345-024-0590(5) would provide an alternate means of measuring "actual gross carbon emissions" every five years during the operation of a non-base load power plant. The proposed amendments will allow a certificate holder for a non-base load power plant to report actual carbon dioxide emissions consistent with any mandatory carbon dioxide emissions reporting agency required by either the Oregon Department of Environmental Quality or the United States Environmental Protection Agency. These amendments are suggested to account for new variable power electric plants that are needed to accommodate the variable nature of electric power available from wind and other renewable sources.

In addition, the proposed amendment to OAR 345-001-0010 would amend section (38) "non-base load power plant" to provide that for facilities designated to operate at variable load, the annual limit of 6,600 house of operation could be determined by dividing the annual electric output of the facility by the nominal electric generating capacity of the facility.

PGE's petition and suggested rule language are posted on the Oregon Department of Energy website: <http://www.oregon.gov/ENERGY/announce.shtml>

The Department requests public comment on the proposed amendments. Comments can be submitted by US Mail or by email. Please submit US Mail comments to the Rules Coordinator at the address listed. Alternately, comments can be emailed to the rules coordinator at john.white@state.or.us

Rules Coordinator: John G. White

Address: Department of Energy, Energy Facility Siting Council, 625 Marion St. NE, Salem, OR 97301

Telephone: (503) 378-3194

Department of Environmental Quality Chapter 340

Rule Caption: Onsite program application fee increase.

Date: 9-14-09 **Time:** 6 p.m. **Location:** Comfort Suites
3420 Leif Ericson Dr.
Astoria, OR

9-14-09 6 p.m. State Office Bldg.
700 SE Emigrant Ave.
Pendleton, OR

9-15-09 6 p.m. North Bend Public Library
1800 Sherman Ave.
North Bend, OR

9-15-09 6 p.m. Baker City Hall
1655 First St.
Baker City, OR

NOTICES OF PROPOSED RULEMAKING

9-16-09	6 p.m.	Tally Media Group Bldg. 109 NW "C" St. Grants Pass, OR
9-16-09	6 p.m.	Burns City Hall 242 S. Broadway Ave. Burns, OR

Hearing Officer: Connie Schrandt, Pat Vernon, Del Cline, Chuck Costanzo, Bob Baggett

Stat. Auth.: ORS 454.625, 468.020 & 468.50(2)

Stats. Implemented: ORS 454.745, 468.065 & 468B.050

Proposed Amendments: 340-071-0140

Last Date for Comment: 9-25-09, 5 p.m.

Summary: Onsite program costs have increased 3.89% per year on average over the past 9 years. Application fees have remained the same for the past 9 years. Application fees are proposed to be increased by 40% to 60% to account for these cost increases and take into account rising costs through 2015. The fee will support 2.5 staff positions that are currently unaffordable and will provide year-round operating reserves. These fees are found in Tables 9A, 9B, 9C, and 9F, which will be updated through this rulemaking.

The fee increase will mainly impact the estimated 2,500 applicants per year for site evaluations, permits and other reports associated with the development or re-development of properties that utilize septic systems in counties where DEQ administers the onsite program directly (currently 14 of the 36 counties in Oregon). Manufacturers of products for use in septic systems in Oregon will also be impacted by this fee increase.

To submit comments or request additional information, please contact:

(1) Randy Trox at the Department of Environmental Quality, 165 East 7th Avenue, Suite 100, Eugene, Oregon 97401-3049, call toll free in Oregon 800-844-8467 ext. 7338 or 541-687-733, fax 541-686-7551, email: trox.randall@deq.state.or.us

(2) or visit DEQ's public notices web page <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: Streamlining Water Quality General Permit Adoption.

Date: 9-15-09 **Time:** 6 p.m. **Location:**
811 SW Sixth Ave.
10th Floor, Rm. EQC-A
Portland, OR 97204

Hearing Officer: Beth Moore

Stat. Auth.: ORS 468.020, 468B.020 & 468B.035

Stats. Implemented: ORS 468.065, 468B.015, 468B.035 & 468B.050

Proposed Amendments: 340-045-0033

Last Date for Comment: 9-18-09, 5 p.m.

Summary: The proposed amendment to Oregon Administrative Rule 340-045-0033 will allow general permits previously adopted by the Environmental Quality Commission by rule to be superseded by permits subsequently adopted by a department order by the Director, Oregon Department of Environmental Quality. There are 22 NPDES and WPCF general permits that were adopted by rule in OAR 340-045 that cover such discharges as stormwater, washwater, suction dredges and seafood processing. Nine of the permits that are listed there will be removed from OAR 340-045-because they expired and were superseded by a new permit. The remaining permits will be superseded by general permits adopted by department order in the future. In addition, text version were made to clarify the rule language in OAR 340-045.

To submit comments or request additional information, please contact:

(1) Beth Moore at the Department of Environmental Quality, 811 SW Sixth Avenue, Portland, OR 97204-1390 call toll free in Oregon

800-452-4011 or (503) 229-6402, fax (503) 229-6037, email: streamlining@deq.state.or.us (if you do not receive an auto response to your emailed comments, contact staff listed above)

(2) or visit DEQ's public notices web page <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: Establish 2010 Seasons and Regulations for Game Mammals.

Date: 10-2-09 **Time:** 8 a.m. **Location:**
3406 Cherry Ave. NE
Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Proposed Amendments: Rules in 635-008, 635-010, 635-043, 635-045, 635-060, 635-065, 635-066, 635-067, 635-068, 635-069, 635-070, 635-071, 635-072, 635-073, 635-075, 635-080

Last Date for Comment: 10-2-09

Summary: Establish 2009 hunting regulations for game mammals, including season dates, open areas, location of cooperative travel management areas, wildlife areas, and other rules including general hunting and controlled hunt regulations. Specific rule changes include: Adopt a reinstatement process for preference points, amend rules relating to hunting after filling a tag ceremonial harvest tags, youth hunts, deer and elk Cascade hunt seasons, eviction from department lands, archery and disability bag limits, LOP tag exchange, LOP tags issued, and mandatory hunter reporting.

Rules Coordinator: Therese Kucera

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 relating to Miscellaneous and Occupational Fees.

Date: 10-2-09 **Time:** 8 a.m. **Location:**
3406 Cherry Ave.
Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 183 & 496, HB 2223 (2009)

Stats. Implemented: ORS 183 & 496, HB 2223 (2009)

Proposed Amendments: Rules in 635-004, 635-006, 635-007, 635-008, 635-010, 635-040, 635-043, 635-044, 635-047, 635-048, 635-049, 635-050, 635-051, 635-055, 635-056, 635-060, 635-065, 635-066, 635-067, 635-075, 635-090, 635-200

Last Date for Comment: 10-2-09

Summary: Adopt amendments to the Oregon Administrative Rules to implement HB 2223, enacted by the 2009 Legislative Assembly. This bill changed miscellaneous and occupational fees for the Department.

Rules Coordinator: Therese Kucera

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 for the Commercial Ocean Dungeness Crab Fishery.

Date: 10-2-09 **Time:** 8 a.m. **Location:**
Commission Rm.
3406 Cherry Ave. NE
Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission

NOTICES OF PROPOSED RULEMAKING

Stat. Auth.: ORS 496.146, 506.109, 506.119, 506.129, 506.755, 508.941 & 508.921

Stats. Implemented: ORS 496.146, 506.109, 506.119, 506.129, 506.755, 508.941 & 508.921

Proposed Adoptions: Rules in 635-005, 635-006

Proposed Amendments: Rules in 635-005, 635-006

Proposed Repeals: Rules in 635-005, 635-006

Last Date for Comment: 10-2-09

Summary: Rules relating to permit renewal and transfer requirements; commercial Fishery Permit Board appeals; and commercial ocean Dungeness crab fishery gear requirements may be adopted or amended as determined necessary.

Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

Rules Coordinator: Therese Kucera

Address: Department of Fish and Wildlife, 3406 Cherry Ave. NE, Salem, OR 97303

Telephone: (503) 947-6033

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Department of Human Services,

Administrative Services Division and Director's Office

Chapter 407

Rule Caption: Updates to Criminal Records Check Rules for Providers Licensed, Certified, or Regulated by the Department.

Stat. Auth.: ORS 181.534, 181.537, 409.050, 410.020, 411.060, 411.122, 418.016, 418.640, 441.055, 443.730, 443.735 & 678.153

Stats. Implemented: ORS 181.534, 181.537, 183.341, 409.010, 411.060, 411.122 & 678.153

Proposed Amendments: 407-007-0200, 407-007-0210, 407-007-0220, 407-007-0230, 407-007-0240, 407-007-0250, 407-007-0280, 407-007-0290, 407-007-0300, 407-007-0320, 407-007-0330, 407-007-0340, 407-007-0350, 407-007-0355, 407-007-0370

Last Date for Comment: 9-22-09, 5 p.m.

Summary: The Department of Human Services (Department) is updating the term "criminal history check" to "criminal records check" to closer align with statutory language. In addition, the DHS Criminal History Request form is being renamed to the DHS Background Check Request form, so references in the rules are being updated. Other minor grammatical adjustments are also being addressed.

Proposed rules are available on the DHS Website: <http://www.oregon.gov/DHS/admin/dwssrules/index.shtml>

For hardcopy requests, call: (503) 947-5250.

Rules Coordinator: Jennifer Bittel

Address: 500 Summer St. NE, E-03, Salem, OR 97301

Telephone: (503) 947-5250

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Department of Human Services, Children, Adults and Families Division:

Child Welfare Programs

Chapter 413

Rule Caption: Changing OARs affecting Child Welfare programs.

Date: 9-21-09 **Time:** 8:30 a.m. **Location:** 500 Summer St. NE, Rm. 254
Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 418.005 & 418.330–418.340

Other Auth.: 8 USC 1601–1645, 25 USC 1901–1934, 42 USC 471–475, 42 USC 601–687, 42 USC 1305, 42 USC 1396–1396v, 42 CFR 440.167, Title IV-E Waiver Terms and Conditions

Stats. Implemented: ORS 183.411–183.685, 411.095, 418.005, 418.330–418.340, 418.470 & 418.625

Proposed Adoptions: 413-070-0909

Proposed Amendments: 413-070-0900, 413-070-0905, 413-070-0915, 413-070-0917, 413-070-0920, 413-070-0925, 413-070-0930, 413-070-0935, 413-070-0937, 413-070-0940, 413-070-0945, 413-070-0955, 413-070-0960, 413-070-0965, 413-070-0970

Proposed Repeals: 413-070-0910, 413-070-0950, 413-070-0980, 413-070-0981, 413-070-0982

Last Date for Comment: 9-21-09, 12 p.m.

Summary: OAR 413-070-0900, 413-070-0905, 413-070-0915, 413-070-0917, 413-070-0920, 413-070-0925, 413-070-0930, 413-070-0935, 413-070-0937, 413-070-0940, 413-070-0945, 413-070-0955, 413-070-0960, 413-070-0965, and 413-070-0970 about the Department's Guardianship Assistance Program are being amended, OAR 413-070-0909 about the Department's Guardianship Assistance Program is being adopted, and OAR 413-070-0910, 413-070-0950, 413-070-0980, 413-070-0981, and 413-070-0982 about the Department's Guardianship Assistance Program are being repealed, to comply with the requirements of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008. The Department had administered its Guardianship Assistance Program as a demonstration project approved by the federal Department of Health and Human Services under a waiver allowed by Section 1130 of the Social Security Act (Title IV-E). The Department cannot claim federal financial participation for relative guardianships established after September 30, 2008 and prior to submission of an approved state Title IV-E plan necessitating these rule amendments and suspensions. These rules also are being adopted, amended, and repealed to correct and update these rules to be consistent with Department policy and practice, remove language referring to the demonstrations project and waiver program, and remove language that does not need to appear in administrative rule. These rules also are being amended and repealed to clarify the Department's policies for this program, include definitions used throughout the guardianship assistance program rules, reflect current Department terminology, and bring the guardianship assistance program into compliance with federal requirements. These rules also are being adopted, amended, and repealed to make permanent temporary changes adopted on March 31, 2009 and July 1, 2009.

OAR 413-070-0900 about the purpose of OAR 413-070-0900 to 413-070-0970 is being amended to restate that the purpose of these rules is to put forth the Department criteria on eligibility for a subsidized guardianship as a permanency planning option for a child in substitute care.

OAR 413-070-0905 about the definitions used in OAR 413-070-0900 to 413-070-0970 is being amended to state the definitions used throughout the guardianship assistance program rules and reflect current Department terminology.

OAR 413-070-0909 about the funding sources for payments made for guardianship assistance is being adopted to comply with federal requirements for administration of a federally funded guardianship assistance program.

OAR 413-070-0910 about Department values is being repealed to streamline the rules by removing unnecessary statements.

OAR 413-070-0915 about which children are eligible to participate in the Guardianship Assistance Program is being amended to state that a child is eligible to participate if a county mental health or developmental disability system does not provide the child's substitute care or Title XIX maintenance payment or the child is not Title IV-E eligible but meets all other eligibility criteria. This rule also is being amended to state that a child eligible for the Guardianship Assistance Program remains eligible for the program when removed from the guardianship so long as the child meets one of the following criteria: the child is removed from the guardianship placement and placed in foster care; the child previously was determined eligible for the Guardianship Assistance Program and subsequently placed in foster care, but then is removed from foster care and returns to the guardian; or the child is moving from guardianship assistance to adoption remaining eligible for Title IV-E adoption assistance. This rule also is being amended to state that the Department does not reestablish dependency of a child placed into guardianship unless there is cause for removing the child from the guardian's home.

OAR 413-070-0917 about the additional Guardianship Assistance Program eligibility requirements for a child in the care and custody

NOTICES OF PROPOSED RULEMAKING

of a tribe is being amended to state that a foster home certified by a tribe meets the Department's foster home licensing requirements; and that a participating tribe agrees to document how continued placement with the current caregiver in a guardianship is in the best interests of the child; and that if the tribe reestablishes custody of a child formerly in a guardianship placement, the tribe must notify within 30 days and provide a copy of the court order terminating the guardianship to the Department's Central Office Adoption Services Unit.

OAR 413-070-0920 about when the Department or a participating tribe may consider legal guardianship as a permanency plan for a child is being amended to state that a child must have been in the Department's or participating tribe's legal custody for a minimum of six months if the prospective guardian is a relative or twelve months if the prospective guardian is not a relative; the child must be eligible for a Title IV-E foster care payment, however receipt of the payment is not required; the child must have lived the past six consecutive months with the prospective guardian; and each sibling in the same placement is eligible to be placed with the same guardian, providing at least one sibling meets all eligibility criteria, regardless of the timing of each individual placement. This rule also is being amended to state that the requirement that a child cannot safely return home is met when reunification with a parent of the child is not possible within a reasonable timeframe and the Department determines that adoption is not an appropriate plan for the child and to state that the Department must document in the child's case record that the Department and prospective guardian agree that the child and guardian can maintain a stable relationship and function effectively without Department supervision. This rule also is being amended to state that a child is eligible if the child has a need but the need does not require continued Department services or funding and that each legal parent has consented to the guardianship placement or has been given adequate notice under the law. This rule also is being amended to state that the child, if age 14 or older, has been consulted regarding the guardianship placement; and a court guardianship order either terminates the order for Department or tribal care, custody, and supervision or, if a child has been committed permanently to the Department, sets aside or modifies the order of permanent commitment, relieving the Department of responsibility for the child. This rule is being further amended to state that if the child is a Title IV-E eligible Indian child, as defined by the Indian Child Welfare Act (ICWA), and in the care and custody of the Department, the plan for guardianship placement with the current caregiver is approved by the participating tribe.

OAR 413-070-0925 about the eligibility requirements for a guardian in the Guardianship Assistance Program is being amended to restate requirements the guardian must meet, including providing a safe home for the child for the past six consecutive months and agreeing to comply with the requirements of the Department of Justice, Division of Child Support.

OAR 413-070-0930 about the income and payment standards and medical benefits in the Guardianship Assistance Program is being amended to state that the guardianship assistance payment can be no greater than the Department's foster care base rate under OAR 413-090-0000 to 413-090-0500 based upon the age of the child; to restate the guardian must be the designated payee for any of the child's benefits except child support and tribal dividend payments; and to restate that the child's benefit income does not include tribal dividend payments. This rule also is being amended to restate that a child residing outside of Oregon may receive guardianship assistance benefits based on the basic foster care maintenance rate of the child's state of residence and state that as long as the payment can be identified as a program payment and is kept separate from other money in the guardian's possession a guardianship assistance payment is inalienable and not assignable or transferable, and exempt from execution, levy, attachment, garnishment, and other legal process under the laws of Oregon. This rule also is being amended to state that a guardianship assistance benefit payment does not automatically increase and

a guardian may request an increase due to the age of the child, cost of living increases, or other legislatively approved increases to the basic foster care base rate payment; and that any retroactive increase may only be commencing on the first day of the month in which the increase was requested. This rule also is being amended to state that the Department may adjust guardianship assistance benefits when the child's income used to calculate the basic guardianship assistance monthly benefit payment changes and that a child eligible for Guardianship Assistance Program benefits is eligible for medical benefits under OAR 413-100-0400 to 413-100-0610.

OAR 413-070-0935 about the guardianship agreement between the Department and the guardian is being amended to state the agreement must include the additional services and assistance for which the child and guardian are eligible under the agreement and the procedure by which the guardian may apply for additional services; that the Department pays for nonrecurring expenses associated with obtaining legal guardianship of the child to the extent the total of these expenses does not exceed \$1500; that the agreement remains in effect without regard to the state of residency of the guardian; that the guardian understands Guardianship Assistance Program benefits may be terminated or suspended under OAR 413-070-0930 (for failure to comply with OAR 413-070-0925(5)) or OAR 413-070-0940; and that the guardian agrees to comply with the Guardianship Assistance Program reporting requirements under OAR 413-070-0955. This rule also is being amended to state the Department must provide the guardian with a copy of the guardianship agreement and to restate that the Department may review the agreement at the Department's discretion.

OAR 413-070-0937 about the court order of guardianship is being amended to state that when the Department determines that guardianship is the appropriate placement for a child, the Department establishes a guardianship under ORS 419B.365 or ORS 419B.366 and as provided under ORS 419B.367 to 419B.369; the Department will not pursue a court order establishing a guardianship until an application is approved by the Department; and that the caregiver is ineligible for foster care maintenance payments once the guardianship is effective and Department custody of the child is terminated by court order.

OAR 413-070-0940 about when the Department suspends or terminates Guardianship Assistance Program benefits is being amended to restate that the Department suspends or terminates benefits when a child is placed into substitute care with no plan for the child to return to the care of the guardian and when a child is incarcerated for more than three months. This rule also is being retitled "Suspension or Termination of Guardianship Assistance Benefits" to better reflect the rule's content.

OAR 413-070-0945 about when the Department reviews eligibility for the Guardianship Assistance Program and the reports the guardian must submit to the court is being amended to restate that the Department may review eligibility on at least an annual basis and that the guardian must submit a written report to the court that issued the guardianship order within 30 days after each annual anniversary of the court appointment of guardianship.

OAR 413-070-0950 about eligibility retention by a child in the Guardianship Assistance Program is being repealed because its relevant provisions now appear in OAR 413-070-0915.

OAR 413-070-0955 about changes that must be reported by a guardian in the Guardianship Assistance Program is being amended to state a guardian must report the following: the child's absence of longer than thirty days from or no longer living in the guardian's home, adoption, death, emancipation, incarceration for more than three consecutive months, marriage, or placement into substitute care with no plan for the child to return to the care of the guardian; when custody or guardianship is granted to another individual; the guardian is no longer legally responsible for the financial support of the child or the child is no longer receiving financial support from the guardian; and the guardian is planning to move out of Oregon; The

NOTICES OF PROPOSED RULEMAKING

rule also is being amended to state that the reports may be made orally or in writing.

OAR 413-070-0960 about special payments to guardians for vendor attorney and legal expenses in the Guardian Assistance Program is being amended to restate that the Department may pay for some costs incurred by a guardian in the establishment of a guardianship of a child, and payment is not authorized for legal services authorized to defend or retain guardianship upon challenge by another party once the guardianship has been established.

OAR 413-070-0965 about the application requirements for the Guardianship Assistance Program is being amended to retitle the rule "Application Requirements", state that guardianship assistance applicants must complete and sign an application and return it to the Department branch office managing the child's case, that applying for guardianship assistance is voluntary, and that an application may be withdrawn at any time by the applicant.

OAR 413-070-0970 about the social and support services available to children and guardians in a guardianship is being amended to state that the child in the guardianship has the same access to local Department services after establishment of the guardianship as do adoptive parents, and to restate that the Department caseworker provides the guardian, guardian's family, and the child with the contact information for social and support services.

OAR 413-070-0980 about what happens when legislative or executive branch actions make it necessary for the Department to reduce Guardianship Assistance Program benefit levels is being repealed to streamline the rules by removing unnecessary and redundant statements.

OAR 413-070-0981 about the monthly payment amounts made under all guardianship agreements is being repealed because Guardianship Assistance Program payment rates are covered by OAR 413-070-0930.

OAR 413-070-0982 about a client's rights to a contested case hearing is being repealed to streamline the rules by removing unnecessary statements now covered by OAR 413-010-0500.

In addition, the above rules may also be changed to reflect new Department terminology and to correct formatting and punctuation.

Rules Coordinator: Annette Tesch

Address: Department of Human Services, Children, Adults and Families Division: Child Welfare Programs, 500 Summer St. NE, E-48, Salem, OR 97301-1066

Telephone: (503) 945-6067

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Rule Caption: Changing OARs affecting Child Welfare programs.

Date: 9-21-09 **Time:** 8 a.m. **Location:** 500 Summer St. NE, Rm. 254
Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 409.185, 418.005, 418.015 & 419B.005 - 419B.050

Stats. Implemented: ORS 409.185, 418.005, 418.015 & 419B.005 - 419B.050

Proposed Amendments: 413-015-0409

Last Date for Comment: 9-23-09, 5 p.m.

Summary: OAR 413-015-0409 about when the Department makes an exception to the requirement to complete Child Protective Services (CPS) assessment activities after an assigned referral is being amended to restate the conditions under which new information received by the Department allows the Department to make an exception to the requirement to complete a CPS assessment.

In addition, the above rules may also be changed to reflect new Department terminology and to correct formatting and punctuation.

Rules Coordinator: Annette Tesch

Address: Department of Human Services, Children, Adults and Families Division: Child Welfare Programs, 500 Summer St. NE, E-48, Salem, OR 97301-1066

Telephone: (503) 945-6067

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

Rule Caption: Transportation assistance for court-ordered OHP Plus clients vs. incarcerated persons not eligible for services.

Date: 9-15-09 **Time:** 10:30 a.m. **Location:** HSB Bldg. Rm. 137C
500 Summer St. NE
Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010, 409.050, 409.065 & 409.110

Stats. Implemented: ORS 414.065 & 409.010

Proposed Amendments: 410-136-0240, 410-136-0300

Last Date for Comment: 9-17-09

Summary: The Medical transportation program administrative rules govern Division of Medical Assistance Programs' (DMAP) payment for services to certain clients. Having temporarily amended 410-136-0240 and 410-136-0300 effective April 1, 2009, DMAP needs to permanently amend these rules to clarify that reimbursement may be authorized for non-emergent medical transportation that is court-ordered when other general conditions for eligibility are met. Before the Temporary action, these rules had improperly prevented otherwise eligible clients from obtaining necessary transportation to covered mental health and addictions service when these services were court-ordered. This is the Notice to make these rules permanent on or before September 25, 2009. Other text is revised to improve readability and to take care of necessary "housekeeping" corrections.

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: To reflect rate changes in outpatient and inpatient hospital services for Diagnosis Related Grouper (DRG) hospitals and update the unit value calculation component for inpatient services.

Date: 9-15-09 **Time:** 10:30 a.m. **Location:** HSB Bldg. Rm. 137C
500 Summer St. NE
Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010, 409.050, 409.065 & 409.110

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-125-0141, 410-125-0195

Last Date for Comment: 9-17-09

Summary: The Hospital Services Program administrative rules govern Division of Medical Assistance Programs' (DMAP) payments for services provided to certain clients. Having temporarily amended these rules, DMAP will permanently amend rules 410-125-0141 and 410-125-0195 to reflect an increase in the Unit value component of the formula that reimburses hospitals for inpatient services paid on a Diagnosis Related Group (DRG) basis. It will also increase the reimbursement percentage paid for outpatient services. DMAP will also amend 410-125-0141, effective October 1, 2009, to reflect the updated unit value calculation component that reimburses DRG hospitals for inpatient services. This is the Notice to make these rules permanent on or before October 1, 2009. Other text is revised to improve readability and to take care of necessary "housekeeping" corrections.

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

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Amendments to Medicaid Managed Care and Hospital Tax Rules.

Date: 9-22-09 **Time:** 10:30–11:30 a.m. **Location:** Human Services Bldg.
Room 473
500 Summer St. NE
Salem, OR 97301

Hearing Officer: Jennifer Bittel

Stat. Auth.: ORS 409.050, 410.070, 411.060 & 411.061

Stats. Implemented: ORS 409.750 & 2003 OL Ch. 736 § 1, 2, 3, 5, 10, 38, 39, 40, 45 & 50, 2009 HB 2116

Proposed Amendments: 410-050-0100, 410-050-0130, 410-050-0180, 410-050-0240, 410-050-0250, 410-050-0700, 410-050-0800, 410-050-0861, 410-050-0870

Last Date for Comment: 9-24-09, 5 p.m.

Summary: The proposed amendments change the definition of what types of Medicaid managed care organizations are subject to the tax, the tax rate, and penalties for late filings; and establish a new sunset date for the Medicaid managed care provider tax rules. The proposed amendments also change the tax rate and penalties for late filings; and establish a new sunset date for the hospital provider tax rules.

Proposed rules are available on the DHS Website: <http://www.oregon.gov/DHS/admin/dwssrules/index.shtml>

For hardcopy requests, call: (503) 947-5250.

Rules Coordinator: Jennifer Bittel

Address: 500 Summer St., NE, E-03, Salem, OR 97301

Telephone: (503) 947-5250

**Department of Human Services,
Public Health Division
Chapter 333**

Rule Caption: Family Planning Expansion Project.

Date: 10-23-09 **Time:** 3 p.m. **Location:** 800 NE Oregon St., Rm. 1A
Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.010

Proposed Amendments: 333-004-0010, 333-004-0030, 333-004-0060, 333-004-0070

Last Date for Comment: 10-26-09, 5 p.m.

Summary: The Department of Human Services, Public Health Division is proposing to amend Oregon Administrative Rules related to the family Planning Expansion Program (FPEP). FPEP is a Medicaid waiver demonstration project approved by the centers for Medicare and Medicaid Services (CMS). At this time, the program proposes to amend rules to: (1) allow FPEP clients to receive contraceptive supply refills via mail; and (2) give FPEP applicants a reasonable opportunity period in which to provide documentation of U.S. citizenship, as required by Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA).

Rules Coordinator: Brittany Sande

Address: Department of Human Services, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-1291

**Department of Human Services,
Seniors and People with Disabilities Division
Chapter 411**

Rule Caption: Nursing Facilities, Emergency and Disaster Planning and Smoking.

Date: 9-15-09 **Time:** 3 p.m. **Location:** Human Services Bldg.
500 Summer St. NE, Rm. 137CD
Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 410.070, 410.090 & 441.055

Other Auth.: HB 2371 (2007), 2007 OL Ch. 205, NFPA 101 Life Safety Code, OAR 837-040, SB 571 (2007), 2007 OL Ch. 602 & ORS 433.835–433.875

Stats. Implemented: ORS 441.055 & 441.615

Proposed Amendments: 411-086-0320, 411-086-0350

Last Date for Comment: 9-21-09, 5 p.m.

Summary: To implement House Bill 2371 (2007), the Department of Human Services (DHS), Seniors and People with Disabilities Division (SPD) is proposing to amend OAR 411-086-0320 to strengthen emergency and disaster planning for nursing facilities by aligning the rule with related state and federal regulations and requiring comprehensive emergency planning and preparedness to assure the provision of essential services to nursing facility residents in the event of an emergency or disaster.

SPD is also proposing to amend OAR 411-086-0350 to reflect that nursing facilities must comply with the 2007 Smokefree Workplace Law (Oregon Laws 2007, chapter 602) that became effective on January 1, 2009.

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Seniors and People with Disabilities Division, 500 Summer St. NE, E-10, Salem, OR 97301

Telephone: (503) 945-6398

Rule Caption: Residential Care and Assisted Living Facilities.

Date: 9-16-09 **Time:** 3 p.m. **Location:** Human Services Bldg.
500 Summer St. NE, Rm. 137CD
Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 410.070 & 443.450

Other Auth.: HB 2371 (2007), 2007 OL Ch. 205, OAR 837-040, SB 571 (2007), 2007 OL Ch. 602 & ORS 433.835–433.875

Stats. Implemented: ORS 443.400–443.455 & 443.991

Proposed Amendments: 411-054-0005, 411-054-0010, 411-054-0025, 411-054-0034, 411-054-0090, 411-054-0093, 411-054-0130, 411-054-0200, 411-054-0300

Proposed Repeals: 411-054-0125

Last Date for Comment: 9-21-09, 5 p.m.

Summary: The Department of Human Services, Seniors and People with Disabilities Division (SPD) is proposing to modify various residential care and assisted living facility rules in OAR chapter 411, division 054 to:

- Add definitions;
- Clarify the process for voluntary and emergency closures;
- Comply with the Oregon Indoor Clean Air Act, ORS 433.835 through 433.875;
- Require a resident to provide, prior to move-in, any financial and other legal relationships including advance directives;
- Implement House Bill 2371 (2007) by strengthening emergency and disaster planning;
- Remove the language relating to inactive and provisional licensures;
- Clarify when SPD may deny, suspend, revoke, or refuse to renew a license;
- Add language that was inadvertently left out that requires an assisted living facility to be kept clean and in good repair; and
- Provide general housekeeping to reflect current practice, improve readability, and establish consistency with other SPD rules.

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Seniors and People with Disabilities Division, 500 Summer St. NE, E-10, Salem, OR 97301

Telephone: (503) 945-6398

Rule Caption: Family Support Services Annual Plan.

Date: 9-16-09 **Time:** 9:30 a.m. **Location:** Human Services Bldg.
500 Summer St. NE, Rm. 137A
Salem, OR 97301

NOTICES OF PROPOSED RULEMAKING

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 410.070 & 417.346

Stats. Implemented: ORS 417.340–417.355, 427.005, 427.007 & 430.610–430.695

Proposed Amendments: 411-305-0080

Proposed Repeals: 411-305-0080(T)

Last Date for Comment: 9-21-09, 5 p.m.

Summary: To comply with the Community Developmental Disability Program (CDDP) service planning requirements in OAR 411-320-0120, the Department of Human Services, Seniors and People with Disabilities Division (SPD) is proposing to permanently adopt the temporary amendments to OAR 411-305-0080 that reflected that a written Annual Plan for family support services must be developed within the first 60 days of entry into case management and family support service instead of within the first 90 days.

Rules Coordinator: Christina Hartman

Address: Department of Human Services, Seniors and People with Disabilities Division, 500 Summer St. NE, E-10, Salem, OR 97301

Telephone: (503) 945-6398

Department of Justice
Chapter 137

Rule Caption: Temporary modifications, and manner in which child support and cash medical support is calculated.

Date:	Time:	Location:
9-22-09	4-5 p.m.	Div. of Child Support 118 2nd Ave. SE Albany, OR 97321
9-22-09	4-5 p.m.	Div. of Child Support 1300 NW Wall, Suite 100 Bend, OR 97701
9-22-09	4-5 p.m.	Div. of Child Support 10142 SE Washington Portland, OR 97216
9-22-09	4-5 p.m.	Div. of Child Support 165 E 7th Ave., Suite 300 Eugene, OR 97401
9-22-09	4-5 p.m.	Div. of Child Support 310 E 6th St., Suite 300 Medford, OR 97501
9-22-09	4-5 p.m.	Div. of Child Support 221 Molalla Ave., Suite 223 Oregon City, OR 97045
9-22-09	4-5 p.m.	City Hall Community Conf. Rm. 501 SW Emigrant Pendleton, OR 97801
9-22-09	4-5 p.m.	Div. of Child Support 621 SW Morrison, Suite 1100 Portland, OR 97205
9-22-09	4-5 p.m.	Div. of Child Support 2440 NW Troost, Suite 100 Roseburg, OR 97471
9-22-09	4-5 p.m.	Div. of Child Support 4600 25th Ave. NE, Suite 180 Salem, OR 97301
9-22-09	4-5 p.m.	Div. of Child Support 101 30th St. Springfield, OR 97478
9-22-09	4-5 p.m.	Div. of Child Support 10777 SW Cascade Blvd., Tigard, OR 97223

Hearing Officer: Kimberly Butzner, Ava Hounshell, Harvey Baker, Regina Agertter, Tia Moe, Pamela Weaver, Debra Mosher, William Cooksey, Gene Gustin, Michelle Long, Corey Briggs, Jonathan Ramberg

Stat. Auth.: ORS 25.020, 25.270–25.290, 107.108, 180.345 & 416.455

Stats. Implemented: ORS 25.020, 25.080, 25.270–25.290, 25.321–25.343, 107.135, 180.345, 416.415 & 416.425

Proposed Adoptions: 137-050-0485

Proposed Amendments: 137-050-0320, 137-050-0330, 137-050-0340, 137-050-0360, 137-050-0420, 137-050-0430, 137-050-0475, 137-055-2140, 137-055-2165, 137-055-3420, 137-055-3430

Proposed Repeals: 137-050-0485(T), 137-050-0320(T), 137-050-0330(T), 137-050-0340(T), 137-050-0360(T), 137-050-0420(T), 137-050-0430(T), 137-050-0475(T), 137-055-2140(T), 137-055-2165(T), 137-055-3420(T), 137-055-3430(T)

Last Date for Comment: 9-30-09, 5 p.m.

Summary: OAR 137-050-0485 is being adopted to say there is a rebuttal presumption that an obligor can pay \$100 per month, even when a support calculation falls below that amount. Exceptions are allowed: for obligors who are incarcerated and have no assets, obligors whose sole source of income is disability, obligors who receive public benefits, and parents who share 50/50 parenting time.

OAR 137-050-0320 is being amended to change the definition of “modified gross income.” If the parent is ordered to provide health care coverage under OAR 137-050-0410, the cost associated with enrolling the parent in an insurance plan is allowed to be deducted from “modified gross income.”

OAR 137-050-0330 is being amended to change the sequence in which cash medical support is calculated. Cash medical support is to be calculated after any ability to pay determination has been completed.

OAR 137-050-0340 is being amended to move the presumption of income for a parent receiving Temporary Assistance to Needy Families (TANF) to the Imputing Income rule, OAR 137-050-0360, which is a more appropriate rule for this provision.

OAR 137-050-0360 is being amended to shift the burden of proving whether a parent can earn income at a presumed level for temporary modifications. The presumption of ability to earn remains the same for new orders and permanent modifications. Additionally, income presumptions for a TANF parent are moved to this rule from OAR 137-050-0340, Gross Income.

OAR 137-050-0420 is being amended to place a cap on child care costs. A new table is added based on definitions and maximums in tables in the Department of Human Services Employment-Related Day Care standards rules.

OAR 137-050-0430 is being amended to clarify that if obligor income is equal to or less than full time state minimum wage, cash medical support is not reasonable in cost. Additionally, if the ability to pay rule applies (OAR 137-050-0475), any reduction in support must first happen to cash medical support. An amendment is also being made to clarify that the \$250 threshold for medical expenses applies regardless of whether private health care coverage is provided.

OAR 137-050-0475 is being amended to clarify that if support is reduced, it is reduced first from cash medical support.

OAR 137-055-2140 is being amended to clarify that the Office of Administrative Hearings (OAH) may enter default orders on cases in which temporary modifications have been initiated under OAR 137-055-3430. The rule is also being amended to clarify that OAH may dismiss a temporary modification if the requesting party fails to appear for a scheduled hearing.

OAR 137-055-2165 is being amended to clarify that a party will be denied a hearing reschedule request if it has been more than 60 days since notice of the hearing cancellation was issued.

OAR 137-055-3420 is being amended to clarify that when an order is suspended and temporarily modified under ORS 416.425(13)(2009 HB 2275) the suspension and temporary modification do not affect whether an order may be reviewed for compliance with the guidelines. Procedural steps formerly outlined in rule are being removed.

OAR 137-055-3430 is being amended to define a temporary modification and employment-related change of income. Verbal requests for temporary modifications are allowed under the rule. Additionally, expedited consent and hearing processes are specifically allowed. Procedural steps formerly outlined in rule are being removed.

Rules Coordinator: Vicki Tungate

NOTICES OF PROPOSED RULEMAKING

Address: Department of Justice, Division of Child Support, 494 State St., Suite 300, Salem OR 97301
Telephone: (503) 986-6086

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Rule Caption: Guidelines for calculating child support.

Date:	Time:	Location:
9-22-09	5-6 p.m.	Div. of Child Support 118 2nd Ave. SE Albany, OR 97321
9-22-09	5-6 p.m.	Div. of Child Support 1300 NW Wall, Suite 100 Bend, OR 97701
9-22-09	5-6 p.m.	Div. of Child Support 10142 SE Washington Portland, OR 97216
9-22-09	5-6 p.m.	Div. of Child Support 165 E 7th Ave., Suite 300 Eugene, OR 97401
9-22-09	5-6 p.m.	Div. of Child Support 310 E 6th St., Suite 300 Medford, OR 97501
9-22-09	5-6 p.m.	Div. of Child Support 221 Molalla Ave., Suite 223 Oregon City, OR 97045
9-22-09	5-6 p.m.	City Hall Community Conf. Rm. 501 SW Emigrant Pendleton, OR 97801
9-22-09	5-6 p.m.	Div. of Child Support 621 SW Morrison, Suite 1100 Portland, OR 97205
9-22-09	5-6 p.m.	Div. of Child Support 2440 NW Troost, Suite 100 Roseburg, OR 97471
9-22-09	5-6 p.m.	Div. of Child Support 4600 25th Ave. NE, Suite 180 Salem, OR 97301
9-22-09	5-6 p.m.	Div. of Child Support 101 30th St. Springfield, OR 97478
9-22-09	5-6 p.m.	Div. of Child Support 10777 SW Cascade Blvd., Tigard, OR 97223

Hearing Officer: Kimberly Butzner, Ava Hounshell, Harvey Baker, Regina Agertter, Tia Moe, Pamela Weaver, Debra Mosher, William Cooksey, Gene Gustin, Michelle Long, Corey Briggs, Jonathan Ramberg

Stat. Auth.: ORS 25.020, 25.270–25.290, 107.108 & 180.345

Stats. Implemented: ORS 25.020, 25.080, 25.270–25.290 & 25.321–25.343

Proposed Adoptions: 137-050-0700, 137-050-0705, 137-050-0710, 137-050-0715, 137-050-0720, 137-050-0725, 137-050-0730, 137-050-0735, 137-050-0740, 137-050-0745, 137-050-0750, 137-050-0755, 137-050-0760, 137-050-0765

Proposed Repeals: 137-050-0320, 137-050-0330; 137-050-0333, 137-050-0335, 137-050-0340, 137-050-0350, 137-050-0360, 137-050-0370, 137-050-0390, 137-050-0400, 137-050-0405, 137-050-0410, 137-050-0420, 137-050-0430, 137-050-0450, 137-050-0455, 137-050-0465, 137-050-0475, 137-050-0485, 137-050-0490

Last Date for Comment: 9-30-09, 5 p.m.

Summary: OAR 137-050-0700 is being adopted to provide general provisions concerning the child support guidelines, including when changes to the guidelines apply, and how calculations should be done when a child does not reside with a parent.

OAR 137-050-0705 is being adopted to provide general assumptions concerning the guidelines (if not already stated in a specific rule), including how rounding is to be completed, how monthly income is determined when a parent is paid on a weekly basis, the amount of unreimbursed medical already included in the scale for child support, calculating blocks of time differently than overnights for parenting time and application of the guidelines for children over the age of 18.

OAR 137-050-0710 is being adopted to provide the step-by-step process for calculating a support obligation.

OAR 137-050-0715 is being adopted to provide instruction on using actual income, potential income, and when presumptions of income apply.

OAR 137-050-0720 is being adopted to provide direction on calculating income after adjustments to income, including deductions and additions for spousal support, deductions for health care coverage for a parent's premium if necessary to enroll a child, and deductions for mandatory contributions to a union or other labor organization. Also included are deductions for an additional child (formerly referred to as "non-joint" children).

OAR 137-050-0725 is being adopted to provide the method of determining the basic support obligation. Included is credit for parenting time, if any, and information concerning income and numbers of children not included in the scale (which is now an appendix to the rules).

OAR 137-050-0730 is being adopted to provide instruction on calculating parenting time credit.

OAR 137-050-0735 is being adopted to provide instruction on child care costs. Child care costs are limited by area, but a provision has been added where practitioners may use the actual Department of Human Services Employment Related Day Care tables in lieu of the abbreviated tables in the rule to determine the cap.

OAR 137-050-0740 is being adopted to provide instruction for reducing child support obligations when a child (or his or her representative payee) receives from a parent's disability or retirement Social Security or Veterans' benefits.

OAR 137-050-0745 is being adopted to provide the method of ensuring that the parent who is or will be ordered to pay support is left with a self-support reserve of \$1053. The self-support reserve is based on the federal poverty guideline.

OAR 137-050-0750 is being adopted to provide instruction for calculating medical support. This rule incorporates provisions of Oregon law as amended by 2009 HB 2272, including a finding that private health care coverage and cash medical support are not considered reasonable in cost if the parent's income is equal to or less than full time Oregon minimum wage.

OAR 137-050-0755 is being adopted to provide direction that regardless of the computation, a parent is presumed to be able to pay \$100 per month, except in limited circumstances, such as when parenting time is equal, an obligated parent without assets is incarcerated or receiving assistance, or has disability benefits as a sole source of income, or in a medical assistance only case, the obligee has asked for non-enforcement of the cash support.

OAR 137-055-0760 is being adopted to provide rebuttals to the presumed correct support amount. The rebuttals have been divided so that the reasons can be applied either to income, or to the basic child support obligation or child support order amount.

OAR 137-055-0765 is being adopted to provide the method by which parties may consent to a support amount which is within ten percent of the guideline amount.

Rules Coordinator: Vicki Tungate

Address: Department of Justice, Division of Child Support, 494 State St., Suite 300, Salem OR 97301

Telephone: (503) 986-6086

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Department of Public Safety Standards and Training Chapter 259

Rule Caption: Electronic Transmission of Public Rulemaking Notices.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Proposed Amendments: 259-001-0005

Last Date for Comment: 9-23-09, 5 p.m.

Summary: Establishes an interested parties list that can receive notice of proposed permanent rulemaking electronically.

Rules Coordinator: Bonnie Narvaez

NOTICES OF PROPOSED RULEMAKING

Summary: Adopts the criminal records checks and fitness determination process as required part of the Oregon Employment Department's hiring practices.

Rules Coordinator: Janet Orton

Address: Employment Department, 875 Union St. NE, Salem, OR 97311

Telephone: (503) 947-1724

Landscape Contractors Board Chapter 808

Rule Caption: Updates and clarifies bond, letter of credit deposit requirements.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.690

Proposed Adoptions: 808-002-0155, 808-002-0205, 808-002-0278, 808-003-0611, 808-003-0612, 808-003-0613, 808-003-0614, 808-003-0615, 808-003-0616

Proposed Amendments: 808-002-0495

Proposed Repeals: 808-003-0110

Last Date for Comment: 9-21-09

Summary: 808-002-0155: Defines Bid.

808-002-0205: Defines Charges.

808-002-0278: Defines Project.

808-002-0495: Revises definition of Landscape job to show the bond must be increased to a higher amount at the time of a bid for a landscape job that exceeds the current bond requirement amount.

808-003-0110: Repealed; items dispersed to other rules being adopted.

808-003-0610: Clarifies bond language and submittal of the bond to the agency.

808-003-0611: Clarifies letter of credit or deposit form, submittal to the agency and annual renewal of the letter of credit or deposit.

808-003-0612: Clarifies entity name required on bond, letter of credit or deposit.

808-003-0613: Clarifies requirements for bond, letter of credit or deposit amounts.

808-003-0614: Clarifies effective and cancellation dates of the bond, letter of credit or deposit.

808-003-0615: Clarifies when a new bond, letter of credit or deposit is required for a change in entity type.

808-003-0616: Clarifies the restoration of the bond, letter of credit or deposit amount after a payment is made.

Rules Coordinator: Kim Gladwill-Rowley

Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301

Telephone: (503) 378-5909, ext. 223

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Rule Caption: Allows education hours completed since January 1, 2008, more time for course approval and clarifies reinstatement requirements.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.676

Proposed Amendments: 808-040-0020, 808-040-0050, 808-040-0080

Proposed Repeals: 808-040-0020(T), 808-040-0050(T), 808-040-0080(T)

Last Date for Comment: 9-21-09

Summary: 808-040-0020: Allows a landscape construction professional to report continuing education hours completed since January 1, 2008.

808-040-0050: Allows for more time to submit documentation for course approval.

808-040-0080: Clarifies continuing education hour reinstatement requirements for a landscape construction professional.

Rules Coordinator: Kim Gladwill-Rowley

Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301

Telephone: (503) 378-5909, ext. 223

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Rule Caption: Requires liability insurance to be continuously in effect during the license period.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.565

Proposed Amendments: 808-003-0095

Proposed Repeals: 808-003-0095(T)

Last Date for Comment: 9-21-09

Summary: Requires a landscape contracting business to continuously have in effect liability insurance coverage during the licensing period.

Rules Coordinator: Kim Gladwill-Rowley

Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301

Telephone: (503) 378-5909, ext. 223

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Occupational Therapy Licensing Board Chapter 339

Rule Caption: Reduce renewal fees for OT and OT Assistants by \$10 per year (\$20 for 2 year licensing).

Stat. Auth.: ORS 675.320(7)

Stats. Implemented:

Proposed Amendments: 339-005-0000

Last Date for Comment: 1-1-10

Summary: Reduces renewal fees for Occupational Therapists for a two year license from \$170 to \$150. Reduces fees for Occupational Therapy Assistants for a two year license from \$120 to \$100.

Rules Coordinator: Felicia Holgate

Address: Occupational Therapy Licensing Board, 800 NE Oregon St., Suite 407, Portland, OR 97232

Telephone: (971) 673-0198

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Office for Oregon Health Policy and Research Chapter 409

Rule Caption: Establishes Criteria for Awarding Grants under Safety Net Capacity Grant Program.

Date: 9-23-09 **Time:** 1 p.m. **Location:**

1225 Ferry Street SE
Mt. Mazama Rm.
Salem, OR 97301

Hearing Officer: Zarie Haverkate

Stat. Auth.: 2009 HB 2116

Stats. Implemented: 2009 HB 2116

Proposed Adoptions: 409-110-0000, 409-110-0005, 409-110-0010, 409-110-0015, 409-110-0020

Last Date for Comment: 9-28-09, 5 p.m.

Summary: The Department of Human Services, Office for Oregon Health Policy and Research, is proposing to adopt administrative rules to govern the operation of the Safety Net Capacity Grant Program (SNCGP). House Bill 2116, passed during the 2009 legislative session, appropriates resources to fund the SNCGP effective October 1, 2009. The SNCGP ensures that safety net providers have the capacity to serve vulnerable and underserved children in Oregon with needed health care services to include physical, oral, mental, behavioral and vision health services. The Office for Oregon Health Policy and Research will administer the SNCGP.

Proposed rules are available on the DHS Website: <http://www.oregon.gov/DHS/admin/dwssrules/index.shtml>

For hardcopy requests, call: (503) 373-1574.

Rules Coordinator: Zarie Haverkate

Address: 1225 Ferry Street SE, 1st Floor, Salem, OR 97301

Telephone: (503) 373-1574

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Amendments to Oregon Prescription Drug Program Definitions and General Administration of Program Functions.

Date: 9-23-09 **Time:** 9-10 a.m. **Location:**
General Services Bldg.
Mt. Mazama Rm. (Basement)
1225 Ferry St. SE
Salem, OR 97301

Hearing Officer: Jennifer Bittel

Stat. Auth.: ORS 414.320

Other Auth.: 2009 OL Ch. 466

Stats. Implemented: ORS 414.312–414.320

Proposed Amendments: 409-030-0000, 409-030-0005, 409-030-0010, 409-030-0020, 409-030-0030, 409-030-0050, 409-030-0065

Proposed Repeals: 409-030-0040

Last Date for Comment: 9-25-09

Summary: The Oregon Prescription Drug Program rules are being amended to include definitions for critical access pharmacy, designated entity, and group purchasing organization. The proposed amendments also clarify the Administrator's authority to enter into contracts to perform program functions. Other administrative changes are proposed to align the rules with Department and statutory guidelines and language.

Proposed rules are available on the DHS Website:
<http://www.oregon.gov/DHS/admin/dwssrules/index.shtml>

For hardcopy requests, call: (503) 947-5250.

Rules Coordinator: Jennifer Bittel

Address: Office for Oregon Health Policy and Research, 500 Summer St. NE, E-03, Salem, OR 97301

Telephone: (503) 947-5250

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Oregon Board of Dentistry
Chapter 818

Rule Caption: Adopt/amends/repeals rules: Procedures, Standards of Practice, Examination/Licensing, Dental Hygiene, Dental Assisting.

Date: 9-25-09 **Time:** 7:30 a.m. **Location:**
1600 SW 4th Ave.
5th Flr. Conference Rm. 541
Portland, OR 97201

Hearing Officer: Board President/Designee

Stat. Auth.: ORS 679 & 680

Other Auth.: 2009 OL Ch. 535 (HB 2058), 2009 OL Ch. 582 (HB 3204), 2009 OL Ch. 155 (SB 5516), 2009 OL Ch. 156 (SB 5517) & 2009 OL Ch. 799 (SB 355)

Stats. Implemented: ORS 183.370, 183.335, 293.445, 679.025, 679.010, 679.060, 679.120, 679.140, 679.170, 679.230, 679.250, 680.010, 680.020, 680.050, 680.100, 680.200 & 680.205

Proposed Adoptions: 818-001-0090

Proposed Amendments: 818-001-0000, 818-001-0087, 818-012-0030, 818-021-0012, 818-021-0025, 818-021-0050, 818-021-0060, 818-021-0070, 818-035-0010, 818-035-0030, 818-035-0100, 818-042-0070, 818-042-0080

Proposed Repeals: 818-001-0087(T), 818-035-0080, 818-035-0090

Last Date for Comment: 9-24-09, 4 p.m.

Summary: The Board is amending 818-001-0000 Notice of Proposed Rule Making, to update the correct names of some entities and to delete entities who receive Notices of Proposed Rulemaking.

The Board is amending 818-001-0087 Fees, to publish the correct fees for applicants and licensees that were recently adopted by the Oregon Legislature and signed into law by the Governor.

The Board is repealing 818-001-0087(T) Fees, a temporary rule that was adopted by the Board so the collection of fees could begin July 1, 2009, and will no longer be needed after the new amendments added to 818-001-0087 Fees are effective November 1, 2009.

The Board is adopting 818-001-0090 Board Member Compensation, which allows the Oregon Board of Dentistry to set by rule the compensation for Board members, in addition to the current Oregon Statute on Board member compensation that was recently adopted by the Oregon Legislature and signed into law by the Governor.

The Board is amending 818-012-0030 Unprofessional Conduct, to correct a typographical error that occurred when amending the rule previously.

The Board is amending 818-021-0012 Specialties Recognized, to update the title of a dental specialty that is defined by the American Dental Association.

The Board is amending 818-021-0025 Application for License to Practice Dental Hygiene Without Further Examination, that would allow a dental hygienist to count the teaching of clinical dental hygiene toward the 3,500 hour requirement for Licensure Without Further Examination.

The Board is amending 818-021-0050 Community Health Experience for Dental and Dental Hygiene Students, to allow any Dental Hygiene student to participate in clinical studies as a result of a new law removing the word "full-time" adopted by the Oregon Legislature and signed into law by the Governor.

The Board is amending 818-021-0060 Continuing Education — Dentists, to update the current name of an examination listed in the rule.

The Board is amending 818-021-0070 Continuing Education — Dental Hygienists, to implement the changes regarding continuing education for Limited Access Permit Dental Hygienists that are a result of a new law adopted by the Oregon Legislature and signed into law by the Governor.

The Board is amending 818-035-0010 Definitions, to remove language that is considered not current by the Dental and Dental Hygiene Community.

The Board is amending 818-035-0030 Additional Functions of Dental Hygienists, to clarify the prescription authority for dental hygienists and to allow dental hygienists to perform all aspects of teeth whitening procedures.

The Board is amending 818-035-0100 Record Keeping, to remove the requirement that certain procedures be documented in a patient's file as a result of a new law adopted by the Oregon Legislature and signed into law by the Governor.

The Board is repealing 818-035-0080 Continuing Education, as the result of a new law adopted by the Oregon Legislature and signed into law by the Governor. The provision regarding continuing education for Limited Access Permit Dental Hygienists has been placed in another section of the Dental Hygiene rules.

The Board is repealing 818-035-0090 First Renewal — Continuing Education, as the result of a new law adopted by the Oregon Legislature and signed into law by the Governor. The provision regarding continuing education for the first renewal of Limited Access Permit Dental Hygienists has been placed in another section of the Dental Hygiene rules.

The Board is amending 818-042-0070 Expanded Function Dental Assistants (EFDA), to allow Expanded Function Dental Assistants to perform all aspects of teeth whitening procedures.

The Board is amending 818-042-0080 Certification — Expanded Function Dental Assistant (EFDA) to add a provision for certification of Expanded Function Dental Assistants regarding teeth whitening procedures.

Rules Coordinator: Sharon Ingram

Address: Oregon Board of Dentistry, 1600 SW 4th Ave., Suite 770, Portland, OR 97201

Telephone: (971) 673-3200

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Oregon Business Development Department
Chapter 123

Rule Caption: These rules are being adopted due to changes in the 2009 Legislature through House Bill 2152.

Stat. Auth.: 285A.075

Stats. Implemented: 285A.227

Proposed Amendments: 123-009-0050, 123-009-0060

Last Date for Comment: 9-22-09

Summary: The 2009 Legislative session through House Bill 2152 has re-named the Oregon Economic and Community Development

NOTICES OF PROPOSED RULEMAKING

Department to the Oregon Business Development Department. The name of the fund, Oregon Community Development Fund has changed to Business Innovation and Trade fund. In addition these rules have been reviewed for clarity.

Rules Coordinator: Janelle Lacefield

Address: Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301

Telephone: (503) 986-0036

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Rule Caption: These rules have been edited for clarity.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.224

Proposed Amendments: 123-016-0010, 123-016-0020, 123-016-0030, 123-016-0040, 123-016-0050, 123-016-0060

Proposed Repeals: 123-016-0070, 123-016-0080, 123-016-0090, 123-016-0100

Last Date for Comment: 9-21-09

Summary: The Business Retention rules have been revised to clean up old language and ensure compliance with statute. In addition, the name of the fund has been changed.

Rules Coordinator: Janelle Lacefield

Address: Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301

Telephone: (503) 986-0036

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Rule Caption: These rules cover the operation of the Oregon Business Development Fund.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.056, 285B.068 & 285B.098

Proposed Amendments: 123-017-0007, 123-017-0010, 123-017-0015, 123-017-0020, 123-017-0025, 123-017-0030, 123-017-0035, 123-017-0037, 123-017-0055

Proposed Repeals: 123-017-0040

Last Date for Comment: 9-22-09

Summary: The 2009 Legislative session through House Bill 2152 has re-named the Oregon Economic and Community Development Department to the Oregon Business Development Department. In addition these rules have been reviewed for clarity and unnecessary sections have been deleted.

Rules Coordinator: Janelle Lacefield

Address: Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301

Telephone: (503) 986-0036

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Rule Caption: These rules put the Formation of Ports under the Infrastructure Finance Authority.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.627

Proposed Amendments: 123-020-0100, 123-020-0105, 123-020-0110, 123-020-0115, 123-020-0120, 123-020-0125, 123-020-0130, 123-020-0140

Proposed Repeals: 123-020-0135

Last Date for Comment: 9-22-09

Summary: The 2009 Legislative session through House Bill 2152 has re-named the Oregon Economic and Community Development Department to the Oregon Business Development Department and created the Infrastructure Finance Authority, a separate entity within the department. In addition these rules have been reviewed for clarity.

Rules Coordinator: Janelle Lacefield

Address: Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301

Telephone: (503) 986-0036

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Rule Caption: These rules govern Oregon Ports Representation Groups.

Stat. Auth.: ORS 285A.075

Stats. Implemented:

Proposed Repeals: 123-035-0000, 123-035-0005, 123-035-0010

Last Date for Comment: 9-21-09

Summary: These rules are being repealed because there is not statutory authority for these rules.

Rules Coordinator: Janelle Lacefield

Address: Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301

Telephone: (503) 986-0036

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Rule Caption: The Procedural rules have been revised for clarity and compliance.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 183, 285A, 285B & 285C

Proposed Amendments: 123-001-0050, 123-001-0520, 123-001-0725

Last Date for Comment: 9-21-09

Summary: These rules have been revised to include new definitions brought from the 2009 Legislative session through HB 2152 and revised for clarity.

Rules Coordinator: Janelle Lacefield

Address: Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301

Telephone: (503) 986-0036

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Rule Caption: These rules manage public records requests.

Stat. Auth.: ORS 285A.075A

Stats. Implemented: ORS 192.410–192.505 & 28A & 285B

Proposed Amendments: 123-005-0000, 123-005-0020

Last Date for Comment: 9-21-09

Summary: The 2009 Legislative session through House Bill 2152 has re-named the Oregon Economic and Community Development Department to the Oregon Business Development Department. In addition these rules have been revised for clarity.

Rules Coordinator: Janelle Lacefield

Address: Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301

Telephone: (503) 986-0036

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Rule Caption: Definitions will be removed from these Rules.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.075 & 279A.070

Proposed Repeals: 123-006-0015

Last Date for Comment: 9-21-09

Summary: These rules have been revised to remove unnecessary definitions.

Rules Coordinator: Janelle Lacefield

Address: Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301

Telephone: (503) 986-0036

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Rule Caption: Rules define regional boards, partnerships and investment plans and need to be repealed.

Stat. Auth.: ORS 285A.075

Stats. Implemented:

Proposed Repeals: 123-055-0100, 123-055-0120, 123-055-0200, 123-055-0220, 123-055-0240, 123-055-0300, 123-055-0340, 123-055-0400, 123-055-0420, 123-055-0440, 123-055-0460, 123-055-0501, 123-055-0525, 123-055-0600, 123-055-0620, 123-055-0900

Last Date for Comment: 9-21-09

Summary: This rule set needs to be repealed because the 2009 Legislative session through HB 2152 has changed the regional based funding to local economic development. In addition, regional boards and regional investments has both been removed and altered to make these rules incompliant with statute.

Rules Coordinator: Janelle Lacefield

NOTICES OF PROPOSED RULEMAKING

Address: Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301

Telephone: (503) 986-0036

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Rule Caption: Rules define regionally based funds and need to be repealed.

Stat. Auth.: ORS 285A.075

Stats. Implemented:

Proposed Repeals: 123-057-0110, 123-057-0130, 123-057-0150, 123-057-0170, 123-057-0190, 123-057-0210, 123-057-0230, 123-057-0330, 123-057-0350, 123-057-0410, 123-057-0430, 123-057-0450, 123-057-0470, 123-057-0510, 123-057-0530, 123-057-0710, 123-057-0910

Last Date for Comment: 9-21-09

Summary: This rule set needs to be repealed because the 2009 Legislative session through HB 2152 has changed the regional based funding to local economic development. In additional regional boards and regional investment has been both removed and altered to make these rule incompliant with statute.

Rules Coordinator: Janelle Lacefield

Address: Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301

Telephone: (503) 986-0036

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Oregon Department of Education Chapter 581

Rule Caption: Modifies rule relating to human sexuality education by school districts.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 336.455

Proposed Amendments: 581-022-1440

Last Date for Comment: 9-23-09, 5 p.m.

Summary: The 2009 Oregon legislature enacted House Bill 2509 which modified the statute relating to human sexuality education. The rule amendments bring the existing rule into compliance with this bill.

Rules Coordinator: Diane Roth

Address: 255 Capitol St NE, Salem OR 97310

Telephone: (503) 947-5791

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Rule Caption: Modifies provisions relating to provision of special education and related services.

Stat. Auth.: ORS 343.041, 343.045, 343.155 & 343.223

Stats. Implemented: ORS 343

Proposed Amendments: 581-015-2000, 581-015-2090, 581-015-2440, 581-015-2735

Last Date for Comment: 9-23-09, 5 p.m.

Summary: The proposed division 15 rule changes serve two purposes: (1) to bring Oregon into compliance with the new consent revocation regulations enacted by the US Department of Education on December 31, 2008 and (2) to "clean up" some definitions appearing in the Oregon Administrative Rules to make them consistent with the definitions contained in the Oregon Revised Statutes.

The proposed amendments to the consent regulations allow parents to unilaterally withdraw consent for the provision of special education and related services under the IDEA. It also prescribes the appropriate procedures for school districts to follow when a parent revokes consent.

The proposed amendments to the definitions do not represent a change to the substance of the definitions. The purpose of the proposed definition changes is to make them more clear and understandable.

Rules Coordinator: Diane Roth

Address: 255 Capitol St. N.E., Salem, OR 97310

Telephone: (503) 947-5791

Rule Caption: Removes references to Oregon School for the Blind from rules.

Stat. Auth.: 2009 OL Ch. 562 (Enrolled HB 2834)

Stats. Implemented: 2009 OL Ch. 562 (Enrolled HB 2834)

Proposed Amendments: 581-001-0053, 581-016-0520, 581-016-0526, 581-016-0536, 581-016-0537, 581-016-0538, 581-016-0541, 581-016-0560, 581-021-0110, 591-021-0500, 581-022-0610

Proposed Repeals: 581-016-0890, 581-016-0900, 581-016-0910, 581-016-0920, 581-016-0930, 581-016-0940, 581-016-0950, 581-016-0960, 581-016-0970, 581-016-0980, 581-016-0990, 581-016-1000, 581-016-1010, 581-016-1020, 581-016-1030, 581-016-1040, 581-016-1050

Last Date for Comment: 9-23-09, 5 p.m.

Summary: Chapter 562, Oregon Laws 2009 (Enrolled House Bill 2834) directed the Superintendent of Public Instruction to close the Oregon School for the Blind. The proposed rules remove references in rules to the school.

Rules Coordinator: Diane Roth

Address: 255 Capitol St NE, Salem, OR 97310

Telephone: (503) 947-5791

Oregon Film and Video Office Chapter 951

Rule Caption: Provides procedural rules for SB 863.

Date:	Time:	Location:
9-30-09	1-4 p.m.	OR Business Development Dept. 775 Summer St. NE Conference Rm. 201 Salem, OR 97310

Hearing Officer: Susan Haley

Stat. Auth.: ORS 284.335 & 284.368

Stats. Implemented:

Proposed Adoptions: 951-006-0000 – 951-006-0020

Last Date for Comment: 9-30-09

Summary: Establishing administrative guidelines for application and rebate payments under the Indigenous Oregon Production Investment Fund.

Rules Coordinator: Susan Haley

Address: Oregon Film and Video Office, 121 SW Salmon St., Suite 1205, Portland, OR 97204

Telephone: (503) 229-5832

Oregon Medical Board Chapter 847

Rule Caption: Establishes criteria for continuing medical competency for Board licensees and outcome of noncompliance.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Proposed Amendments: 847-008-0070

Last Date for Comment: 9-28-09

Summary: Proposed rules establishes criteria for continuing medical competency for licensees of the Oregon Medical Board, and as the result of an audit of CME the steps for obtaining compliance with CME rules if the audit shows a deficiency in licensee's CME hours.

Rules Coordinator: Malar Ratnathicam

Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201

Telephone: (971) 673-2713

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Rule Caption: Visiting physician may provide/obtain training under supervision of Oregon physician 30 days per year.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Proposed Amendments: 847-010-0066

Last Date for Comment: 9-28-09

Summary: Proposed rule allows for a visiting physician from out-of-state or out-of-country to obtain or provide training under the

NOTICES OF PROPOSED RULEMAKING

supervision of an actively licensed Oregon physician for up to thirty days per year.

Rules Coordinator: Malar Ratnathicam

Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201

Telephone: (971) 673-2713

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**Oregon Public Employees Retirement System
Chapter 459**

Rule Caption: Clarify legislative changes relating to reemployed retirees under Senate Bill 112 and House Bill 2873.

Date: 9-22-09 **Time:** 2 p.m. **Location:** PERS Boardroom
11410 SW 68th Pkwy.
Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.078, 238.082, 238.092, 238.380, 238.385 & 2007 OL Ch. 499 & 774

Proposed Amendments: 459-017-0060

Last Date for Comment: 11-3-09

Summary: Enacted Senate Bill 112 allows a retired PERS member who elects a total lump sum payment at retirement to be reemployed by a public employer under the same provisions as a retired member receiving a monthly benefit. The bill also provides that if a retired member is reemployed by a public employer in a position that is not subject to limitations on hours of employment, hours worked by that retired member in that position do not count toward limitations on hours of employment with other public employers. Enacted House Bill 2873 modifies the method by which the Public Employees Retirement Board calculates certain retirement benefit increases. The proposed amendments to this rule incorporate the legislative changes from SB 112 and HB 2873.

Copies of the proposed rule(s) are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml. Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas

Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281

Telephone: (503) 603-7713

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Rule Caption: Repeal rules related to workers' compensation offset.

Date: 9-22-09 **Time:** 2 p.m. **Location:** PERS Boardroom
11410 SW 68th Pkwy.
Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650 & 238A.450

Stats. Implemented: 2009 OL Ch. 103

Proposed Repeals: 459-015-0060, 459-076-0060

Last Date for Comment: 11-3-09

Summary: House Bill 2704 eliminated the offset for a Workers' Compensation benefit in calculating a disability retirement allowance/benefit for Tier 2 and OPSRP Pension Program members. implementation of HB 2704 requires the repeal of OAR 459-015-0060 and 459-076-0060.

Copies of the proposed rule(s) are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml. Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas

Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281

Telephone: (503) 603-7713

**Oregon State Lottery
Chapter 177**

Rule Caption: Change "On-line" to "Draw Game," repeal Minimum Sales, Breakopen rules; authorize alternative agreements; clarify terms.

Date: 9-21-09 **Time:** 3-3:30 p.m. **Location:** Oregon Lottery
500 Airport Rd. SE
Salem, OR

Hearing Officer: Larry Trott

Stat. Auth.: ORS 461

Other Auth.: OR Constit., Art. XV, § 4(4)

Stats. Implemented: ORS 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260

Proposed Amendments: 177-010-0003, 177-040-0025, 177-040-0050, 177-045-0000, 177-045-0010, 177-046-0015, 177-046-0020, 177-046-0080, 177-069-0000, 177-069-0010, 177-070-0005, 177-070-0025, 177-070-0035, 177-070-0080, 177-075-0000, 177-075-0010, 177-081-0000, 177-081-0010, 177-081-0030, 177-083-0000, 177-083-0010, 177-083-0030, 177-085-0005, 177-085-0015, 177-085-0040, 177-090-0005, 177-090-0025, 177-090-0045, 177-091-0010, 177-091-0020, 177-091-0050, 177-094-0000, 177-094-0030, 177-099-0000, 177-099-0030, 177-099-0050, 177-100-0010

Proposed Repeals: 177-040-0040, 177-065-0005, 177-065-0015, 177-065-0020, 177-065-0025, 177-065-0030, 177-065-0035, 177-065-0040, 177-065-0045, 177-065-0055, 177-065-0065, 177-065-0075, 177-065-0080

Last Date for Comment: 9-21-09, 3:30 p.m.

Summary: The amendments will remove the term "On-line" or replace it with the term "Draw Game". The common meaning of "on-line" now refers to the Internet or computer activities performed through the use of the Internet. To refer to these games as "on-line" is confusing. The amendments will clarify meaning.

In addition, the Lottery proposed to repeal the Minimum Sales Rule contained in OAR 177-040-0040. The Lottery also proposes to amend OAR 177-040-0025 to authorize the Director to enter into alternative compensation agreements with new or existing Lottery retailers who offer a different sales style and new business model for the sale of Lottery games.

The Lottery proposes to repeal the Breakopen Game rules as this product is not longer supported by the Lottery, and will not be an authorized Lottery game after June 26, 2010.

Other amendments include clarifying the meaning of "Traditional Games", "Video LotterySM Games," and Video LotterySM Game Terminal."

Rules Coordinator: Mark W. Hohlt

Address: Oregon State Lottery, 500 Airport Rd. SE, Salem, OR 97301

Telephone: (503) 540-1417

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Rule Caption: Amends rules to address operational issues associated with Lottery Kiosks.

Date: 9-16-09 **Time:** 2-2:30 p.m. **Location:** Oregon Lottery
500 Airport Rd. SE
Salem, OR

Hearing Officer: Larry Trott

Stat. Auth.: ORS 167.117 & 461

Other Auth.: OR Constit., Art. XV, § 4(4)

Stats. Implemented: ORS 461.300

Proposed Amendments: 177-010-0003, 177-046-0020, 177-046-0110, 177-050-0025, 177-069-0000, 177-070-0025, 177-081-0010, 177-083-0010, 177-085-0010, 177-100-0010

Last Date for Comment: 9-16-09, 5 p.m.

Summary: The Oregon State Lottery has initiated permanent rule-making to amend the above referenced administrative rules. The amendments address operational issues associated with the sale of

NOTICES OF PROPOSED RULEMAKING

Lottery tickets to traditional Lottery games as well as the payment of prizes by Lottery employees at Lottery Kiosks.

Rules Coordinator: Mark W. Hohlt

Address: Oregon State Lottery, 500 Airport Rd. SE, Salem, OR 97301

Telephone: (503) 540-1417

Oregon State Marine Board Chapter 250

Rule Caption: Rule adoption will create procedures for an aquatic invasive species prevention fund permit.

Date: 9-22-09 **Time:** 5:30 p.m. **Location:** Oregon State Marine Board
435 Commercial St. NE
Salem 97309

Hearing Officer: Randy Henry

Stat. Auth.: ORS 830.110

Other Auth.: HB 2220

Stats. Implemented: ORS 830.110

Proposed Adoptions: 250-010-0650

Last Date for Comment: 9-30-09, 5 p.m.

Summary: The 2009 Oregon Legislature passed HB 2220 directing the Marine Board to create an aquatic invasive species prevention fund by charging a small fee on all registered powerboats and manually powered boats 10 feet or longer. This rule will result in a \$5.00 biennial fee permit for all registered powerboats, a \$5.00 annual fee permit for manually powered boats and a \$20.00 annual fee permit for non-resident power boaters.

Rules Coordinator: June LeTarte

Address: 435 Commercial Street NE #400, Salem, OR 97309

Telephone: (503) 378-2617

Oregon State Treasury Chapter 170

Rule Caption: Repeal of Endowment Care Funds Rule.

Stat. Auth.: ORS 178.050

Stats. Implemented: ORS 97.820

Proposed Repeals: 170-050-0010

Last Date for Comment: 9-28-09

Summary: This rule describes approved investments for endowment care funds. Authority over endowment care funds was transferred to Department of Consumer and Business Services in 1999, therefore this rule is no longer needed.

Rules Coordinator: Sally Wood

Address: Oregon State Treasury, 350 Winter St. NE, Suite 100, Salem, OR 97301

Telephone: (503) 378-4990

Oregon University System Chapter 580

Rule Caption: Implements guidelines permitting fingerprint-based criminal records checks for prospective OUS employees, contractors, and volunteers.

Date: 9-16-09 **Time:** 1:30 p.m. **Location:** 1431 Johnson Ln.
SCH Rm. 250,
UO Campus
Eugene OR

Hearing Officer: Marcia Stuart

Stat. Auth.: ORS 181.534 & 352.012

Stats. Implemented:

Proposed Adoptions: 580-023-0106, 580-023-0111, 580-023-0116, 580-023-0121, 580-023-0126, 580-023-0131, 580-023-0136, 580-023-0141, 580-023-0146, 580-023-0151

Proposed Repeals: 580-023-0005, 580-023-0010, 580-023-0015, 580-023-0020, 580-023-0025, 580-023-0030, 580-023-0035, 580-023-0040, 580-023-0045, 580-023-0050, 580-023-0055, 580-023-0060, 580-023-0065, 580-023-0105, 580-023-0110, 580-023-0115,

580-023-0120, 580-023-0125, 580-023-0130, 580-023-0135, 580-023-0140, 580-023-0145, 580-023-0150

Last Date for Comment: 9-21-09

Summary: Authorizes the Chancellor's Office and OUS institutions to conduct criminal checks in subject individuals who seek to provide services as an employee, contractor, vendor or volunteer that will be working or providing services in a capacity that is designated as a critical or security-sensitive position.

Rules Coordinator: Marcia M. Stuart

Address: Oregon University System, PO Box 3175, Eugene, OR 97403-0175

Telephone: (541) 346-5749

Oregon University System, Oregon State University Chapter 576

Rule Caption: Regulations Governing the Use of Motor Vehicles — expansion of towing authority.

Date: 9-15-09 **Time:** 1:30 p.m. **Location:** Memorial Union Rm. 206
Oregon State University
Corvallis, OR

Hearing Officer: Barbara Melton

Stat. Auth.: ORS 164.205(5), 351.070 & 352.360

Stats. Implemented: ORS 164.205, 164.270, 351.070 & 352.360

Proposed Amendments: 576-030-0050

Last Date for Comment: 10-5-09, 5 p.m.

Summary: The proposed revisions to the Regulations Governing the Use of Motor Vehicles provide authorization to tow vehicles parked in reserved parking spaces without authorization. The purpose of this amendment is to facilitate the swift removal of vehicles parked in parking spaces reserved for persons with disabilities; however, the authority to tow vehicles parked in reserved parking spaces may also be exercised to remove vehicles parked in parking spaces reserved for other purposes.

Rules Coordinator: Barbara Melton

Address: 638 Kerr Administration Bldg., Oregon State University, Corvallis, OR 97331-2128

Telephone: (541) 737-6262

Oregon University System, Southern Oregon University Chapter 573

Rule Caption: Secure approval of changes in Parking Enforcement and Appeals.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 352.360

Proposed Amendments: 573-050-0025, 573-050-0040, 573-050-0045

Last Date for Comment: 9-25-09

Summary: This amendment in division 50 removes/modifies outdated language in the rule and increases permit fees.

Rules Coordinator: Treasa Sprague

Address: Oregon University System, Southern Oregon University, 1250 Siskiyou Blvd., Ashland, OR 97520

Telephone: (541) 552-6319

Parks and Recreation Department Chapter 736

Rule Caption: "Rates" administrative rules being amended to increase overnight and day use fees and make miscellaneous changes.

Date: 9-17-09 **Time:** 6-8:30 p.m. **Location:** LaGrande Library
2006 Fourth St.
LaGrande, OR

Date: 9-18-09 **Time:** 6-8:30 p.m. **Location:** Bend Parks & Recreation
799 SW Columbia St.
Bend, OR

NOTICES OF PROPOSED RULEMAKING

9-21-09	6-8:30 p.m.	Champoeg State Park Visitor's Center 8239 Champoeg Rd. NE St. Paul, OR	Hearing Officer: Connor Edmonds Stat. Auth.: ORS 192 & 537 Stats. Implemented: ORS 192.005–192.170 & 357.805–357.895 Proposed Amendments: Rules in 166-005, 166-010, 166-017, 166-020, 166-025, 166-030, 166-500-0015 Last Date for Comment: 9-23-09												
9-22-09	6-8:30 p.m.	Central Lincoln Public Utility 2129 N Coast Hwy. Newport, OR													
<p>Hearing Officer: Richard Walkoski, Chris Havel, Marilyn Borgelt Stat. Auth.: ORS 390.050, 390.111, 390.121 & 390.124 Stats. Implemented: ORS 390.111, 390.121 & 390.124 Proposed Amendments: 736-015-0005 – 736-015-0040 Last Date for Comment: 9-23-09, 5 p.m.</p>															
<p>Summary: Amending OAR 736, division 15 to increase overnight and day use fees; to clarify cancellation policies and rates; to make annual day use permits transferrable; and to provide a fee waiver for adoptive foster families who have adopted foster children, those children being under 18 years of age at the time of camping.</p>															
<p>Rules Coordinator: Joyce Merritt Address: Parks and Recreation Department, 725 Summer St. NE, Suite C, Salem, OR 97301 Telephone: (503) 986-0756</p>															
<p>.....</p>															
<p>Rule Caption: Some of the administrative rules governing All-Terrain vehicle funds and standards are being amended, adopted or repealed.</p>															
<table><thead><tr><th>Date:</th><th>Time:</th><th>Location:</th></tr></thead><tbody><tr><td>9-28-09</td><td>6-8 p.m.</td><td>OPRD, North Mall Office Bldg. 725 Summer St. NE, Suite C Salem, OR 97301</td></tr><tr><td>9-29-09</td><td>6-8 p.m.</td><td>Bend Comfort Inn 62065 SE 27th St. Bend, OR 97701</td></tr><tr><td>9-30-09</td><td>6-8 p.m.</td><td>Rogue Regency Hotel 2300 Biddle Rd. Medford, OR 97504</td></tr></tbody></table>				Date:	Time:	Location:	9-28-09	6-8 p.m.	OPRD, North Mall Office Bldg. 725 Summer St. NE, Suite C Salem, OR 97301	9-29-09	6-8 p.m.	Bend Comfort Inn 62065 SE 27th St. Bend, OR 97701	9-30-09	6-8 p.m.	Rogue Regency Hotel 2300 Biddle Rd. Medford, OR 97504
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9-30-09	6-8 p.m.	Rogue Regency Hotel 2300 Biddle Rd. Medford, OR 97504													
<p>Hearing Officer: Ron Price Stat. Auth.: ORS 390.180, 390.570, 390.575 & 390.585 Other Auth.: SB 578 B-Engrossed (2009) Stats. Implemented: ORS 390.180, 390.560, 390.570, 390.575, 390.729 & 921.174 Proposed Adoptions: 736-005-0035, 736-004-0120, 736-004-0125 Proposed Amendments: 736-005-0005 – 736-004-0115 Proposed Repeals: 736-040-0080 Last Date for Comment: 10-1-09, 5 p.m.</p>															
<p>Summary: These rules govern the allocation of All-terrain Vehicle Funds through an ATV Grant Program, the ATV Advisory Committee, the issuance of ATV operator and operating permits, ATV Safety and Education, Rider Fit standards, and minimum training standard. The existing rules are being amended and three new rules adopted to comply with the provisions of SB 578 B-Engrossed, 2009 Legislative Session. One rule is proposed to be repealed.</p>															
<p>Rules Coordinator: Joyce Merritt Address: Parks and Recreation Department, 725 Summer St. NE, Suite C, Salem, OR 97301 Telephone: (503) 986-0756</p>															
<p>.....</p>															
<p>Secretary of State, Archives Division Chapter 166</p>															
<p>Rule Caption: Update divisions of OAR 166 regarding Archives storage, procedures and fees.</p>															
<table><thead><tr><th>Date:</th><th>Time:</th><th>Location:</th></tr></thead><tbody><tr><td>9-23-09</td><td>9 a.m.</td><td>State Archives Bldg. 800 Summer St. NE Salem, OR 97310</td></tr></tbody></table>				Date:	Time:	Location:	9-23-09	9 a.m.	State Archives Bldg. 800 Summer St. NE Salem, OR 97310						
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<p>Hearing Officer: Connor Edmonds Stat. Auth.: ORS 192 & 537 Stats. Implemented: ORS 192.005–192.170 & 357.805–357.895 Proposed Amendments: Rules in 166-005, 166-010, 166-017, 166-020, 166-025, 166-030, 166-500-0015 Last Date for Comment: 9-23-09</p>															
<p>Summary: It was determined that rules related to Secretary of State Archives public records storage policies, procedures and fee structures needed to be updated. This update takes into account changes in records storage technology and the increased cost for the storage and maintenance of public records. Notice was originally published in the July Bulletin and a hearing was held July 20th, 2009. This second notice extends the comment period until September 23rd, 2009 and schedules a second hearing.</p>															
<p>Rules Coordinator: Julie Yamaka Address: Secretary of State, Archives Division, 800 Summer St. NE, Salem, OR 97310 Telephone: (503) 378-5199</p>															
<p>.....</p>															
<p>Veterinary Medical Examining Board Chapter 875</p>															
<p>Rule Caption: Prohibits non-veterinary prescribing, use, theft or diversion of legend (prescription) drugs.</p>															
<p>Stat. Auth.: ORS 686.210 Stats. Implemented: ORS 686.130 Proposed Amendments: 875-011-0010 Last Date for Comment: 10-15-09</p>															
<p>Summary: Establishes a violation for non-veterinary prescribing, use, theft or diversion of drugs that require a prescription.</p>															
<p>Rules Coordinator: Lori V. Makinen Address: Veterinary Medical Examining Board, 800 NE Oregon St., Suite 407, Portland, OR 97232 Telephone: (971) 673-0224</p>															
<p>.....</p>															
<p>Water Resources Department Chapter 690</p>															
<p>Rule Caption: Requirements for recording exempt groundwater use with the Oregon Water Resources Department.</p>															
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9-22-09	2–5 p.m.	725 Summer St. North Mall Bldg., 1st Floor, Conference Rm. 124A Salem, OR													
<p>Hearing Officer: Tom Paul Stat. Auth.: ORS 536.027 Other Auth.: SB 788 (75th Oregon Legislative Assembly) Stats. Implemented:</p>															
<p>Proposed Adoptions: 690-190-0005, 690-190-0010, 690-190-0100, 690-190-0200, 690-190-0300 Last Date for Comment: 9-25-09, 5 p.m.</p>															
<p>Summary: Pursuant to the passage of SB 788 (75th Oregon Legislative Assembly), owners of land on which an exempt groundwater use well is drilled are required to record the exempt groundwater use with the Oregon Water Resources Department (Department) in accordance to meet the exempt groundwater use recording requirements of SB 788.</p>															
<p>Rules Coordinator: Ruben Ochoa Address: Water Resources Department, 725 Summer St. NE, Salem, OR 97301 Telephone: (503) 986-0874</p>															

ADMINISTRATIVE RULES

Bureau of Labor and Industries Chapter 839

Rule Caption: Amends the prevailing rates of wage for the period beginning July 1, 2009.

Adm. Order No.: BLI 15-2009

Filed with Sec. of State: 7-16-2009

Certified to be Effective: 7-16-09

Notice Publication Date:

Rules Amended: 839-025-0700

Subject: The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning July 1, 2009.

Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-025-0700

Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in publications of the Bureau of Labor and Industries entitled *Prevailing Wage Rates on Public Works Contracts in Oregon and Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act dated July 1, 2009*, are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning July 1, 2009, and the effective dates of the applicable special wage determination and rates amendments:

(a) Amendments/Corrections to July 1, 2009 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective June 26, 2009).

(b) Amendments/Corrections to July 1, 2009 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective July 3, 2009).

(c) Amendments/Corrections to July 1, 2009 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective July 10, 2009).

(2) Copies of Prevailing Wage Rates on Public Works Contracts in Oregon and Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act dated July 1, 2009, are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Medford, Portland and Salem and are listed in the blue pages of the phone book. Copies are also available on the bureau's webpage at www.oregon.gov/boli or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

Stat. Auth.: ORS 279C.815, 651.060

Stats. Implemented: ORS.279C.815

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002, f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 1-31-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-3-07; BLI 12-2007, f. & cert. ef. 5-31-07; BLI 13-2007, f. 6-8-07, cert. ef. 6-11-07; BLI 14-2007, f. 6-27-07, cert. ef. 6-28-07; BLI 15-2007, f. & cert. ef. 6-28-07; BLI 16-2007, f. 6-29-07, cert. ef. 7-1-07; BLI 18-2007, f. 7-10-07, cert. ef. 7-12-07; BLI 21-2007, f. 8-3-07, cert. ef. 8-8-07; BLI 22-2007, cert. & ef. 8-30-07; BLI 23-2007, f. 8-31-07, cert. ef. 9-4-07; BLI 24-2007,

f. 9-11-07, cert. ef. 9-12-07; BLI 25-2007, f. 9-19-07, cert. ef. 9-20-07; BLI 26-2007, f. 9-25-07 cert. ef. 9-26-07; BLI 27-2007, f. 9-25-07 cert. ef. 10-1-07; BLI 28-2007, f. 9-26-07 cert. ef. 10-1-07; BLI 31-2007, f. 11-20-07, cert. ef. 11-23-07; BLI 34-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 1-2008, f. & cert. ef. 1-4-08; BLI 2-2008, f. & cert. ef. 1-11-08; BLI 3-2008, f. & cert. ef. 2-21-08; BLI 6-2008, f. & cert. ef. 3-13-08; BLI 8-2008, f. 3-31-08, cert. ef. 4-1-08; BLI 9-2008, f. & cert. ef. 4-14-08; BLI 11-2008, f. & cert. ef. 4-24-08; BLI 12-2008, f. & cert. ef. 4-30-08; BLI 16-2008, f. & cert. ef. 6-11-08; BLI 17-2008, f. & cert. ef. 6-18-08; BLI 19-2008, f. & cert. ef. 6-26-08; BLI 20-2008, f. & cert. ef. 7-1-08; BLI 23-2008, f. & cert. ef. 7-10-08; BLI 26-2008, f. & cert. ef. 7-30-08; BLI 28-2008, f. & cert. ef. 9-3-08; BLI 30-2008, f. & cert. ef. 9-25-08; BLI 31-2008, f. 9-29-08, cert. ef. 10-1-08; BLI 32-2008, f. & cert. ef. 10-8-08; BLI 36-2008, f. & cert. ef. 10-29-08; BLI 41-2008, f. & cert. ef. 11-12-08; BLI 42-2008, f. & cert. ef. 12-1-08; BLI 44-2008, f. & cert. ef. 12-29-08; BLI 45-2008, f. 12-31-08, cert. ef. 1-1-09; BLI 1-2009, f. & cert. ef. 1-6-09; BLI 2-2009, f. & cert. ef. 1-12-09; BLI 4-2009, f. & cert. ef. 2-11-09; BLI 6-2009, f. & cert. ef. 3-17-09; BLI 7-2009, f. & cert. ef. 3-24-09; BLI 8-2009, f. 3-31-09, cert. ef. 4-1-09; BLI 10-2009, f. 6-9-09, cert. ef. 6-10-09; BLI 11-2009, f. 6-29-09, cert. ef. 6-30-09; BLI 12-2009, f. 6-29-09, cert. ef. 7-1-09; BLI 13-2009, f. & cert. ef. 7-1-09; BLI 14-2009, f. & cert. ef. 7-10-09; BLI 15-2009, f. & cert. ef. 7-16-09

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Rule Caption: Amends the prevailing rates of wage for the period beginning July 1, 2009.

Adm. Order No.: BLI 16-2009

Filed with Sec. of State: 7-22-2009

Certified to be Effective: 7-22-09

Notice Publication Date:

Rules Amended: 839-025-0700

Subject: The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for the period beginning July 1, 2009.

Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-025-0700

Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in publications of the Bureau of Labor and Industries entitled *Prevailing Wage Rates on Public Works Contracts in Oregon and Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act dated July 1, 2009*, are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning July 1, 2009, and the effective dates of the applicable special wage determination and rates amendments:

(a) Amendments/Corrections to July 1, 2009 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective June 26, 2009).

(b) Amendments/Corrections to July 1, 2009 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective July 3, 2009).

(c) Amendments/Corrections to July 1, 2009 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective July 10, 2009).

(d) Amendments/Corrections to July 1, 2009 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act (reflecting changes to Davis-Bacon rates effective July 17, 2009).

(2) Copies of Prevailing Wage Rates on Public Works Contracts in Oregon and Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act dated July 1, 2009, are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Medford, Portland and Salem and are listed in the blue pages of the phone book. Copies are also available on the bureau's webpage at www.oregon.gov/boli or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

Stat. Auth.: ORS 279C.815, 651.060

Stats. Implemented: ORS.279C.815

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002, f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 1-31-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-3-07; BLI 12-2007, f. & cert. ef. 5-31-07; BLI 13-2007, f. 6-8-07, cert. ef. 6-11-07; BLI 14-2007, f. 6-27-07, cert. ef. 6-28-07; BLI 15-2007, f. & cert. ef. 6-28-07; BLI 16-2007, f. 6-29-07, cert. ef. 7-1-07; BLI 18-2007, f. 7-10-07, cert. ef. 7-12-07; BLI 21-2007, f. 8-3-07, cert. ef. 8-8-07; BLI 22-2007, cert. & ef. 8-30-07; BLI 23-2007, f. 8-31-07, cert. ef. 9-4-07; BLI 24-2007,

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14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 3-1-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-30-07; BLI 12-2007, f. & cert. ef. 5-31-07; BLI 13-2007, f. 6-8-07, cert. ef. 6-11-07; BLI 14-2007, f. 6-27-07, cert. ef. 6-28-07; BLI 15-2007, f. & cert. ef. 6-28-07; BLI 16-2007, f. 6-29-07, cert. ef. 7-1-07; BLI 18-2007, f. 7-10-07, cert. ef. 7-12-07; BLI 21-2007, f. 8-3-07, cert. ef. 8-8-07; BLI 22-2007, cert. ef. & cert. ef. 8-30-07; BLI 23-2007, f. 8-31-07, cert. ef. 9-4-07; BLI 24-2007, f. 9-11-07, cert. ef. 9-12-07; BLI 25-2007, f. 9-19-07, cert. ef. 9-20-07; BLI 26-2007, f. 9-25-07, cert. ef. 9-26-07; BLI 27-2007, f. 9-25-07 cert. ef. 10-1-07; BLI 28-2007, f. 9-26-07 cert. ef. 10-1-07; BLI 31-2007, f. 11-20-07, cert. ef. 11-23-07; BLI 34-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 1-2008, f. & cert. ef. 1-4-08; BLI 2-2008, f. & cert. ef. 1-11-08; BLI 3-2008, f. & cert. ef. 2-21-08; BLI 6-2008, f. & cert. ef. 3-13-08; BLI 8-2008, f. 3-31-08, cert. ef. 4-1-08; BLI 9-2008, f. & cert. ef. 4-14-08; BLI 11-2008, f. & cert. ef. 4-24-08; BLI 12-2008, f. & cert. ef. 4-30-08; BLI 16-2008, f. & cert. ef. 6-11-08; BLI 17-2008, f. & cert. ef. 6-18-08; BLI 19-2008, f. & cert. ef. 6-26-08; BLI 20-2008, f. & cert. ef. 7-1-08; BLI 23-2008, f. & cert. ef. 7-10-08; BLI 26-2008, f. & cert. ef. 7-30-08; BLI 28-2008, f. & cert. ef. 9-3-08; BLI 30-2008, f. & cert. ef. 9-25-08; BLI 31-2008, f. 9-29-08, cert. ef. 10-1-08; BLI 32-2008, f. & cert. ef. 10-8-08; BLI 36-2008, f. & cert. ef. 10-29-08; BLI 41-2008, f. & cert. ef. 11-12-08; BLI 42-2008, f. & cert. ef. 12-1-08; BLI 44-2008, f. & cert. ef. 12-29-08; BLI 45-2008, f. 12-31-08, cert. ef. 1-1-09; BLI 1-2009, f. & cert. ef. 1-6-09; BLI 2-2009, f. & cert. ef. 1-12-09; BLI 4-2009, f. & cert. ef. 2-11-09; BLI 6-2009, f. & cert. ef. 3-17-09; BLI 7-2009, f. & cert. ef. 3-24-09; BLI 8-2009, f. 3-31-09, cert. ef. 4-1-09; BLI 10-2009, f. 6-9-09, cert. ef. 6-10-09; BLI 11-2009, f. 6-29-09, cert. ef. 6-30-09; BLI 12-2009, f. 6-29-09, cert. ef. 7-1-09; BLI 13-2009, f. & cert. ef. 7-1-09; BLI 14-2009, f. & cert. ef. 7-10-09; BLI 15-2009, f. & cert. ef. 7-16-09; BLI 16-2009, f. & cert. ef. 7-22-09

(2) Copies of *Prevailing Wage Rates on Public Works Contracts in Oregon* and *Prevailing Wage Rates for Public Works Contracts in Oregon subject to BOTH the state PWR and federal Davis-Bacon Act* dated July 1, 2009, are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Medford, Portland and Salem and are listed in the blue pages of the phone book. Copies are also available on the bureau's webpage at www.oregon.gov/boli or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

Stat. Auth.: ORS 279C.815, 651.060

Stats. Implemented: ORS.279C.815

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-99 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002, f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-30-07; BLI 12-2007, f. & cert. ef. 5-31-07; BLI 13-2007, f. 6-8-07, cert. ef. 6-11-07; BLI 14-2007, f. 6-27-07, cert. ef. 6-28-07; BLI 15-2007, f. & cert. ef. 6-28-07; BLI 16-2007, f. 6-29-07, cert. ef. 7-1-07; BLI 18-2007, f. 7-10-07, cert. ef. 7-12-07; BLI 21-2007, f. 8-3-07, cert. ef. 8-8-07; BLI 22-2007, cert. ef. 8-30-07; BLI 23-2007, f. 8-31-07, cert. ef. 9-4-07; BLI 24-2007, f. 9-11-07, cert. ef. 9-12-07; BLI 25-2007, f. 9-19-07, cert. ef. 9-20-07; BLI 26-2007, f. 9-26-07 cert. ef. 10-1-07; BLI 31-2007, f. 11-20-07, cert. ef. 11-23-07; BLI 34-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 1-2008, f. & cert. ef. 1-4-08; BLI 2-2008, f. & cert. ef. 1-11-08; BLI 3-2008, f. & cert. ef. 2-21-08; BLI 6-2008, f. & cert. ef. 3-13-08; BLI 8-2008, f. 3-31-08, cert. ef. 4-1-08; BLI 9-2008, f. & cert. ef. 4-14-08; BLI 11-2008, f. & cert. ef. 4-24-08; BLI 12-2008, f. & cert. ef. 4-30-08; BLI 16-2008, f. & cert. ef. 6-11-08; BLI 17-2008, f. & cert. ef. 6-18-08; BLI 19-2008, f. & cert. ef. 6-26-08; BLI 20-2008, f. & cert. ef. 7-1-08; BLI 23-2008, f. & cert. ef. 7-10-08; BLI 26-2008, f. & cert. ef. 7-30-08; BLI 28-2008, f. & cert. ef. 9-3-08; BLI 30-2008, f. & cert. ef. 9-25-08; BLI 31-2008, f. 9-29-08, cert. ef. 10-1-08; BLI 32-2008, f. & cert. ef. 10-8-08; BLI 36-2008, f. & cert. ef. 10-29-08; BLI 41-2008, f. & cert. ef. 11-12-08; BLI 42-2008, f. & cert. ef. 12-1-08; BLI 44-2008, f. & cert. ef. 12-29-08; BLI 45-2008, f. 12-31-08, cert. ef. 1-1-09; BLI 1-2009, f. & cert. ef. 1-6-09; BLI 2-2009, f. & cert. ef. 1-12-09; BLI 4-2009, f. & cert. ef. 2-11-09; BLI 6-2009, f. & cert. ef. 3-17-09; BLI 7-2009, f. & cert. ef. 3-24-09; BLI 8-2009, f. 3-31-09, cert. ef. 4-1-09; BLI 10-2009, f. 6-9-09, cert. ef. 6-10-09; BLI 11-2009, f. 6-29-09, cert. ef. 6-30-09; BLI 12-2009, f. 6-29-09, cert. ef. 7-1-09; BLI 13-2009, f. & cert. ef. 7-1-09; BLI 14-2009, f. & cert. ef. 7-10-09; BLI 15-2009, f. & cert. ef. 7-16-09; BLI 16-2009, f. & cert. ef. 7-22-09; BLI 17-2009, f. & cert. ef. 7-29-09

Rule Caption: Amendments to Prevailing Wage Rate rules conforming rules to legislation enacted.

Adm. Order No.: BLI 18-2009(Temp)

Filed with Sec. of State: 8-3-2009

Certified to be Effective: 8-5-09 thru 1-31-10

Notice Publication Date:

Rules Amended: 839-025-0013, 839-025-0020, 839-025-0030, 839-025-0035, 839-025-0085, 839-025-0200, 839-025-0210, 839-025-0530

Subject: These temporary rule amendments implement legislation recently enacted that is currently in effect, specifically, SB 53 (2009) which requires the PWR fee payable by a public agency to be paid at the same time as when the agency provides the Notice of Contract to BOLI, deletes an obsolete requirements that contract specifications contain a provision that a fee is required to be paid by the contractor, requires PWR wages to be paid on the contractor's regularly established and maintained payday, and provides civil penalties for violations; and SB 55 (2009) which makes intentional falsification of certified payrolls a violation for which a contractor may be placed on the list of contractors ineligible to receive a public works contract. The rule amendments also clarify existing requirements relating to

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information required to fee payments. Finally, OAR 839-025-0210(4) has been amended to include a form number reference for the convenience of contracting agencies in calculating the amount of the PWR fee to be paid.

Rules Coordinator: Marcia Ohlemiller—(971) 673-0784

839-025-0013

Notice of Public Works Form

(1) The notification form required by ORS 279C.835 is the Notice of Public Works form, **WH-81**.

(2) Except as provided in sections (4) and (5) of this rule, the public agency must file the Notice of Public Works form, **WH-81**, with the Prevailing Wage Rate Unit within 30 days after the date a public works contract is awarded.

(3) Pursuant to ORS 279C.835, the Notice of Public Works form, **WH-81**, must include payment of the fee required under ORS 279C.825 and a copy of the disclosure of first-tier subcontractors submitted to the public agency by the contractor if a public agency awards a contract to a contractor for a public works project.

(4) When a project is a public works project pursuant to ORS 279C.800(6)(a)(B) and no public agency awards a contract to a contractor for the project, the Notice of Public Works form shall be filed by the public agency providing public funds for the project at the time the public agency commits to the provision of funds for the project.

(5) When a project is a public works project pursuant to ORS 279C.800(6)(a)(C) and no public agency awards a contract to a contractor for the project, the Notice of Public Works form shall be filed by the public agency when the agency enters into an agreement to occupy or use the completed project.

(6) Public agencies are not required to file a Notice of Public Works form when the contract awarded is not regulated under the provisions of ORS 279C.800 to 279C.870.

[ED. NOTE: Forms and Publications referenced are available from the agency.]

Stat. Auth.: ORS 279 & 651

Stats. Implemented: ORS 279.348 - 279.380

Hist.: BL 14-1982, f. 10-19-82, cf. 10-20-82; BL 4-1984, f. & ef. 3-13-84; BL 3-1996, f. & cert. ef. 1-26-96; BLI 5-2002, f. 2-14-02, cert. ef. 2-15-02; Renumbered from 839-016-0013; BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 42-2007, f. 12-28-07, cert. ef. 1-1-08; BLI 18-2009(Temp), f. 8-3-09, cert. ef. 8-5-09 thru 1-31-10

839-025-0020

Public Works Contracts and Contract Specifications; Required Conditions

(1) For purposes of this rule:

(a) "Construction Manager/General Contractor contract" (or "CM/GC contract") means a contract that typically results in a general contractor/construction manager initially undertaking various pre-construction tasks that may include, but are not limited to: design phase development, constructability reviews, value engineering, scheduling, and cost estimating, and in which a guaranteed maximum price for completion of construction-type work is typically established by amendment of the initial contract, after the pre-construction tasks are complete or substantially complete. "CM/GC" refers to the general contractor/construction manager under this form of contract. Following the design phase, the CM/GC may then act as a General Contractor and begin the subcontracting process. The CM/GC typically coordinates and manages the construction process, provides contractor expertise, and acts as a member of the project team.

(b) "Construction specifications" include the detailed description of physical characteristics of the improvement, design details, technical descriptions of the method and manner of doing the work, quantities or qualities of any materials required to be furnished, descriptions of dimensions, required units of measurement, composition or manufacturer, and descriptions of any quality, performance, or acceptance requirements.

(2) Every public works contract must contain the following:

(a) A condition or clause that, if the contractor fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to the contractor or a subcontractor by any person, or the assignee of the person, in connection with the public works contract as such claim becomes due, the proper officer or officers of the public agency may pay such claim and charge the amount of the payment against funds due or to become due the contractor by reason of the contract (Reference: ORS 279C.515);

(b) A condition that no person will be employed for more than 10 hours in any one day, or 40 hours in any one week except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases the person so employed must be paid at least time and one-half the regular rate of pay for all time worked:

(A) For all overtime in excess of eight hours a day or 40 hours in any

one week when the work week is five consecutive days, Monday through Friday; or

(B) For all overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and

(C) For all work performed on Saturday and on any legal holiday specified in ORS 279C.540;

(c) A condition that an employer must give notice to employees who work on a public works contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work (Reference: ORS 279C.520); and

(d) A condition that the contractor must promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to employees of such contractor, of all sums which the contractor agrees to pay for such services and all moneys and sums which the contractor collected or deducted from the wages of the contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service (Reference: ORS 279C.530).

(3) Every public works contract and subcontract must contain a provision that each worker in each trade or occupation employed in the performance of the contract either by the contractor, subcontractor or other person doing or contracting to do or contracting for the whole or any part of the work on the contract, must be paid not less than the applicable state prevailing rate of wage, or the applicable federal prevailing rate of wage, whichever is higher.

(4)(a) The specifications for every public works contract must contain a provision stating the existing state prevailing rate of wage and, if applicable, the federal prevailing rate of wage required under the Davis-Bacon Act (40 U.S.C. 3141 et seq.). Except as provided in sections (6) and (7) of this rule, the existing rate of wage is the rate in effect at the time the initial specifications were first advertised for bid solicitations.

(b) If a public agency is required under subsection (a) of this section or section (6) of this rule to include the state and federal prevailing rates of wage in the specifications for a contract for public works, the public agency also shall include in the specifications information showing which prevailing rate of wage is higher for workers in each trade or occupation in each locality, as determined by the Commissioner of the Bureau of Labor and Industries under ORS 279C.815(2)(b).

(5)(a) The provisions described in sections (3) and (4), and sections (6) and (7) if applicable, must be included in all specifications for each contract awarded on the project, regardless of the price of any individual contract, so long as the combined price of all contracts awarded on the project is \$50,000 or more (Reference: ORS 279C.830).

(b) A statement incorporating the applicable prevailing wage rate publication and any amendments thereto or Davis-Bacon wage rate determination into the specifications by reference will satisfy these requirements. Such reference must include the title of the applicable wage rates publication or determination and the date of the publication or determination as well as the date of any applicable amendments.

(c) When the prevailing wage rates are available electronically or are accessible on the Internet, the rates may be incorporated into the specifications by referring to the electronically accessible or Internet-accessible rates and by providing adequate information about how to access the rates. Such reference must include the title of the applicable wage rates publication or determination and the date of the publication or determination as well as the date of any applicable amendments.

(6) When a public agency is a party to a CM/GC contract, the CM/GC contract becomes a public works contract either when the contract first constitutes a binding and enforceable obligation on the part of the CM/GC to perform or arrange for the performance of construction, reconstruction, major renovation or painting of an improvement that is a public works or when the CM/GC contract enters the construction phase, whichever occurs first. The prevailing wage rate in effect at that time shall apply and must be included with the construction specifications for the CM/GC contract. For example, the CM/GC will have a binding and enforceable obligation to perform or arrange for the performance of construction, reconstruction, major renovation or painting of an improvement after the public agency and CM/GC commit to the guaranteed maximum price. For purposes of this rule, the CM/GC contract enters the construction phase when the agency first authorizes the performance of early construction, reconstruction, major renovation or painting work directly related to the improvement project.

(7) A public works project described in ORS 279C.800(6)(a)(B) or

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(C) that is not a CM/GC contract subject to section (6) of this rule is subject to the existing state prevailing rate of wage or, if applicable, the federal prevailing rate of wage required under the Davis-Bacon Act that is in effect at the time a public agency enters into an agreement with a private entity for the project. After that time, the specifications for any contract for the public works shall include the applicable prevailing rate of wage.

(8) If a project is a public works of the type described in ORS 279C.800(6)(a)(B) or (C), a public agency will be deemed to have complied with the provisions of 279C.830 if the public agency requires compliance with the provisions of section (5) of this rule in any agreement entered into by the public agency committing to provide funds for the project or to occupy or use the completed project.

(9) Public agencies may obtain, without cost, a copy of the existing prevailing rate of wages for use in preparing the contract specifications by contacting the Prevailing Wage Rate Unit or any office of the bureau.

Stat. Auth.: ORS 279C.651.060

Stats. Implemented: ORS 279C.800–279C.870

Hist.: BL 14-1982, f. 10-19-82, ef. 10-20-82; BL 7-1989(Temp), f. 10-2-89, cert. ef. 10-3-89; BL 5-1990, f. 3-30-90, cert. ef. 4-1-90; BL 3-1996, f. & cert. ef. 1-26-96; BL 3-1997(Temp), f. 7-31-97, cert. ef. 8-1-97; BL 1-1998, f. & cert. ef. 1-5-98; BLI 5-2002, f. 2-14-02, cert. ef. 2-15-02; Renumbered from 839-016-0020, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 29-2005, f. 12-29-05, cert. ef. 1-1-06; BLI 19-2006(Temp), f. 5-12-06, cert. ef. 5-15-06 thru 11-10-06; BLI 39-2006, f. 11-8-06, cert. ef. 11-10-06; BLI 2-2007, f. & cert. ef. 1-23-07; BLI 20-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 1-27-08; BLI 42-2007, f. 12-28-07, cert. ef. 1-1-08; BLI 18-2009(Temp), f. 8-3-09, cert. ef. 8-5-09 thru 1-31-10

839-025-0030

Records Availability

(1) Every contractor and subcontractor performing work on a public works contract shall make available to representatives of the Wage and Hour Division records necessary to determine if the prevailing wage rate has been or is being paid to workers upon such public work. Such records shall be made available to representatives of the Wage and Hour Division for inspection and transcription during normal business hours.

(2) The contractor or subcontractor shall make the records referred to in section (1) of this rule available within 24 hours of a request from a representative of the Wage and Hour Division or at such later date as may be specified by the division.

(3) When a prevailing wage rate claim or complaint has been filed with the Wage and Hour Division or when the division has otherwise received evidence indicating that a violation has occurred and upon a written request by a representative of the Division a public works contractor or subcontractor shall send a certified copy of such contractor's or subcontractor's payroll records to the Division within ten days of receiving such request. The Division's written request for such certified copies will indicate that a prevailing wage rate claim has been filed or that the division has received evidence indicating that a violation has occurred.

Stat. Auth.: ORS 279 & 651

Stats. Implemented: ORS 279.348 - 279.380

Hist.: BL 14-1982, f. 10-19-82, ef. 10-20-82; BL 3-1996, f. & cert. ef. 1-26-96; Renumbered from 839-016-0030, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 18-2009(Temp), f. 8-3-09, cert. ef. 8-5-09 thru 1-31-10

839-025-0035

Payment of Prevailing Rate of Wage

(1) Every contractor or subcontractor employing workers on a public works project must pay to such workers no less than the applicable prevailing rate of wage for each trade or occupation, as determined by the commissioner, in which the workers are employed. Additionally, all wages due and owing to the workers shall be paid on the regular payday established and maintained under ORS 652.120.

(2) When a public works project is subject to the Davis-Bacon Act (40 U.S.C. 3141 et seq.), if the state prevailing rate of wage is higher than the federal prevailing rate of wage, the contractor and every subcontractor on the project shall pay no less than the state prevailing rate of wage as determined under ORS 279C.815.

(3) Every person paid by a contractor or subcontractor in any manner for the person's labor in the construction, reconstruction, major renovation or painting of a public work is employed and must receive no less than the applicable prevailing rate of wage, regardless of any contractual relationship alleged to exist. Thus, for example, if partners are themselves performing the duties of a worker, the partners must receive no less than the prevailing rate of wage for the hours they are so engaged.

(4) Persons employed on a public works project and who are spending more than 20% of their time during any workweek in performing duties which are manual or physical in nature as opposed to mental or managerial in nature are workers and must be paid the applicable prevailing rate of wage. Mental or managerial duties include, but are not limited to, administrative, executive, professional, supervisory or clerical duties.

(5) Persons employed on a public works project for the manufacture or furnishing of materials, articles, supplies or equipment (whether or not a public agency acquires title to such materials, articles, supplies or equipment during the course of the manufacture or furnishing, or owns the materials from which they are manufactured or furnished) are not workers required to be paid the applicable prevailing rate of wage unless the employment of such persons is performed in connection with and at the site of the public works project.

(6) Except as provided in ORS 279C.838, persons employed on a public works project who are employed by a commercial supplier of goods or materials must be paid no less than the applicable prevailing rate of wage when the work is performed at the "site of work" as that term is defined in OAR 839-025-0004(25) or when the work is performed in fabrication plants, batch plants, borrow pits, job headquarters, tool yards or other such places that are dedicated exclusively or nearly so to the public works project.

(7) Except as provided in ORS 279C.838, persons employed on a public works project by the construction contractor or construction subcontractor to transport materials or supplies to or from the public works project are required to be paid the applicable prevailing wage rate for work performed in connection with the transportation of materials or supplies at the "site of work" as that term is defined in OAR 839-025-0004(25).

(8) Persons employed on a public works project for service work as opposed to construction work are not workers required to be paid the prevailing rate of wage.

(9) Every apprentice, as defined in these rules, must be paid not less than the appropriate percentage of the applicable journeyman's wage rate and fringe benefits as determined pursuant to ORS 279C.800 to 279C.870. Any worker listed on a payroll at an apprentice wage rate, who is not an apprentice as defined in these rules, or who is not employed by a registered training agent pursuant to 660.010(10) must be paid not less than the applicable prevailing rate of wage for the classification of work actually performed. In addition, if the total number of apprentices employed exceeds the ratio permitted in the applicable standards, all apprentices so employed must be paid not less than the applicable journeyman's prevailing wage rate for work actually performed.

(10) Every trainee, as defined in these rules, must be paid not less than the appropriate percentage of the applicable journeyman's wage rate and fringe benefits determined pursuant to ORS 279C.800 to 279C.870. Any worker listed on a payroll at a trainee wage rate, who is not a trainee as defined in these rules, or who is not employed by a registered training agent pursuant to 660.010(10) must be paid not less than the applicable prevailing rate of wage for the classification of work actually performed. In addition, if the total number of trainees employed exceeds the ratio permitted in the applicable standards, all trainees so employed must be paid not less than the applicable journeyman's prevailing wage rate for work actually performed.

Stat. Auth.: ORS 279 & 651

Stats. Implemented: ORS 279.350

Hist.: BL 14-1982, f. 10-19-82, ef. 10-20-82; BL 4-1984, f. & ef. 3-13-84; BL 7-1989(Temp), f. 10-2-89, cert. ef. 10-3-89; BL 5-1990, f. 3-30-90, cert. ef. 4-1-90; BL 8-1996, f. 8-26-96, cert. ef. 9-1-96; BL 1-1997(Temp), f. & cert. ef. 4-29-97; BL 4-1997, f. & cert. ef. 8-29-97; BLI 5-2002, f. 2-14-02, cert. ef. 2-15-02; Renumbered from 839-016-0035, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 29-2005, f. 12-29-05, cert. ef. 1-1-06; BLI 42-2007, f. 12-28-07, cert. ef. 1-1-08; BLI 18-2009(Temp), f. 8-3-09, cert. ef. 8-5-09 thru 1-31-10

839-025-0085

Contract Ineligibility

(1) Under the following circumstances, the commissioner, in accordance with the Administrative Procedures Act, may determine that, for a period not to exceed three years, a contractor, subcontractor or any firm, limited liability company, corporation, partnership or association in which the contractor or subcontractor has a financial interest is ineligible to receive any contract or subcontract for a public works:

(a) The contractor or subcontractor has intentionally failed or refused to pay the prevailing rate of wage to workers employed on a public works project as required by ORS 279C.840;

(b) The subcontractor has failed to pay the prevailing rate of wage to workers employed on a public works project as required by ORS 279C.840 and the contractor has paid the workers on the subcontractor's behalf;

(c) The contractor or subcontractor has intentionally failed or refused to post the prevailing wage rates as required by ORS 279C.840(4) and these rules;

(d) The contractor or subcontractor has intentionally falsified information in the contractor's or subcontractor's certified statements submitted under ORS 279C.845.

(2) When the contractor or subcontractor is a corporation, the provi-

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sions of this rule will apply to any corporate officer or corporate agent who is responsible for the failure or refusal to pay or post the prevailing wage rates, the failure to pay to a subcontractor's employees amounts required by ORS 279C.840 that are paid by the contractor on the subcontractor's behalf or the intentional falsification of information in the contractor's or subcontractor's certified statements submitted under 279C.845.

(3) As used in section (2) of this rule, any corporate officer or corporate agent responsible for the failure to pay or post the prevailing wage rates, the failure to pay to a subcontractor's employees amounts required by ORS 279C.840 that are paid by the contractor on the subcontractor's behalf or for the intentional falsification of information in the contractor's or subcontractor's certified statements submitted under 279C.845, includes, but is not limited to, the following individuals when the individuals knew or should have known the amount of the applicable prevailing wages or that such wages must be posted:

- (a) The corporate president;
- (b) The corporate vice president;
- (c) The corporate secretary;
- (d) The corporate treasurer;
- (e) Any other person acting as an agent of a corporate officer or the corporation.

(4) The Wage and Hour Division will maintain a written list of the names of those contractors, subcontractors and other persons who are ineligible to receive public works contracts and subcontracts. The list will contain the name of contractors, subcontractors and other persons, and the name of any firms, corporations, partnerships or associations in which the contractor, subcontractor or other persons have a financial interest. Except as provided in OAR 839-025-0095, such names will remain on the list for a period not to exceed three (3) years from the date such names were first published on the list.

(5) Before placing a name on the ineligible list referred to in section (4) of this rule, the commissioner will serve a notice of intended action upon the contractor or subcontractor in the same manner as service of summons or by certified mail, return receipt requested. The notice will include:

- (a) A reference to ORS 279C.840;
- (b) A short and concise statement of the matters which constitute intentional failure or refusal to pay or post the prevailing rate of wage or intentional falsification of information in the certified statements;
- (c) A statement of the party's right to request a contested case hearing and to be represented by counsel at such hearing, provided that any such request must be received by the commissioner in writing within 20 days of service of the notice;
- (d) A statement that the party's name will be published on a list of persons ineligible to receive public works contracts or subcontracts, unless the party requests a contested case hearing as provided in section (5)(c) of this rule;
- (e) A statement that failure to make written request to the commissioner for a contested case hearing within the time specified will constitute a waiver of the right thereto; and
- (f) A statement that if a hearing is requested, the contractor or subcontractor will be given information on procedures and rights as required by ORS 183.413(2).

(6) Upon the failure of the contractor or subcontractor to request a contested case hearing within the time specified, the commissioner or the commissioner's designee will enter an order supporting the bureau's action.

(7) If a contractor or subcontractor makes a timely request for a contested case hearing a hearing will be held in accordance with the Attorney General's Model Rules of Procedure under the Administrative Procedure Act by the commissioner or the commissioner's designee.

Stat. Auth.: ORS 279 & 651

Stats. Implemented: ORS 279.348 - 279.380

Hist.: BL 14-1982, f. 10-19-82, ef. 10-20-82; BL 4-1984, f. & ef. 3-13-84; BL 3-1996, f. & cert. ef. 1-26-96; BLI 5-2002, f. 2-14-02, cert. ef. 2-15-02; Renumbered from 839-016-0085; BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 42-2007, f. 12-28-07, cert. ef. 1-1-08; BLI 18-2009(Temp), f. 8-3-09, cert. ef. 8-5-09 thru 1-31-10

839-025-0200

Fees to Be Paid by Public Agency

(1) A public agency must pay a fee to the Prevailing Wage Rate Unit for every contract awarded to a contractor for a public work which is regulated under the Prevailing Wage Rate Law (ORS 279C.800 to 279C.870).

(2) The amount of the fee is one tenth of one percent (.001) of the contract price. However, the fee must be no less than \$100 nor more than \$5,000 regardless of the contract price.

NOTE: Pursuant to Or Laws 2007, ch. 844, sec. 8, for public works contracts first advertised or solicited on or after January 1, 2008 and before January 1, 2011, the fee must be no less than \$250 nor more than \$7,500 regardless of the contract price.

(3) The public agency must pay the fee at the time the public agency

notifies the commissioner under ORS 279C.835 a contract subject to the provisions of Prevailing Wage Rate law has been awarded.

(4) In order to assist public agencies in the proper calculation of the fee, the bureau has prepared a form for this purpose. The form, **WH-39**, is available, on request, from the Prevailing Wage Rate Unit.

(5) As used in this rule, "contract price" means the dollar amount of the contract on the date it was awarded to the contractor and the dollar amount of any subsequent change orders or other adjustments.

Stat. Auth.: ORS 279 & 651

Stats. Implemented: ORS 279.348 - 279.380

Hist.: BL 3-1996, f. & cert. ef. 1-26-96; BLI 5-2002, f. 2-14-02, cert. ef. 2-15-02; Renumbered from 839-016-0200; BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 42-2007, f. 12-28-07, cert. ef. 1-1-08; BLI 18-2009(Temp), f. 8-3-09, cert. ef. 8-5-09 thru 1-31-10

839-025-0210

Adjustment of Fees

(1) Within 30 days of the final progress payment to the contractor by the public agency after completion of the contract, the public agency must determine the final contract price. The public agency must consider all change orders or other adjustments to the contract price in making the determination.

(2) The public agency must calculate the fee in accordance with OAR 839-025-0200(2) and must credit the amount paid pursuant to 839-025-0200(3). The difference, if any, must be determined as follows:

(a) In the case of a reduction of more than \$100 in the amount of the fee, the public agency may submit a request to the bureau for a refund of the difference and the bureau will pay a refund to the public agency;

(b) In the case of an increase of more than \$100 in the amount of the fee, the public agency must pay the difference to the bureau.

(3) Requests for refunds and additional payments must be submitted with sufficient documentation to show how the amount to be refunded or to be paid was calculated. All such requests or payments must be made to the Prevailing Wage Rate Unit within 30 days after the date the final progress payment was made to the contractor by the public agency after completion of the contract.

(4) In order to assist public agencies in the proper calculation of the fee, the bureau has prepared a form for this purpose. The form, **WH-40**, is available, on request, from the Prevailing Wage Rate Unit.

Stat. Auth.: ORS 279 & 651

Stats. Implemented: ORS 279.348 - 279.380

Hist.: BL 3-1996, f. & cert. ef. 1-26-96; BLI 5-2002, f. 2-14-02, cert. ef. 2-15-02; Renumbered from 839-016-0210; BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 42-2007, f. 12-28-07, cert. ef. 1-1-08; BLI 18-2009(Temp), f. 8-3-09, cert. ef. 8-5-09 thru 1-31-10

839-025-0530

Violations for Which a Civil Penalty May Be Assessed

(1) The commissioner may assess a civil penalty for each violation of any provision of the Prevailing Wage Rate Law (ORS 279C.800 to 279C.870) and for each violation of any provision of the administrative rules adopted under the Prevailing Wage Rate Law.

(2) Civil penalties may be assessed against any contractor, subcontractor or public agency regulated under the Prevailing Wage Rate Law and are in addition to, not in lieu of, any other penalty prescribed by law.

(3) The commissioner may assess a civil penalty against a contractor or subcontractor for any of the following violations:

(a) Failure to pay the applicable prevailing rate of wage in violation of ORS 279C.840;

(b) Failure to pay all wages due and owing to the contractor's or subcontractor's workers on the regular payday established and maintained under ORS 652.120 in violation of ORS 279C.840(1).

(c) Failure to post the applicable prevailing wage rates in violation of ORS 279C.840(4);

(d) Failure to post the notice describing the health and welfare or pension plans in violation of ORS 279C.840(5);

(e) Failure to include a provision in a subcontract that workers shall be paid not less than the specified minimum hourly rate of wage in violation of ORS 279C.830(1)(c);

(f) Failure to include in a subcontract a provision requiring the subcontractor to have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt, in violation of ORS 279C.830(3);

(g) Failure to file with the Construction Contractors Board a public works bond, as required under ORS 279C.836, before starting work on a contract or subcontract for a public works project subject to the provisions of 279C.800 to 279C.870;

(h) Failure to verify that a subcontractor has filed a public works bond as required or has elected not to file a public works bond under ORS 279C.836 prior to permitting a subcontractor to start work on a public

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works project;

- (i) Failure to file certified statements in violation of ORS 279C.845;
- (j) Filing inaccurate or incomplete certified statements in violation of ORS 279C.845;

(k) Failure to retain 25 percent of the amount the first-tier subcontractor earned when the first-tier subcontractor fails to submit payroll and certified statement forms to the public agency in violation of ORS 279C.845;

(l) Paying the prevailing rate of wage in violation of ORS 279C.840(6);

- (m) Reducing an employee's pay in violation of ORS 279C.840(7);

(n) Taking action to circumvent the payment of the prevailing wage, other than subsections (j) and (l) of this section, in violation of ORS 279C.840(7);

(o) Failure to submit reports and returns in violation of ORS 279C.815(3);

(p) Failure to certify the accuracy of reports and returns in violation of ORS 279C.815(3);

(q) Failure to timely pay the fee required by ORS 279C.825 on public works contracts first advertised or solicited prior to January 1, 2008;

(r) Receiving a public works contract or subcontract while on the list of ineligibles in violation of ORS 279C.860;

(s) Awarding a contract to a contractor whose name appears on the list of ineligibles maintained pursuant to ORS 279C.860.

(4) The commissioner may assess a civil penalty against a public agency for any of the following violations:

(a) Failure to include a contract provision stating that workers must be paid the applicable prevailing rate of wage in violation of ORS 279C.830(1)(c);

(b) Failure to include in the contract specifications a provision stating the applicable existing prevailing wage rate in violation of ORS 279C.830(1);

(c) Failure to include in the specifications for a contract for a public works stating that the contractor and every subcontractor must have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt, in violation of ORS 279C.830(3);

(d) Failure to include in a contract for a public works a provision requiring the contractor to have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt, in violation of ORS 279C.830(3)(a);

(e) Failure to include in a contract for a public works a provision requiring the contractor to include in every subcontract a provision requiring the contractor to have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt, in violation of ORS 279C.830(3)(b);

(f) Failure to notify the commissioner when a contract is awarded in violation of ORS 279C.835;

(g) Dividing a public works project in violation of Or Laws 2007, ch. 764, sec. 44;

(h) Failure to include a copy of the disclosure of first-tier subcontractors with the Notice of Award in violation of ORS 279C.835;

(i) Failure to retain 25 percent of the amount the contractor earned when the contractor fails to submit payroll and certified statement forms to the public agency in violation of ORS 279C.845;

(j) Failure to timely pay the fee required in violation of ORS 279C.825;

(k) Awarding a contract to a contractor whose name appears on the list of ineligibles maintained pursuant to ORS 279C.860.

Stat. Auth.: ORS 279 & 651.060

Stats. Implemented: ORS 279.370

Hist.: BL 3-1996, f. & cert. ef. 1-26-96; BL 1-1998, f. & cert. ef. 1-5-98; BLI 5-2002, f. 2-14-02, cert. ef. 2-15-02; Renumbered from 839-016-0530, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 29-2005, f. 12-29-05, cert. ef. 1-1-06; BLI 20-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 1-27-08; BLI 42-2007, f. 12-28-07, cert. ef. 1-1-08; BLI 18-2009(Temp), f. 8-3-09, cert. ef. 8-5-09 thru 1-31-10

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Commission for the Blind Chapter 585

Rule Caption: Equipment Policy.

Adm. Order No.: CFTB 3-2009

Filed with Sec. of State: 8-7-2009

Certified to be Effective: 8-7-09

Notice Publication Date: 7-1-2009

Rules Amended: 585-020-0010, 585-020-0015, 585-020-0020, 585-020-0025, 585-020-0030, 585-020-0040, 585-020-0045, 585-020-0050, 585-020-0060

Rules Repealed: 585-020-0055

Subject: Division 20: Equipment Policy — Updates language to reflect current practice.

Rules Coordinator: Linda Mock — (971) 673-1588

585-020-0010

Definitions

The following definitions apply to these rules:

(1) "Client" means a person who has applied for and been accepted for services under the rules of the Oregon Commission for the Blind.

(2) "Equipment" means an item which is non-expendable, and could be assigned to another client and is determined necessary for the individual's employment goal.

(3) "Case Manager" means the client's assigned vocational rehabilitation counselor or rehabilitation instructor for the blind who is a staff member of the agency.

(4) "Agency" means the Oregon Commission for the Blind.

(5) "Training" means preparation needed to prepare, qualify, and reach an employment goal.

Stat. Auth.: ORS 183 & 346

Stats. Implemented:

Hist: 2BC 1-1986, f. & ef. 4-11-86; CFTB 1-2005, f. & cert. ef. 2-11-05; CFTB 3-2009, f. & cert. ef. 8-7-09

585-020-0015

Conditions Under Which Equipment May Be Provided

(1) Vocational Training:

(a) An agency staff member will perform an analysis prior to purchase of any equipment to help identify the most appropriate equipment needed to complete training to perform a job.

(b) Available equipment may be loaned or purchased for training.

(c) The case manager will assist the client to obtain appropriate training in the use of equipment.

(2) Employment:

(a) An agency staff member will perform a job analysis prior to purchase of any equipment to help identify the most appropriate equipment needed to perform the job. The employer's technical support staff or an outside consultant may be used to make technical recommendations.

(b) Available equipment may be loaned to an employer for demonstration purposes, or for use by a client, until permanent equipment is purchased or repaired.

(c) The case manager will assist the client to obtain appropriate training in the use of equipment prior to the client beginning a job or once the client is on the job.

Stat. Auth.: ORS 183 & 346

Stats. Implemented:

Hist: 2BC 1-1986, f. & ef. 4-11-86; CFTB 3-2009, f. & cert. ef. 8-7-09

585-020-0020

Financing Equipment

Case managers and clients will attempt to use all possible financial resources to pay for job-related equipment, such as:

(1) Employer purchases equipment.

(2) Client purchases equipment and lists it as a work related expense under the SSI or SSDI programs.

(3) Use Social Security Plan for Achieving Self Support to purchase equipment.

(4) Equipment that can be categorized as rehabilitation technology as defined by the Rehabilitation Act does not require the use of other resources. Although not required, other possible financial resources can be considered and utilized.

Stat. Auth.: ORS 183 & 346

Stats. Implemented:

Hist: 2BC 1-1986, f. & ef. 4-11-86; CFTB 1-2005, f. & cert. ef. 2-11-05; CFTB 1-2009, f. & cert. ef. 4-13-09; CFTB 3-2009, f. & cert. ef. 8-7-09

580-020-0025

Maintenance of Equipment

The agency may provide equipment and provide for its maintenance while the agency retains ownership of the equipment. After ownership of the equipment has been transferred to the client, the client will be expected to continue appropriate maintenance, unless the client demonstrates that the cost of repairs would be prohibitive and that the job would be jeopardized if equipment were not repaired. The case manager will explain these restrictions.

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tions to the client and include them in the property receipt which the client signs:

(1) Service Agreements. If available, service or maintenance agreements can be considered when appropriate, depending on the job environment, and related factors. Case managers should try to buy equipment which has at least a one-year warranty.

(2) Used Equipment. Whenever available, equipment in the agency's inventory will be issued to clients.

Stat. Auth.: ORS 183 & 346

Stats. Implemented:

Hist: 2BC 1-1986, f. & ef. 4-11-86; CFTB 1-2009, f. & cert. ef. 4-13-09; CFTB 3-2009, f. & cert. ef. 8-7-09

585-020-0030

Property Receipts and Transfer of Ownership

(1) Clients are required to sign property receipts for non-expendable equipment provided to them with a cost of \$5000 or more. Receipts verify that the client received the item and spells out the applicable conditions of this policy.

(2) When ownership of equipment and software are transferred to a client, clients are required to sign a transfer of ownership form. This verifies that equipment and software have been assigned to the client and spells out the applicable conditions of this policy.

Stat. Auth.: ORS 183 & 346

Stats. Implemented:

Hist: 2BC 1-1986, f. & ef. 4-11-86; CFTB 1-2009, f. & cert. ef. 4-13-09; CFTB 3-2009, f. & cert. ef. 8-7-09

585-020-0040

Maintaining Equipment

In cases where equipment is needed by a client or former client to maintain the job, the case manager will request that the employer provide the equipment as he or she would for any other employee. If the employer is unwilling to provide the total equipment necessary to perform the job, and the client is unable to fund it, the agency may provide the adaptive equipment necessary to maintain employment. This is, of course, subject to client eligibility and availability of agency funds for such purchases.

Stat. Auth.: ORS 183 & 346

Stats. Implemented:

Hist: 2BC 1-1986, f. & ef. 4-11-86; CFTB 1-2009, f. & cert. ef. 4-13-09; CFTB 3-2009, f. & cert. ef. 8-7-09

585-020-0045

Changing Jobs

If a client or former client changes from one job to another and needs additional equipment to perform the new job, the case manager will assess the situation. If the job is in the same field, and equipment used on the original job will suffice for the new job, the equipment may be transferred to the new job. If additional or different equipment is needed, the case manager must assess the reasons for the job change and the willingness of the new employer to provide equipment. Since the agency does not usually provide continuing services to persons already established in employment, agency involvement, other than technical assistance, may not be appropriate.

Stat. Auth.: ORS 183 & 346

Stats. Implemented:

Hist: 2BC 1-1986, f. & ef. 4-11-86; CFTB 1-2009, f. & cert. ef. 4-13-09; CFTB 3-2009, f. & cert. ef. 8-7-09

585-020-0050

Considerations for Purchase of Computers or Computer Equipment

(1) The agency will not buy the basic computer if it is a part of the job, which other employees at the same organization perform, unless it is impossible for the adaptive equipment to access already existing equipment. The employer is expected to provide the basic computer unit for an employee. The agency may provide adaptive equipment to make the computer accessible to the blind employee; i.e., hardware and software for large print, Braille, or voice output, if the employer is unable to provide this as a reasonable accommodation.

(2) Consultants with appropriate experience and expertise may be utilized to advise the client, agency, and employer in the best equipment for a particular application. Consultants would also be appropriately used to install a system and to train a client in the use of the equipment for a particular job.

(3) Computer equipment will not be purchased unless it is used as an essential function of the job. Computers will not be purchased for personal record keeping or to perform the minor functions of a job, where other, less expensive, equipment could accomplish the same task.

(4) Computers may be purchased for students provided that purchasing the equipment is not supplanting the responsibilities of the education system for transition students.

Stat. Auth.: ORS 183 & 346

Stats. Implemented: ORS 346.150

Hist: 2BC 1-1986, f. & ef. 4-11-86; CFTB 3-1999, f. & cert. ef. 7-8-99; CFTB 3-2009, f. & cert. ef. 8-7-09

585-020-0060

Transfer of Equipment to Clients

(1) For equipment valued at \$5000 or more, the case manager has the discretion of transferring ownership at successful closure or up to one year of employment. This will be done after it is determined that the client is using the equipment for the purpose for which it was intended and that the job appears stable.

(2) The agency can transfer items valued under \$5,000 to clients at its discretion. This may be done after determining that the client is using the equipment for the purpose for which it was intended.

(3) If the equipment is likely to be usable for other clients after the current client no longer requires it for employment, the case manager may determine that the agency will retain ownership. This determination will be made on an individual basis. Once ownership is transferred to the client, the agency will have no further obligation to repair or maintain the equipment.

(4) Title for computer software will be transferred to clients at the time that they receive it.

(5) **Equipment Purchases by Agency:** For equipment valued at \$5000 or more, after approval by the case manager, the specific recommendations, including information on all adaptive equipment to be used with the system, will be submitted to the agency purchasing agent for identification of an appropriate vendor. The purchasing agent will identify an appropriate vendor in accordance with state purchasing regulations, using state purchasing agreements or, obtaining the necessary quotes or bids. After identifying the appropriate vendor, the purchasing agent will provide the case manager with the necessary information for doing the authorization.

Stat. Auth.: ORS 183 & 346

Stats. Implemented:

Hist: 2BC 1-1986, f. & ef. 4-11-86; CFTB 1-2005, f. & cert. ef. 2-11-05; CFTB 1-2009, f. & cert. ef. 4-13-09; CFTB 3-2009, f. & cert. ef. 8-7-09

Department of Administrative Services

Chapter 125

Rule Caption: Disposition and Acquisition of Real Property Interests.

Adm. Order No.: DAS 8-2009

Filed with Sec. of State: 7-21-2009

Certified to be Effective: 7-21-09

Notice Publication Date: 7-1-2009

Rules Amended: 125-045-0205, 125-045-0225, 125-045-0235

Subject: This amendment changes:

OAR 125-045-0205 by adding a definition for "Cleaning House Process" for clarification of Division practice.

OAR 125-045-0225 by adding electronic mail notice and posting notice on the Division's website as authorized methods for notifying agencies and political subdivisions of intended terminal dispositions or acquisitions.

OAR 125-045-0235(3)(b) by deleting the word "minimum: so the sentence reads: "The asking price" instead of "The minimum asking price" to conform to statute and common practice. This permanent rule replaces the temporary rule filed January 23, 2009.

Rules Coordinator: Yvonne Hanna—(503) 378-2349, ext. 325

125-045-0205

Definitions

The following definitions apply to the rules in this Division 045:

(1) "Acquiring Agency" means an Agency that proposes to acquire a Real Property Interest and is not an Exempt Acquiring Agency.

(2) "Acquisition" means obtaining rights of ownership in a Real Property Interest by an Agency through a purchase, exchange, conveyance or other transfer of that Real Property Interest.

(3) "Administrator" means the Administrator of the Department's Facilities Division.

(4) "Agency" means any board, commission, department or agency of the State of Oregon, whose costs are paid from funds held in the State

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Treasury and that are authorized to acquire or dispose of Real Property Interests.

(5) "Appraisal" means a written report by a licensed and experienced real estate appraiser estimating the fair market value of a Real Property Interest prepared in accordance with OAR 125-045-0215.

(6) "Appraised Fair Market Value" means the fair market value of a Real Property Interest as determined by an Appraisal.

(7) "Clearing House Process" means the notification process whereby agencies notify the Department of terminal dispositions or acquisitions of State Real Property Interests and Department notifies other state agencies and political subdivisions under OAR 125-045-0220 and 125-045-0225.

(8) "Department" means the Oregon Department of Administrative Services.

(9) "Directed Appraisal" means a written report by a licensed and experienced real estate appraiser estimating the fair market value of a Real Property Interest with restrictions or for a particular use, zone or conditional use in accordance with OAR 125-045-0215.

(10) "Director" means the Director of the Department.

(11) "Disposing Agency" means an Agency that proposes to dispose of a Real Property Interest.

(12) "Division" means the Facilities Division of the Department.

(13) "Exempt Acquiring Agency" means an Agency that is not required by law to report to the Department its intentions to acquire a Real Property Interest. At the time of the adoption of these rules the Exempt Acquiring Agencies are:

(a) The Department of Transportation, if acquiring a highway right of way;

(b) The Oregon University System, if acquiring real property within the approved projected campus boundaries of institutions subject to its authority; and

(c) The Parks and Recreation Department, if acquiring park properties.

(14) "Exempt Disposing Agency" means an Agency that is exempt by law from the requirement that it obtain Department approval prior to the Terminal Disposition of a Real Property Interest, unless the Terminal Disposition will be for less than the Appraised Fair Market Value. At the time of the adoption of these rules, the Exempt Disposing Agencies are:

(a) The Department of Fish and Wildlife;

(b) The Department of Forestry, if disposing of State forestlands;

(c) The Department of State Lands;

(d) The Department of Transportation;

(e) The Oregon University System;

(f) The Parks and Recreation Department; and

(g) Any legislative or judicial branch of the State.

(15) "Governing Body" means a board or commission with constitutional or statutory governing authority to approve the Acquisition or Terminal Disposition of a Real Property Interest. The term "Governing Body" includes but is not limited to the following bodies:

(a) The Oregon Board of Forestry;

(b) The Oregon Board of Higher Education;

(c) The Oregon Fish and Wildlife Commission;

(d) The Oregon Parks and Recreation Commission;

(e) The Oregon Transportation Commission; and

(f) The State Land Board.

(16) "Improvements" means any and all structures on or attachments to Real Property Interests but excluding public improvements as defined in ORS 279A.010.

(17) "In Reserve" as used in the Statewide Lands Inventory means an Agency-owned Real Property Interest that is not currently being used by the Agency, but that the Agency intends to use to fulfill an anticipated future requirement, need or benefit related to the mission of the Agency.

(18) "In Use" as used in the Statewide Lands Inventory means a State Real Property Interest that is actively being used to serve the mission of the Agency.

(19) "Long Term Lease" means any lease, which the State does not have the right of termination for convenience, to another Agency, Political Subdivision, private or public party, having a term, including options of twenty years or more.

(20) "Office Quarters" means office space, office buildings and associated services, storage and parking facilities for Agencies. Office space may include factory-built modular or portable units but excludes stand alone storages and parking facilities.

(21) "Political Subdivision" means a local governmental unit, including a county, city, town, port, dock, commission or district, that exists under the laws of Oregon and that has the power to levy taxes.

(22) "Property Restrictions" means any restrictions placed on a Real Property Interest or on the sale proceeds from the Terminal Disposition of the Real Property Interest including deed reversion clauses or constitutional or statutory requirements to deposit all or a portion of the sale proceeds into specified funds other than the general fund.

(23) "Proposal" means a written offer to purchase a State Real Property Interest submitted in response to a Request for Proposals.

(24) "Proposer" means an individual or entity that submits a Proposal in response to a Request for Proposals.

(25) "Public Lands Advisory Committee" (PLAC) means the advisory committee established under ORS 270.120.

(26) "Real Property Interest" means any legal or equitable interest in land, or an option to acquire, or a leasehold interest with a term, including options to renew or extension provisions that contemplate a total period of occupancy of more than 20 years, together with all Improvements. For the purposes of these rules, a Real Property Interest does not include:

(a) An Office Quarters lease, regardless of the term;

(b) An easement, unless the easement has an Appraised Fair Market Value of \$100,000 or greater; or

(c) Mineral or geothermal resources, as defined in ORS 273.755, the sale or other disposition of which is governed by ORS 273.775 to 273.790 or other provisions of law governing these resources.

(27) "Request for Proposals" means a solicitation of offers to acquire a State Real Property Interest made pursuant to OAR 125-045-0235.

(28) "Right of First Refusal" means a conditional privilege that the Disposing Agency, in the exercise of its discretion, may grant to a qualified Proposer by OAR 125-045-0230 to match the best Proposal for the purchase of a State Real Property Interest.

(29) "State" means the State of Oregon.

(30) "State Real Property Interest" means any Real Property Interest that is owned in the name of the State of Oregon.

(31) "Statewide Lands Inventory" means the inventory of State Real Property Interests maintained by the Department on a computer database.

(32) "Surplus" as used in the Statewide Lands Inventory means a State Real Property Interest that is not currently used or is not needed or desirable to support a future need, use or function of the Agency.

(33) "Terminal Disposition" means the alienation of a State Real Property Interest through a sale, exchange, conveyance, donation, lease or other transfer of that interest.

Stat. Auth.: ORS 270.015(2) & 270.100(1)(d)

Stats. Implemented: ORS 244.010, 270.010, 270.100, 270.105, 270.110, 270.120, 270.130 & 270.135

Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06; DAS 8-2009, f. & cert. ef. 7-21-09

125-045-0225

Terminal Disposition of State Real Property Interests (Notices to Department, State Agencies and Political Subdivisions – Clearing House Process)

(1) Prior to the Terminal Disposition by an Agency of a State Real Property Interest, the Agency shall first declare in writing to the Division its intent to dispose of the Interest. The written declaration must include the following:

(a) A detailed description of the State Real Property Interest to be transferred, including its approximate size in square feet or acreage and its legal description;

(b) A map showing the location of the State Real Property Interest;

(c) An explanation of the reason for disposal;

(d) A completed notice using a form provided by the Division; and

(e) Any other information the Division may request.

(2) To ensure that the Terminal Disposition best serves the interests of the State and the Disposing Agency, the Disposing Agency is encouraged to create a disposition strategy for the property. The Disposing Agency's disposition strategy should consider:

(a) The highest and best use of the Real Property Interest, consistent with the local planning goals;

(b) How the Real Property Interest might be marketed most effectively, given the nature of the Interest and likely potential purchasers; and

(c) How the economic return to the State might be maximized.

(3) After receipt of a declaration to dispose of a State Real Property Interest, and before a Disposing Agency may unconditionally offer to dispose of the State Real Property Interest, the Division shall provide notice of the intended Terminal Disposition to all Agencies authorized by law to

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acquire Real Property Interests. Written notice to agencies must include the following:

(a) A request that any Agency with an interest in acquiring the State Real Property Interest notify the Division in writing of its interest;

(b) The information required to be provided under OAR 125-045-0225(1);

(c) The deadline for the Agency to provide written notice to the Division of its interest in acquiring the State Real Property Interest, which may not be less than 30 days from the date the Division issues the notice, unless the Administrator determines that a shorter period is in the State's interest; and

(d) Any other information the Division or the Disposing Agency elects to include in the notice.

(4) Notification by the Clearing House Process, will be given to agencies by at least one of the following methods:

(a) Mailed notice;

(b) Electronic mail notice;

(c) Posting notice of the intended Terminal Disposition on the Division's website; or

(d) Newspaper publication meeting the requirements defined in OAR 125-045-0235(3).

(5) The Division may dispense with notice to Agencies if the Administrator adopts written findings that in the reasoned judgment of the Division it is unlikely that transfer of the State Real Property Interest to another Agency could satisfy the Disposing Agency's needs and that as a result, notice would be a futile act.

(6) If one or more Agencies responds timely to the written notice described in this rule, the responding Agency or Agencies shall negotiate with the Disposing Agency to determine if a sale, assignment, lease or other transfer can be completed. The Disposing Agency may not reject another Agency's bona fide offer to acquire the State Real Property Interest without Division approval.

(7) If two or more Agencies make bona fide offers to acquire the State Real Property Interest, the Disposing Agency shall determine, in its reasonable discretion, which, if any, offer is most advantageous to the State and the Disposing Agency. Prior to making this determination, the Division may solicit the advice of the PLAC. A Disposing Agency need not use a competitive bidding process in connection with the Terminal Disposition of a State Real Property Interest to another Agency.

(8) Before a Disposing Agency may dispose of a State Real Property Interest to other than another Agency, the Division shall provide notice of the intended Terminal Disposition to Political Subdivisions. Written notice will be given to each city, county, and school district within whose boundaries the State Real Property Interest is located. Notification by the Clearing House Process, will be given to all other Political Subdivisions by at least one of the following methods:

(a) Mailed notice;

(b) Electronic mail notice;

(c) Posting notice of the intended Terminal Disposition on the Division's website; or

(d) Newspaper publication meeting the requirements defined in OAR 125-045-0235(3).

(9) The Division may provide notice to Political Subdivisions at the same time as it provides notice to Agencies. The Division may dispense with notice to Political Subdivisions if the Administrator adopts written findings that in its reasoned judgment it is unlikely that transfer of the State Real Property Interest to a Political Subdivisions could satisfy the Disposing Agency's needs and that as a result, notice would be a futile act.

(10) All notices to Political Subdivisions must include the following:

(a) A request that any Political Subdivision with an interest in acquiring the State Real Property Interest notify the Division in writing of its interest;

(b) The information required to be provided under OAR 125-045-0225(1);

(c) The deadline for the Political Subdivision to provide written notice to the Division of its interest in acquiring the State Real Property Interest, which may not be less than 30 days from the date of the Division's notice unless the Administrator determines that a shorter period is in the State's interest;

(d) A reservation of the right of the Disposing Agency to reject any offers;

(e) Notice that a Political Subdivision's right to acquire the State Real Property Interest is subject and subordinate to the right of Agencies to acquire the State Real Property Interest (required only if notice to Political Subdivisions is made concurrently with notice to Agencies); and

(f) Any other information the Division or the Disposing Agency elect to include in the notice.

(11) If no Agency indicates an interest in acquiring the State Real Property Interest, or if a sale or other transfer to another Agency cannot be finalized, any Political Subdivision that has made a timely response to the notice may negotiate with the Disposing Agency to determine if a sale or other transfer can be completed.

(12) The Disposing Agency shall consider any bona fide offer submitted by a Political Subdivision but shall not be obliged to sell or otherwise transfer the State Real Property Interest to the Political Subdivision.

(13) No Terminal Disposition of a State Real Property Interest to a Political Subdivision for less than the Appraised Fair Market Value may occur without the written approval of the Administrator or Director in accordance with OAR 125-045-0245.

(14) If two or more Political Subdivisions make bona fide offers to acquire the State Real Property Interest, the Disposing Agency shall determine, in its reasonable discretion, which, if any, offer is acceptable to the State.

(15) The Disposing Agency may place any conditions on the transfer of a State Real Property Interest to a Political Subdivision it deems advisable, including but not limited to requirements that:

(a) Any State Real Property Interest sold or transferred to a Political Subdivision be subject to a deed restriction that the property be used solely for a public purpose or benefit; and

(b) That such State Real Property Interest not be resold to a private purchaser without the consent of the State.

(16) The Disposing Agency need not use a competitive bidding process in connection with the Terminal Disposition of a State Real Property Interest to a Political Subdivision.

Stat. Auth.: ORS 270.015(2), 270.100(1)

Stat. Implemented: ORS 270.100, 270.120

Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06; DAS 8-2009, f. & cert. ef. 7-21-09

125-045-0235

Terminal Dispositions of State Real Property Interests (Offers to Other Individuals or Entities)

(1) This rule applies to sales and leases of State Real Property Interests only.

(2) If a Disposing Agency does not sell or transfer a State Real Property Interest to either an Agency or a Political Subdivision or to a party that has been granted a Right of First Refusal, then the Disposing Agency may dispose of the State Real Property Interest to any other party subject to the rules and procedures described in this rule.

(3) The Disposing Agency shall publish notice of the proposed Terminal Disposition of the State Real Property Interest. The notice must be published not less than once a week for three successive weeks in one or more newspapers of general circulation in the county or counties in which the State Real Property Interest is located. In addition, the Disposing Agency may provide notice on its website. The published notice must include the following:

(a) A general description of the State Real Property Interest, including a legal description, if any;

(b) The asking price;

(c) The name and address of the person to contact to obtain any additional information concerning the State Real Property Interest;

(d) A Request for Proposals, including the address to which the Proposal must be delivered and the date and time the Proposal is due, which may not be less than 30 days from the date of the first notice;

(e) A requirement that a security deposit in the amount and form described in this rule must be submitted with the Proposal;

(f) If applicable, a notice that the Terminal Disposition of the State Real Property Interest may be subject to a Right of First Refusal;

(g) If not previously published, an invitation for public comment on the State Real Property Interest values defined in OAR 125-045-0215(7) if the Appraised Fair Market Value is more than \$100,000;

(h) A reservation of the right of the Disposing Agency or the Division to accept or reject any Proposal; and

(i) Any other information the Disposing Agency elects to include.

(4) The Disposing Agency may use a multi-stage process, which may include, but need not be limited to, a Solicitation of Interest (SOI), a Request for Qualifications (RFQ), a Request for Proposals (RFP), a straight offer to purchase, or a combination of these. These documents must describe the process by which the Disposing Agency shall market the property, and may direct interested parties to the Disposing Agency's website for information.

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(5) The Division may post the current status of Surplus State Real Property Interests available for Terminal Disposition on its website.

(6) All Proposals submitted in response to the published notice described in this rule must be accompanied by a deposit, in the form of a certified check or sufficient bond furnished by a surety company authorized to do business in this State, in favor of the State of Oregon in a sum not less than ten percent of the total amount of the proposed purchase price. Deposits will be refunded to all unsuccessful Proposers after the closing of the sale to a successful Proposer or rejection of all Proposals.

(7) Each Proposal must clearly identify the amount offered for the purchase of the State Real Property Interest, and must include the following additional information:

(a) Any conditions upon the Proposer's offer to acquire the State Real Property Interest;

(b) A detailed statement explaining the Proposer's proposed use for the State Real Property Interest; and

(c) Any other information the Proposer believes is relevant to its Proposal.

(8) After the date and time for submitting Proposals has passed, the Disposing Agency shall open all Proposals that have been timely delivered and that have the required deposit. The Disposing Agency shall evaluate all responsive Proposals to determine the Proposal most advantageous to the State. The determination of the most advantageous Proposal will be final and conclusive and is not subject to review by any court.

(9) The Disposing Agency shall notify the apparent successful Proposer and shall negotiate to determine if the transfer can be consummated and a final agreement reached. If negotiations are unsuccessful, the Disposing Agency may:

(a) Notify the next highest ranking acceptable Proposal and shall similarly attempt to negotiate the Terminal Disposition of the State Real Property Interest; and

(b) Continue the negotiation process until the Disposing Agency has exhausted the field of all Proposers; or

(c) Reject remaining Proposals.

(10) If the Disposing Agency and a Proposer reach a final agreement on the Terminal Disposition of the State Real Property Interest and this agreement, where required, is approved by the Attorney General pursuant to ORS 291.047, the Disposing Agency shall transfer the State Real Property Interest to the successful Proposer in accordance with the terms of the agreement.

(11) The Disposing Agency, in its sole discretion, may reject any or all Proposals.

(12) If all Proposals are rejected, the Disposing Agency may market and sell the Real Property Interest in any manner the Disposing Agency deems appropriate including but not limited to auction, direct negotiation with potential buyers, announcing a new RFQ or RFP process, and acting through a real estate licensee, provided that:

(a) If required by ORS 291.047, any resulting agreement of sale must be approved by the Attorney General;

(b) If no agreement of sale is executed within 18 months of the publication of the first public notice of sale described in this rule, no agreement of sale may be accepted without again publishing a public notice of sale and complying with the provisions of this rule; and

(c) The Disposing Agency shall publish the process selected in this subsection on its website.

Stat. Auth.: ORS 270.015(2), 270.100(1)(d)

Stats. Implemented: ORS 270.010, 270.110, 270.130, 270.135, 270.140

Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06; DAS 2-2009(Temp), f. & cert. ef. 1-23-09 thru

7-17-09; DAS 8-2009, f. & cert. ef. 7-21-09

Rule Caption: Emergency Procurements.

Adm. Order No.: DAS 9-2009

Filed with Sec. of State: 8-11-2009

Certified to be Effective: 8-11-09

Notice Publication Date: 7-1-2009

Rules Amended: 125-247-0280, 125-249-0150

Subject: The Department of Administrative Services needs permanent emergency procurement rules to replace expiring temporary rules that revise OAR 125-247-0280 for Emergency Procurement and OAR 125-249-0150 for Emergency Contract (Rules). The permanent rules will support the 2009 "Go Oregon!" Economic Stimulus Package, Enrolled Senate Bill 338, House Bill 5562 and related economic stimulus measures (Program). In response to the adverse economic circumstances, the Legislature enacted the Program to allow for the

emergency procurement of most project under ORS 279B.080 and the Rules. Prior emergency procurement rules presented obstacles to the Program's quick implementation. The permanent rules will remove the obstacles and help agencies employ various procurement methods.

Rules Coordinator: Yvonne Hanna—(503) 378-2349, ext. 325

125-247-0280

Emergency Procurements

(1) An Authorized Agency may award a Contract as an Emergency Procurement under ORS 279B.080. An Authorized Agency has delegated authority to enter into an Emergency Contract according to OAR 125-246-0170.

(2) An Authorized Agency may, in its discretion, enter into a Contract without competitive solicitation if an Emergency exists. Emergency means circumstances that could not have been reasonably foreseen that create a substantial risk of loss, damage, interruption of services or threat to public health or safety that requires prompt execution of a Contract to remedy the condition.

(3) Regardless of the dollar value of the Contract, the Authorized Agency entering into an Emergency Contract must encourage competition that is reasonable and appropriate under the Emergency circumstances. However, for the emergency procurement of construction services that are not Public Improvements, see ORS 279B.080(2).

(4) Regardless of the dollar value of the Contract, the Authorized Agency entering into an Emergency Contract must, either before or promptly after entering into an Emergency Contract, make and retain in its Procurement File documentation of the nature of the Emergency that includes:

(a) A brief description of the Supplies and Services to be provided under the Contract, together with its cost or anticipated cost;

(b) A brief explanation of how the Contract, in terms of duration or Supplies and Services provided under it, was restricted to the Scope reasonably necessary to adequately deal only with the risk created or anticipated to be created by the Emergency circumstances;

(c) A description of the emergency circumstances that require the prompt performance of the Contract, stating the anticipated harm from failure to establish the Contract on an expedited basis; and

(d) Documentation of the measures taken under Section (3) to encourage competition; the amounts of the Bids, Quotes or Proposals obtained, if any; and the reason for selecting the Contractor.

(5) The head of the Authorized Agency, or a person designated under ORS 279A.075, must authorize the conduct of the emergency procurement, and must review and approve the documentation required by Section (4) of this Rule.

(6) Any Contract awarded under this Rule must be awarded no later than sixty (60) days following the approval of the documentation of the emergency unless the head of the Authorized Agency or Person designated has granted an extension.

(7) Agencies must also comply with OAR 137-045-0070, Emergency Public Contract Exemption, if applicable. The Authorized Agency must maintain a copy of any required report in the Authorized Agency's Emergency Procurement File.

(8) For an Emergency Procurement of construction services that are not Public Improvements, the Authorized Agency must insure competition for a contract for the emergency work that is reasonable and appropriate under the emergency circumstances. In conducting the Procurement, the Authorized Agency must set a solicitation time period that the Authorized Agency determines to be reasonable under the emergency circumstances and may issue written or oral requests for Offers or make direct appointments without competition in cases of extreme necessity.

(9) 2009 "Go Oregon!" Economic Stimulus Package.

(a) Program. The 2009 "Go Oregon!" Economic Stimulus Package, Enrolled Senate Bill 338, House Bill 5562 and related legislative measures (Program), provides funding and direction to identified Authorized Agencies for deferred maintenance, capital construction, capital renewal, code compliance, safety, renovation, and other construction projects (Projects). The Program's objective is to stimulate Oregon's economy through job growth by providing opportunities to local businesses and certified minority, women and emerging small businesses. The Director of the Department has made a determination of emergency circumstances and documented the nature of the Emergency under the Program (Emergency Determination). Most of the Projects are not Public Improvements as defined in OAR 125-246-0110(127). ORS 279C.320 provides that ORS 279B.080 regulates these Projects.

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(b) Application. Sections (2) through (6) of this Rule do not apply to Procurements and Contracts under the Program.

(c) Emergency Documentation. The Emergency Determination documents the nature of the Emergency on behalf of the Authorized Agencies to satisfy the requirement of ORS 279B.080. No further documentation that an Emergency exists is required of the Authorized Agencies.

(d) Authorization. The Designated Procurement Officer, or designee, of the Authorized Agency must authorize Procurements under the Program and may determine whether to excuse the requirement of furnishing a good and sufficient performance bond or payment bond.

(e) Procurement Processes. The Authorized Agencies may conduct expedited Emergency Procurement processes, including but not limited to: informal or formal requests for quotes, invitations to bid, and requests for proposals; special procurements; and direct awards. Any of these processes may be utilized regardless of project value.

(f) Project Documentation. The Authorized Agency must retain in its Procurement File(s) the following documentation of its Emergency Procurements and Contracts under the Program:

(A) Copies of all data requested by the Department;

(B) A brief description of the Project;

(C) A description of how the particular contractor was selected and the measures taken to encourage competition, if reasonable and appropriate under the emergency circumstances.

(D) A statement by the Designated Procurement Officer, or designee, excusing performance and payment bonds for the Project in accordance with ORS 279C.380(4), if applicable.

(g) Timing. The documentation described in Section (9)(f) may occur a reasonable time after the award of the Contract. No documentation is required before the award of the Contract.

(10) Other State Economic Stimulus Programs.

(a) Application. For any other state economic stimulus program that is administered by the Department or an Authorized Agency (State Program), Sections (9)(d) through (g) replace Sections (2) through (6) of this Rule and apply to the State Program on the following condition: the Department or Authorized Agency determines that the State Program is in response to adverse economic circumstances.

(b) Emergency Determination and Documentation. The Director of the Department may make an emergency determination and document the nature of the Emergency on behalf of Authorized Agencies. Regardless of any determination by the Director of the Department, an Authorized Agency may make an emergency determination and document the nature of the Emergency on that Agency's behalf and in accordance with ORS 279B.080.

(11) Federal Economic Stimulus Programs.

(a) Application. For any federal economic stimulus program that is administered by the Department or an Authorized Agency (Federal Program), Sections (9)(d) through (g) replace Sections (2) through (6) of this Rule and apply to the Federal Program upon the following condition: the Department determines that the Federal Program is in response to adverse economic circumstances.

(b) Emergency Determination and Documentation. The Director of the Department may make an emergency determination and document the nature of the Emergency on behalf of Authorized Agencies. Regardless of any determination by the Director of the Department, an Authorized Agency may make an emergency determination and document the nature of the Emergency on that Agency's behalf and in accordance with ORS 279B.080.

Stat. Auth.: ORS 279A.065(5)(a) & 279A.070

Stats. Implemented: ORS 279B.080 & 279C.320

Hist.: DAS 4-2004, f. 11-23-04, cert. ef. 3-1-05; DAS 5-2006, f. & cert. ef. 5-31-06; DAS 6-2008, f. & cert. ef. 7-2-08; DAS 5-2009(Temp), f. & cert. ef. 2-13-09 thru 8-12-09; DAS 9-2009, f. & cert. ef. 8-11-09

125-249-0150

Emergency Contracts; Bidding and Bonding Exemptions

(1) **Emergency Declaration.** An Authorized Agency may declare that Emergency circumstances exist that require prompt execution of a Public Contract for Emergency construction or repair Work. The declaration must be made at an administrative level consistent with the Authorized Agency's internal policies, by a Written declaration that describes the circumstances creating the Emergency as that term is defined at ORS 279A.010(1)(f), and the anticipated harm from failure to enter into an Emergency Contract. The Emergency declaration must be kept on file as a public record.

(2) **Competition for Emergency Contracts.** According to ORS 279C.320(1), Emergency Contracts are regulated under ORS 279B.080, which provides that, for an emergency procurement of construction services, the Authorized Agency must ensure competition that is reasonable and

appropriate under the Emergency circumstances, and may include Written requests for Offers, oral requests for Offers, or direct appointments without competition in cases of extreme necessity, in whatever Solicitation time periods the Authorized Agency considers reasonable in responding to the Emergency.

(3) **Emergency Contract Scope.** Although no dollar limitation applies to Emergency Contracts, the Scope of the Contract must be limited to Work that is necessary and appropriate to remedy the conditions creating the Emergency as described in the declaration.

(4) **Emergency Contract Modification.** Emergency Contracts may be modified by change order or Amendment to address the conditions described in the original declaration or an amended declaration that further describes additional Work necessary and appropriate for related Emergency circumstances.

(5) **Excusing Bonds.** According to ORS 279C.380(4) and this Rule, the Emergency declaration may also state that the Authorized Agency waives the requirement of furnishing a performance bond and payment bond for the Emergency Contract. After making such an Emergency declaration those bonding requirements are excused for the Procurement.

(6) **State and Federal Economic Stimulus Programs.** Sections (1) through (5) of this Rule do not apply to Procurements and Contracts under any state economic stimulus program or any federal economic stimulus program administered by the Department or an Authorized Agency. See OAR 125-247-0280.

Stat. Auth.: ORS 279A.065(5)(a) & 279A.070

Stats. Implemented: ORS 279B.080, 279C.320 & 279C.380(4)

Hist.: DAS 4-2004, f. 11-23-04, cert. ef. 3-1-05; DAS 5-2006, f. & cert. ef. 5-31-06; DAS 6-2008, f. & cert. ef. 7-2-08; DAS 5-2009(Temp), f. & cert. ef. 2-13-09 thru 8-12-09; DAS 9-2009, f. & cert. ef. 8-11-09

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Department of Administrative Services, Oregon Educators Benefit Board Chapter 111

Rule Caption: Amended to clarify what changes can occur as a result of a Qualified Status Change by an OEBB member.

Adm. Order No.: OEBB 11-2009

Filed with Sec. of State: 7-31-2009

Certified to be Effective: 7-31-09

Notice Publication Date: 6-1-2009

Rules Amended: 111-040-0040

Rules Repealed: 111-040-0035, 111-040-0040(T)

Subject: OAR 111-040-0040 is amended to clarify what changes can occur as a result of an OEBB member experiencing a Qualified Status Change.

Rules Coordinator: April Kelly—(503) 378-6588

111-040-0040

Qualified Status Changes

(1) Active eligible employees experiencing a change in family or work status as noted below during the plan year have 31 calendar days from the date of the event to make changes unless indicated otherwise. The eligible employee may make only those changes that are consistent with the event for themselves and dependents. Please refer to the Qualified Status Change matrix for detail on what changes can occur with each event.

(2) Change in status. Events include:

(a) Gain spouse by marriage or domestic partner by meeting domestic partner eligibility;

(b) Loss of spouse or domestic partner by divorce, annulment, death or termination of domestic partnership, 60 days from the event;

(c) Gain dependent by birth, placement for/or adoption, affidavit of dependency or Domestic Partner's children (by affidavit of domestic partnership), 60 days from the event;

(d) Active eligible employee starts new employment and gains eligibility;

(e) Change in employment status by active eligible employee which affects eligibility;

(f) Active eligible employee ends employment or other change in employment status resulting in a loss of eligibility;

(g) Spouse or domestic partner starts new employment or other change in employment status which affects eligibility;

(h) Spouse or domestic partner's employment ends or other change in employment status resulting in a loss of eligibility under their employer's plan;

(i) Event by which dependent child satisfies eligibility requirements under OEBB plans (for a list of requirements see 111-010-0015);

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(j) Event by which dependent ceases to satisfy eligibility requirements under OEBB plans (for a list of requirements see 111-010-0015), 60-days from the event;

(k) Changes in the residence of the active eligible employee or family member (i.e., moving out of the service area of an HMO);

(l) Reinstatement of coverage. Reinstatement can be used in the following situations:

(A) Military (USERRA)

(B) When coverage was continued under COBRA

(C) When coverage was terminated in error and there is no lapse in coverage.

(m) Changes in cost or coverage do not constitute a Qualified Status Change. All changes resulting from a change in cost or coverage must be made during Open Enrollment.

(n) Related laws or court orders. For example: Qualified Medical Child Support Order (QMSCO), Medicare, or HIPAA. Changes are determined by the applicable law or court order.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 10-2009(Temp), f. 5-4-09, cert. ef. 5-5-09 thru 10-31-09; OEBB 11-2009, f. & cert. ef. 7-31-09

Rule Caption: Amended to include new definitions and clarify existing definitions used by the Oregon Educators Benefit Board.

Adm. Order No.: OEBB 12-2009(Temp)

Filed with Sec. of State: 7-31-2009

Certified to be Effective: 7-31-09 thru 1-26-10

Notice Publication Date:

Rules Amended: 111-010-0015

Subject: OAR 111-010-0015 is amended to include new definitions and clarify existing definitions used by the Oregon Educators Benefit Board.

Rules Coordinator: April Kelly—(503) 378-6588

111-010-0015

Definitions

Unless the context indicates otherwise, as used in OEBB administrative rules, the following definitions will apply:

(1) "Actuarial value" means the expected financial value for the average member of a particular benefit plan.

(2) "Affidavit of Dependency" means a document that attests that a dependent child meets the criteria in section (12)(b).

(3) "Affidavit of Domestic Partnership" means a document that attests the eligible employee and one other eligible individual meet the criteria in section (14)(b).

(4) "Benefit plan" includes, but is not limited to, insurance or other benefits including:

(a) Medical;

(b) Dental;

(c) Vision;

(d) Life, disability and accidental death;

(e) Long term care;

(f) Flexible spending accounts;

(g) Supplemental medical, dental and vision;

(h) Any other remedial care recognized by state law, and related services and supplies;

(i) Comparable benefits for employees who rely on spiritual means of healing; and

(j) Self insurance programs managed by the Board.

(5) "Benefits" means goods and services provided under benefit plans.

(6) "Board" means the ten-member board established in the Department of Administrative Services as the Oregon Educators Benefit Board under Chapter 00007, Oregon Laws 2007.

(7) "Comparable cost (Medical, Dental and Vision)" means that the total cost to a district for enrollment in OEBB plans comparable in design to the district's plan(s) do not exceed the total cost to a district for enrollment in the district's plan(s) using the rate(s) in effect or proposed for the benefit plan year.

(8) "Comparable cost (Basic and Optional Life Insurance, Accidental Death & Dismemberment, and Short and Long Term Disability Plans)" means that the premium rates of an OEBB plan design option do not exceed the average, aggregate premium rates of a district's pre-OEBB plan design in effect the year prior to implementation.

(9) "Comparable plan design (Medical, Dental and Vision)" means that the actuarial values of two plan designs are within 2.5 percent higher or lower of each other.

(10) Comparable plan design (Basic and Optional Life Insurance and Accidental Death & Dismemberment)" means that 90 percent of district employees can obtain a maximum benefit through an OEBB plan design that is within \$2,500 of the maximum benefit obtained through a pre-OEBB plan design in effect the year prior to implementation.

(11) Comparable plan design (Short and Long Term Disability)" means 90 percent of the district employees can obtain the same elimination period, percentage of covered compensation, definition of covered compensation, coverage period duration, and maximum payment per benefit period through an OEBB plan design as through a pre-OEBB plan design in effect the year prior to implementation.

(12) "Dependent child," unless otherwise defined by a collective bargaining agreement or documented district policy in effect on January 31, 2008, means and includes the following:

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

(b) 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.

(c) A dependent child must meet the following conditions:

(A) Does not qualify as another person's dependent child, except for a child of divorced or separated parents meeting conditions under Internal Revenue Code Section 152(e)(A) as amended by the Working Families Tax Relief Act of 2004.

(B) Single and does not have a domestic partner; and

(C) 18 years old or younger; or

(D) Is 19 through 25 years old:

(i) Attending five months of class or on-site training per calendar year at an educational institution defined by IRC Section 170(b)(1)(A)(ii) or state or political subdivision with the following requirements:

(I) The child must be citizen or resident of the United States, Canada or Mexico; and

(II) The child must be recognized as a full time student by the educational institution or state or political subdivision; or

(ii) 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

(iii) Incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability.

(E) Is age 26 or older, and incapable of self-sustaining employment, because of a developmental disability, mental illness, or physical disability; and

(i) The disability existed prior to attaining age 26; and

(ii) Pre-OEBB medical insurance coverage was continuous with coverage under OEBB medical insurance.

(13) "Documented district policies" means district policies and practices that apply to an employee group and are submitted to the Oregon Educators Benefit Board during the plan selection process. District policies and practices must be identified and submitted with the applicable employee group plan selections.

(14) "Domestic partner," unless otherwise defined by a collective bargaining agreement or documented district policy in effect on January 31, 2008, means and includes the following:

(a) An unmarried individual of the same sex who has entered into a "Declaration of Domestic Partnership" with the eligible employee that is recognized under Oregon law; or

(b) An unmarried individual of the same or opposite sex who has entered into a partnership that meets the following criteria:

(A) Both are 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 and have not had a spouse or another domestic partner within the prior six months. If previously married, the six-month period starts on the final date of divorce;

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

(E) Have jointly shared the same regular and permanent residence for at least six months; and

(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.

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(G) The eligible employee and domestic partner must jointly complete and submit to the educational entity an Affidavit of Domestic Partnership form, within five business days of the electronic enrollment date or the date the educational entity received the enrollment/change form. If the affidavit is not received, coverage will terminate for the domestic partner retroactive to the effective date.

(c) Participating Districts must calculate and apply applicable imputed value tax for domestic partners covered under OEBB benefit plans.

(15) "Educational Entity" means public school districts (K-12), education service districts (ESDs), community colleges and public charter schools participating in OEBB.

(16) "Eligible employee" means and includes:

(a) "Active eligible employee" means an employee of an OEBB participating organization who is employed on a half-time or greater basis or is in a job-sharing position or meets the definition of an eligible employee under a separate OEBB rule or under a collective bargaining agreement or documented district policy in effect on January 31, 2008.

(b) "Retired eligible employee" means a previously active eligible employee, who is:

(A) Receiving a service or disability retirement allowance or pension under the Public Employees Retirement System (PERS) or under any other retirement or disability benefit plan or system offered by an OEBB participating organization for its employees;

(B) Eligible to receive a service retirement allowance under PERS and has reached earliest retirement age under ORS Chapter 238;

(C) Eligible to receive a pension under ORS 238A.100 to 238A.245 and has reached earliest retirement age as described in ORS 238A.165; or

(D) Eligible to receive a service retirement allowance or pension under another retirement benefit plan or system offered by an OEBB participating organization and has reached earliest retirement age under the plan or system.

(17) "Employee Group" means one or more similarly situated employees (i.e., nonrepresented or represented by a specific collective bargaining contract) in a common school district, union high school district, education service district, community college district or charter school.

(18) "Members" means and includes the following:

- (a) "Eligible employee" as defined by OAR 111-010-0015(16).
- (b) "Dependent child" as defined by OAR 111-010-0015(12).
- (c) "Domestic Partner" as defined by OAR 111-010-0015(14).
- (d) "Spouse" as defined by OAR 111-010-0015(23).

(19) "Non-subject District" means a community college district or a charter school if the employees are not considered employees of a school district.

(20) "Oregon Educators Benefit Board or OEBB" means the program created under Chapter 00007, Oregon Laws 2007.

(21) "OEBB participating organization" means a Subject District, Non-subject District, or Provisional Non-subject District that participates in benefit plans provided by the Oregon Educators Benefit Board (OEBB).

(22) "Provisional Non-subject District" means a common school district, a union high school district, or an education service district that:

(a) Was self-insured on December 31, 2006;

(b) Had an independent health insurance trust established and functioning on December 31, 2006; or

(c) Can provide comparable plan designs at a comparable costs as defined by sections (6) and (8) of this Rule.

(23) "Spouse" means a person of the opposite sex who is a husband or wife. Except as provided in Oregon Constitution Article XV, Section 5a, 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.

(24) "Subject District" means a common school district, a union high school district, or an education service district that:

(a) Did not self-insure on January 1, 2007;

(b) Did not have a health trust in effect on January 1, 2007; or

(c) Does not provide comparable plans designs at a comparable cost as defined by sections (6) and (8) of this Rule.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.860

Hist.: OEBB 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEBB 2-2008, f. & cert. ef. 1-4-08; OEBB 10-2008(Temp), f. & cert. ef. 8-13-08 thru 2-6-09; OEBB 1-2009, f. & cert. ef. 1-30-09; OEBB 5-2009(Temp), f. & cert. ef. 3-10-09 thru 9-4-09; OEBB 8-2009, f. & cert. ef. 5-1-09; OEBB 12-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10

Rule Caption: Establishes Oregon Educators Benefit Board's process for developing optional benefit plan designs comparable to district optional plan designs, and the process for participating districts' selection of OEBB optional benefit plans.

Adm. Order No.: OEBB 13-2009(Temp)

Filed with Sec. of State: 7-31-2009

Certified to be Effective: 7-31-09 thru 1-26-10

Notice Publication Date:

Rules Adopted: 111-030-0020, 111-030-0025, 111-030-0030

Rules Amended: 111-030-0001, 111-030-0005

Subject: 111-030-0020, 111-030-0025 and 111-030-0030 establish Oregon Educators Benefit Board's process for developing optional benefit plan designs comparable to district optional plan designs, and the process for participating districts' selection of OEBB optional benefit plans. 111-030-0001 and 111-030-0005 are being amended to update an existing OEBB process.

Rules Coordinator: April Kelly—(503) 378-6588

111-030-0001

Development of OEBB Medical, Pharmaceutical, Dental and Vision Plan Designs

(1) As used in the section, "comparable plan design" means the actuarial value of the OEBB plan design is within 2.5 percent (higher or lower) than a current district plan.

(2) OEBB will develop plan designs for medical, pharmaceutical, dental and vision benefit plans that are comparable to the plan designs provided by Subject Districts prior to entering the OEBB.

(3) OEBB will develop comparable plan designs by: Collecting the medical, pharmaceutical, dental and vision plan designs provided by Subject Districts that will be entering OEBB on October 1, 2008, October 1, 2009, and October 1, 2010.

(4) Following initial implementation of the OEBB benefit plans on October 1, 2008, OEBB will re-evaluate its plan designs for the October 1, 2009, and October 1, 2010, plan year start dates to determine if the Subject District plan design was included in the comparability assessment performed for plan design development in 2008.

(a) If the Subject District plan design was considered during the initial plan design process no further analysis will be conducted.

(b) If the plan design was not considered during the initial plan design process OEBB will:

(A) Calculate the actuarial value for the Subject District plan design using an industry-standard actuarial model; and

(B) Identify whether a current OEBB plan design has an actuarial value 2.5 percent higher or lower than the Subject District plan design.

(5)(a) If none of the OEBB plan designs has an actuarial value within 2.5 percent higher or lower than the Subject District plan and the Subject District has 100 or more enrollees, OEBB will develop and implement a plan design with an actuarial value of 2.5 percent higher or lower than the Subject District's plan unless:

(b) There is an OEBB plan that has an actuarial value that is more than 2.5 percent higher than the Subject District's plan and it is determined that OEBB can still meet the comparable cost requirement.

Stat. Auth: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864

Hist.: OEBB 8-2008, f. 6-25-08, cert. ef. 6-26-08; OEBB 13-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10

111-030-0005

Medical, Dental and Vision Benefit Plans Selection through OEBB

(1) As used in the section, "employee group" means employees of similar employment type, for example administrative, represented classified, nonrepresented classified, confidential, represented licensed, or non-represented licensed. If one or more collective bargaining unit exists within an employee group, each unit will be considered a separate employee group.

(2) OEBB will offer a range of medical, pharmaceutical, dental and vision plans that provide the flexibility to choose between a number of high quality plan options.

(3) The process for selection of medical, pharmaceutical, dental and vision plans offered by OEBB will include:

(a) Release of preliminary designs and costs for all medical, pharmaceutical, dental, and vision, plan options to participating districts no later than 30 days prior to final selection date. The total number offered may vary each year.

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(b)(A) Districts select the medical, pharmaceutical, dental, and vision, plan options to be offered to each employee group using the OEBB plan selection process.

(B) The specific number of allowed selections and selection parameters will be reviewed, considered and determined on an annual basis by OEBB.

(c) Plan selections for medical, pharmaceutical, dental, and vision benefit coverages must be submitted electronically and a hard copy signed by a district official must be received by OEBB no later than the date designated by OEBB policy each year.

Stat. Auth: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 8-2008, f. 6-25-08, cert. ef. 6-26-08; OEBB 13-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10

111-030-0020

Development of OEBB Basic Life and Accidental Death and Dismemberment and Optional Life and Accidental Death and Dismemberment Plan Designs

(1) As used in the section, "comparable plan design" means that 90 percent of district employees can obtain a maximum benefit through an OEBB plan design that is within \$2,500 of the maximum benefit obtained through a pre-OEBB plan design in effect the year prior to implementation.

(2) OEBB will develop plan designs for basic life and AD&D and optional life and AD&D benefit plans that are comparable to the plan designs provided by Subject Districts prior to entering the OEBB.

(3)(a) OEBB will develop comparable plans by:

(b) Collecting plan designs for basic life and AD&D and optional life and AD&D plans provided by Subject Districts that enter OEBB on October 1, 2009, and October 1, 2010.

(4) Following initial implementation of the basic life and AD&D and optional life and AD&D benefit plans, OEBB will re-evaluate its plan designs for the October 1, 2010, plan year start date to determine if the Subject District plan design was included in the comparability assessment performed for plan design development.

(a) If the Subject District plan design was considered during the initial plan design process no further analysis will be conducted.

(b) If the plan design was not considered during the initial plan design process OEBB will: Identify whether a current OEBB plan design is within \$2,500 higher or lower than the pre-OEBB life insurance or AD&D benefit level.

(5)(a) If none of the OEBB plan designs is within \$2,500 higher or lower than the pre-OEBB life insurance or AD&D benefit level and the Subject District has 100 or more enrollees, OEBB will develop and implement a plan design within \$2,500 higher or lower than the pre-OEBB life insurance or AD&D benefit level unless;

(b) There is an OEBB plan that provides a benefit level more than \$2,500 higher than the district's option and it is determined that OEBB can still meet the comparable cost requirement.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a) & 243.868(1)

Hist.: OEBB 13-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10

111-030-0025

Development of OEBB Short and Long Term Disability Plan Designs

(1) As used in the section, "comparable plan design" means 90 percent of the district employees can obtain the same elimination period, percentage of covered compensation, definition of covered compensation, coverage period duration, and maximum payment per benefit period through an OEBB plan design as through a pre-OEBB plan design in effect the year prior to implementation.

(2) OEBB will develop comparable plan designs by collecting plan designs for short and long term disability plans provided by Subject Districts that enter OEBB on October 1, 2009, and October 1, 2010.

(3) Following initial implementation of the short and long term disability benefit plans, OEBB will re-evaluate its plan designs for the October 1, 2010 plan year start date to determine if the Subject District plan design was included in the comparability assessment performed for plan design development.

(a) If the Subject District plan design was considered during the initial plan design process no further analysis will be conducted.

(b)(A) If the plan design was not considered during the initial plan design process OEBB will:

(B) Identify if a current OEBB plan design offers a level of benefits, elimination period, percentage of covered compensation, coverage period duration, and maximum payment per benefit period available through the group contract.

(4)(a) If none of the OEBB plan designs offers a level of benefits, elimination period, percentage of covered compensation, coverage period duration, and maximum payment per benefit period available through the group contract, OEBB will develop and implement a plan option that offers the level of benefits available through the Subject District unless;

(b) There is an OEBB benefit option that provides a benefit level or elimination period more generous than the district's option and it is determined that OEBB can still meet the comparable cost requirement.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a) & 243.868(1)

Hist.: OEBB 13-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10

111-030-0030

Optional Benefit Plans Selection through OEBB

(1) As used in the section, "optional benefit plans" means basic life and accidental death and dismemberment, optional life and AD&D, and short and long term disability.

(2) As used in the section, "employee group" means employees of similar employment type, for example administrative, represented classified, nonrepresented classified, confidential, represented licensed, or non-represented licensed. If one or more collective bargaining unit exists within in an employee group, each unit will be considered a separate employee group.

(3) OEBB will offer a range of optional benefit plans that provide the flexibility to choose between a number of high quality plan options.

(4) The process for selection of optional benefit plans offered by OEBB will include:

(a) Release of preliminary designs and premium costs for all optional benefit plan options to participating districts no later than 30 days prior to final selection date. The total number offered may vary each year.

(b) Districts select the optional benefit plans to be offered to each employee group using the OEBB plan selection process.

(c) Plan selections for optional benefit plans must be submitted electronically and a hard copy signed by a district official must be received by OEBB no later than the date designated by OEBB policy each year.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a) & 243.868(1)

Hist.: OEBB 13-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10

Rule Caption: Amended to update the Oregon Educators Benefit Board's policies on member's enrollment in benefit plans.

Adm. Order No.: OEBB 14-2009(Temp)

Filed with Sec. of State: 7-31-2009

Certified to be Effective: 7-31-09 thru 1-26-10

Notice Publication Date:

Rules Amended: 111-040-0001, 111-040-0025, 111-040-0030, 111-040-0050

Subject: OAR 111-040-0001 is amended to include the effective date for optional benefit plans and clarify newborn and adopted children benefit coverage. OAR 111-040-0025 and 111-040-0030 are amended to cite the correct rule number. OAR 111-040-0050 is amended to include information on optional benefit plans.

Rules Coordinator: April Kelly—(503) 378-6588

111-040-0001

Effective Dates

(1) Benefit plan changes or initial elections, unless otherwise specified in a collective bargaining agreement or documented district policy in effect on June 30, 2008, are effective on the later of:

(a) The first of the month following a completed online enrollment in the OEBB benefit management system or submission of a paper enrollment or change form;

(b) The first of the month following the date of hire or the date of eligibility; or

(c) The first of the month following the approval date of additional optional life insurance requested above the guarantee issue amount.

(2) Covered dependent changes are effective the first of the month following the date of the event causing the dependent to be eligible under OEBB administrative rules with the following exceptions:

(a) Coverage for a newborn child is effective on the date of birth. The active eligible employee must add the newborn child to their benefit plans within 60 calendar days from the date of birth in order for the newborn child to be eligible for benefit coverage.

(b) Coverage for a newly adopted child is effective the date of the adoption decree or date of placement for adoption. The active eligible

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employee must add the adopted child to their benefit plans within 60 calendar days from the date of the decree or placement in order for the newly adopted child to be eligible for benefit coverage; and

(A) The active eligible employee must submit the adoption agreement with the enrollment forms to the Participating District.

(B) Claims payments will not be made for expenses incurred prior to the date of decree or placement.

(c) Coverage for a dependent child by affidavit as defined in OEBB administrative rules starts the first of the month following receipt of the affidavit by the district benefits administrator;

(3) Elections made during an open enrollment period are effective on the first day of the new plan year.

Stat. Auth: 2007 OL Ch. 7

Stats. Implemented: 2007 OL Ch. 7, Sec. 3

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 14-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10

111-040-0025

Correcting Enrollment and Processing Errors

(1) Employee Enrollment Errors. Enrollment errors occur when an active eligible employee provides incorrect information or fails to make correct selections when making benefit plan elections. The active eligible employee is responsible for identifying enrollment errors or omissions.

(a) OEBB authorizes Participating Districts to correct enrollment errors reported by the active eligible employee within 60 calendar days of the original eligibility date, open enrollment period end date, or midyear benefit plan change date. Corrections are retroactive to the original effective date as identified in OAR 111-040-0001.

(b) Enrollment errors identified after 60 calendar days of the eligibility date, open enrollment period end date or midyear benefit plan change date must be submitted to OEBB for review and approval based on OAR 111-080-0030. If approved, corrections are retroactive to the original effective date as identified in 111-040-0001.

(2) Benefit Administrator Processing Errors. Processing errors or omissions occur when benefit plan elections are processed incorrectly in the benefit system or when a newly-eligible active eligible employee does not receive correct enrollment information or materials within 31 calendar days of the eligibility date.

(a) OEBB authorizes Participating Districts to correct processing errors identified within 60 calendar days of the eligibility date, open enrollment period end date, or midyear benefit plan change date. Corrections are retroactive to the original effective date as identified in OAR 111-040-0001. The Participating District must reconcile all premium discrepancies.

(b) Processing errors identified after 60 calendar days of the eligibility date, open enrollment period end date, or midyear benefit plan change date must be submitted to OEBB for review and approval based on OAR 111-080-0030. If approved, corrections are retroactive to the original effective date as identified in 111-040-0001. The Participating District must reconcile all premium discrepancies within 30 calendar days of any adjustments made in the system.

Stat. Auth: 2007 OL Ch. 7

Stats. Implemented: 2007 OL Ch. 7, Sec. 3

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 14-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10

111-040-0030

Late Enrollment

(1) Late enrollment occurs when an active eligible employee fails to enroll for benefits within 31 calendar days of:

(a) The date of hire or other benefit eligibility date as identified in OAR 111-040-0001;

(b) The date a spouse, domestic partner, or dependent child gains eligibility;

(c) The date of marriage to a spouse who was most recently enrolled as a domestic partner; or

(d) The date of birth of the employee's biological newborn dependent child.

(2) OEBB authorizes Participating Districts to approve late enrollment requests for active eligible employees and dependents when the request is reported within 60 calendar days of the eligibility dates referenced in sections (1)(a), (1)(b), (1)(c) and (1)(d).

(3) OEBB must review and approve all late enrollment requests based on OAR 111-080-0030 when the request is made more than 60 calendar days after the eligibility dates referenced in sections 1a, 1b, 1c and 1d.

(4) Approved late enrollment requests, unless determined otherwise in a collective bargaining agreement or documented district policy in effect on June 30, 2008, are effective the first of the month following the date the

request is received by a district benefits administrator or OEBB, except for approved requests to add newborn children which are retroactive to the month the child was born along with any premium adjustments.

Stat. Auth: 2007 OL Ch. 7

Stats. Implemented: 2007 OL Ch. 7, Sec. 3

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 14-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10

111-040-0050

Declination of Coverage

As used in this section:

"Opting out of coverage" means that an individual elects not to enroll in a medical plan and is eligible to receive a portion of the cash contribution or other type of remuneration as provided for under a collective bargaining agreement, documented district policy, or employment contract.

"Waiving benefits" means that an individual elects not to enroll in any one of the benefit plans available under the OEBB-sponsored benefits program and is not eligible to receive any portion of a cash contribution or other type of remuneration.

(1) Unless otherwise specified in a collective bargaining agreement, documented district policy or employment contract in effect on July 1, 2008, an eligible employee may opt out of the OEBB-sponsored medical benefit plans. Eligible employees electing to opt out must:

(a) Maintain coverage under another employer-sponsored group medical benefit plan;

(b) Meet the requirements of the district opt out program in which they are participating;

(c) Submit their election to opt out through the OEBB benefit management system; and

(d) If requested, provide proof of current coverage under another employer-sponsored group medical benefit plan.

(2) Eligible employees electing to opt out of the OEBB-sponsored medical benefit plans may enroll in the dental benefit plans, vision benefit plans, and optional benefit plans.

(3) The level and type of funds and allowances retained by eligible employees and districts as a result of opt out programs are determined through collective bargaining agreements and documented district policies.

(4) A participating district will provide OEBB with a written description of its opt out program upon request.

(5) An eligible employee may waive medical, dental and vision or any combination of benefits provided under the OEBB-sponsored benefits program.

(6) Elections to opt out of the medical benefit plans or waive benefits must be made at the time of hire, when initially meeting eligibility, during an open enrollment period, or following a midyear benefit plan change.

(7) An eligible employee previously opting out of coverage or waiving benefits may enroll in benefit plans consistent with a midyear benefit plan change or during an open enrollment period.

(a) Coverage for previously OEBB-eligible employees or a previously OEBB-eligible dependent enrolling in the dental and/or vision plans during an open enrollment period will be limited to routine and preventive care for the first 12 months and subject to a 12-month waiting period for orthodontia coverage.

(b) Eligible employees who enroll in the dental or vision plans, or add previously OEBB-eligible dependents to the dental and vision plans, due to a loss of other coverage will not be subject to waiting periods.

(8) Eligible employees electing to not enroll when initially eligible for optional insurance plans will have to go through a medical review process to obtain optional life insurance.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a) & 243.868(1)

Hist.: OEBB 9-2008, f. 6-25-08, cert. ef. 6-26-08; OEBB 14-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10

Rule Caption: Amended to update new processes and new optional benefits that affect OEBB's eligible retired employees.

Adm. Order No.: OEBB 15-2009(Temp)

Filed with Sec. of State: 7-31-2009

Certified to be Effective: 7-31-09 thru 1-26-10

Notice Publication Date:

Rules Amended: 111-050-0010, 111-050-0015, 111-050-0020, 111-050-0025, 111-050-0080

Subject: OAR 111-050-0010, 111-050-0015, 111-050-0020 and 111-050-0080 are amended to include the optional benefits related to OEBB eligible retired employees. OAR 111-050-0025 is amended to include the effective date for optional benefit plans and clarify newborn and adopted children benefit coverage.

Rules Coordinator: April Kelly—(503) 378-6588

ADMINISTRATIVE RULES

111-050-0010

Eligibility for Retiree Insurance Coverage

An eligible retired employee and their eligible dependents enrolled in an OEBB benefit plan or district benefit plan for active employees may continue participation in any OEBB retiree medical, dental and vision insurance plan or plans available to his or her Employee Group until becoming eligible for Medicare. Insurance coverage under the OEBB or district active benefit plans, as an employee or as a dependent of an employee, and retiree benefit plans must be continuous. If offered by the Educational Entity, a retired employee would be eligible for enrollment in basic or optional life insurance and basic or optional Accidental Death and Dismemberment until they reach age 65.

(1) A retired employee must be:

(a) Receiving a service or disability retirement allowance or pension under the Public Employees Retirement System (PERS) or under any other retirement or disability benefit plan or system offered by an OEBB participating organization for its employees;

(b) Eligible to receive a service retirement allowance under PERS and has reached earliest retirement age under ORS Chapter 238;

(c) Eligible to receive a pension under ORS 238A.100 to 238A.245 and has reached earliest retirement age as described in ORS 238A.165; or

(d) Eligible to receive a service retirement allowance or pension under another retirement benefit plan or system offered by an OEBB participating organization and has reached earliest retirement age under the plan or system.

(2) A retired eligible employee may elect insurance coverage for themselves only or may elect to cover any eligible dependents covered by the employee's active plan immediately prior to the retirement.

(3) A former eligible employee who elects COBRA and is also eligible for retiree benefits or later becomes eligible as a retired employee will have the right to transfer the COBRA medical, dental, and vision insurance coverage to the OEBB retiree benefit plans at any time during COBRA or within 30 days of the COBRA end date. Insurance coverage under the OEBB active, COBRA and retiree benefit plans must be continuous.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a) & 243.868(1)

Hist.: OEBB 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEBB 7-2008, f. & cert. ef. 4-15-08; OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10

111-050-0015

Retirees Age 65 or Eligible for Medicare Coverage

(1) A retiree enrolled in OEBB retiree insurance plans who becomes eligible for Medicare coverage may not continue on an OEBB medical or vision plan. The exception is for Medicare eligibility as a result of end-stage renal disease. Insurance coverage ends the last day of the month that eligibility is lost.

(2) If a retiree becomes eligible for Medicare coverage, but his or her currently-enrolled eligible dependents are not, these eligible individuals may continue OEBB medical, dental and vision insurance coverage until such time as they no longer meet OEBB eligibility requirements or become eligible for Medicare coverage for reasons other than end-stage renal disease, whichever occurs first. The eligible individuals must confirm intent to continue coverage with the retiree plan administrator within 60 days of the retiree's eligibility for Medicare.

(3) Eligible dependents who were covered on a plan at the time of retirement who are eligible for Medicare, or who become eligible for Medicare, may continue on OEBB medical plans until the retiree becomes eligible for Medicare with the following exceptions:

(a) OEBB Coverage will end for dependents of a retiree enrolled on a Kaiser Permanente medical plan; or

(b) if stated in a collective bargaining agreement or documented district policy.

(4) Any basic or optional life insurance or Accidental Death and Dismemberment plans offered to retired employees and their dependents will end upon the retired employee reaching age 65 at which time the retiree has the option of conversion.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a) & 243.868(1)

Hist.: OEBB 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEBB 7-2008, f. & cert. ef. 4-15-08; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10

111-050-0020

Initial Enrollment

(1) A retired eligible employee has 60 calendar days from the end date of active eligible employee insurance coverage to enroll in OEBB-sponsored medical, dental, vision, and life and Accidental Death and

Dismemberment plans and can elect coverage for themselves only or can continue coverage on eligible dependents covered on his or her benefit plans as an active employee.

(a) Coverage must be continuous.

(b) Retired eligible employees may choose to enroll in an OEBB-sponsored medical plan or dental plan or life and Accidental Death and Dismemberment plans, or any combination of these, unless determined otherwise by a collective bargaining agreement or documented district policy. In order to continue the OEBB-sponsored vision plan, the retiree must also enroll in an OEBB-sponsored medical plan.

(c) Coverage not elected at the time of initial eligibility for early retiree benefits cannot be added at a later date.

Plan Change Periods

(2) OEBB will offer an annual plan change period for retired eligible employees.

(3) A retired eligible employee can change benefit plans consistent with members of their former active Employee Group.

(4) A retired eligible employee may not add dependents or enroll in coverage(s) he or she did not select during the initial enrollment period.

Midyear Benefit Plan Changes

(5) A retired eligible employee may make midyear changes consistent with 111-040-0040.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a) & 243.868(1)

Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10

111-050-0025

Effective Dates

(1) Benefit plan changes or initial elections, unless otherwise specified in a collective bargaining agreement or documented district policy in effect on June 30, 2008, are effective on the later of:

(a) The first of the month following a completed online enrollment in the OEBB benefit management system or submission of a paper enrollment or change form;

(b) The first of the month following the date of eligibility; or

(c) The first of the month following the approval date of additional optional life insurance requested above guarantee issue amount.

(2) Covered dependent changes are effective the first of the month following the date of the event causing the dependent to be eligible under OEBB administrative rules with the following exceptions:

(a) Coverage for a newborn child is effective on the date of birth. The active eligible employee must add the newborn child to their benefit plans within 60 calendar days from the date of birth in order for the newborn child to be eligible for benefit coverage.

(b) Coverage for a newly adopted child is effective the date of the adoption decree or date of placement for adoption. The active eligible employee must add the adopted child to their benefit plans within 60 calendar days from the date of the decree or placement in order for the newly adopted child to be eligible for benefit coverage; and

(A) The active eligible employee must submit the adoption agreement with the enrollment forms to the Participating District.

(B) Claims payments will not be made for expenses incurred prior to the date of decree or placement.

(c) Coverage for a dependent child by affidavit as defined in OEBB administrative rules starts the first of the month following receipt of the affidavit by the district benefits administrator.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a) & 243.868(1)

Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10

111-050-0080

Portability of Coverage

OEBB medical and life and Accidental Death and Dismemberment carriers will make portability plans available to members in accordance with related state and federal laws, rules and regulations. Eligibility criteria for this coverage can be found in carrier member handbooks.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a) & 243.868(1)

Hist.: OEBB 16-2008(Temp), f. & cert. ef. 10-16-08 thru 4-13-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10

Rule Caption: Amended to include the new mandatory reporting provisions.

Adm. Order No.: OEBB 16-2009(Temp)

Filed with Sec. of State: 7-31-2009

Certified to be Effective: 7-31-09 thru 1-26-10

ADMINISTRATIVE RULES

Notice Publication Date:

Rules Amended: 111-060-0001

Subject: OAR 111-060-0001 is amended to include the new Medicare Secondary Payer Mandatory Reporting Provisions and the process for which the Oregon Educators Benefit Board collects member's Social Security Numbers.

Rules Coordinator: April Kelly—(503) 378-6588

111-060-0001

Use of Social Security Numbers

(1) The Oregon Educators Benefit Board (OEBB) will comply with the requirements of Section 7 of the Privacy Act of 1974 and the Oregon Consumer Identity Theft Protection Act, ORS 646A.600 to 646A.628 when requesting or requiring complete or partial disclosure of an eligible employee's or family member's, as defined in ORS 243.860(4) and (5) respectively, social security number.

(2) OEBB may request voluntary disclosure and consent to use the social security number of an eligible employee or family member for the following reasons:

(a) OEBB's internal verification and identification of enrollments or elections for participation in benefits provided by OEBB.

(b) Medicare Secondary Payer Mandatory Reporting Provisions in Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173).

(3) A request for disclosure of an employee's social security number will notify the eligible employee or family member:

(a) Whether disclosure is mandatory or voluntary;

(b) Under what statutory or other authority the social security number is requested;

(c) What specific use or uses will be made of the number; and

(d) What effect, if any, refusal to provide the number or to grant consent for a voluntary use as described above in (2) will have on an individual.

(4) An eligible employee's or family member's social security number may not be put to a voluntary use as described above in (2) unless the eligible employee or family member has granted consent for that use. If, after having provided notice and received consent to use an eligible employee's or family member's social security number for specified purposes, OEBB wishes to use the social security number for additional purposes not included in the original notice and consent, OEBB must provide the eligible employee or family member notice and receive the eligible employee's or family member's consent to use the number for those additional purposes.

(5) An eligible employee's or family member's refusal to permit voluntary use of his or her social security number will not be used as a basis to deny the eligible employee or family member a right, benefit, or privilege provided by law.

(6) The request for the disclosure of the SSN has been incorporated in the MyOEBB Benefit Management System where all OEBB benefit eligible employees select, enroll, and manage their benefits.

(7) Per guidelines established by Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007, an entity, a plan administrator, or a fiduciary that fails to comply with the requirements may be subject to a civil money penalty of \$1,000 for each day of noncompliance for each eligible employee. Failure by the eligible employee to supply the required information, including, but not limited to, their own or their family member's social security number, Health Insurance Claim Number (HICN) or compliance letter issued by the Centers for Medicare and Medicaid Services (CMS) could result in the termination of coverage provided by the insurance carrier or administrator.

Stat Auth: ORS 243.864; Other Auth: Sec. 1862 of the Social Security Act (42 U.S.C. 1395y(b)(7)&(b)(8))

Stats. Implemented: ORS 243.860, 646A.600 - 646A.628 & Sec. 1862 of the Social Security Act (42 U.S.C. 1395y(b)(7)&(b)(8))

Hist.: OEBB 6-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; OEBB 15-2008, f. 9-25-08, cert. ef. 9-29-08; OEBB 16-2009(Temp) f. & cert. ef. 7-31-09 thru 1-26-10

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

Rule Caption: Permanently amends and adopts division 1, 5 and 30 rules filed and effective 2-24-09.

Adm. Order No.: PEBB 2-2009

Filed with Sec. of State: 7-29-2009

Certified to be Effective: 8-1-09

Notice Publication Date: 6-1-2009

Rules Adopted: 101-030-0026

Rules Amended: 101-001-0000, 101-005-0030, 101-005-0040, 101-005-0070, 101-005-0080

Rules Repealed: 101-030-0026(T), 101-001-0000(T), 101-005-0030(T), 101-005-0040(T), 101-005-0070(T), 101-005-0080(T)

Subject: Amends OAR 101-001-0000 to clarify statute requirements and align notice with current best business practices; amends OAR 101-005-0030 to clarify Definitions; amends OAR 101-005-0040 to clarify procedures used for procurement and renewal of contracts; amends OAR 101-005-0070 to clarify procedures used for amending original contracts; amends OAR 101-005-0080 to clarify the Board's legal authority when considering a change or protest after an established deadline, and; adopt OAR 101-030-0026 to implement Employer Designated Protected Leaves; e.g. unpaid furloughs.

Rules Coordinator: Cherie M. Taylor—(503) 378-5473

101-001-0000

Notice of Proposed Rule Changes

Prior to adoption, amendment, or repeal of any rule, the Public Employees' Benefit Board (PEBB), will give notice of the intended action to the following:

(1) The Secretary of State's Bulletin, referred to in ORS 183.360, at least 21 days prior to the effective date.

(2) To persons on the PEBB mailing list established pursuant to ORS 183.335(8) at least 28 days before the effective date of the rule.

(3) To the Legislative Counsel Committee and Legislators specified in ORS 183.335(15), at least 49 days before rule takes effect.

(4) Employee organizations certified by the Employment Relations Board.

(5) State agency and university personnel and payroll representatives.

(6) Insurance carriers.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 183.310 - 183.550, 192.660, 243.061 - 243.302 & 292.05

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 1-2009(Temp), f. & cert. ef. 2-24-09 thru 8-22-09; PEBB 2-2009, f. 7-29-09, cert. ef. 8-1-09

101-030-0026

Employer Designated Furlough Leaves

The State of Oregon as the employer may designate furlough leave without pay. Furlough leave does not affect an employee's eligibility or current enrollment in medical, dental, and employee basic life insurance.

Stat. Auth.: ORS 243.061 - 302

Stats. Implemented: ORS 243.061-302 & 292.05

Hist.: PEBB 1-2009(Temp), f. & cert. ef. 2-24-09 thru 8-22-09; PEBB 2-2009, f. 7-29-09, cert. ef. 8-1-09

101-005-0030

Definitions

For the purposes of OARs 101-005-0010 through 101-006-0020 the following terms have the meanings indicated below.

(1) "Benefit Plan" includes, but is not limited to:

(a) Contracts for insurance or other benefit based on life; supplemental medical, supplemental dental, optical, accidental death or disability insurance; group medical, surgical, hospital, flexible spending account, or any other remedial care recognized by state law; and related services and supplies. "Benefit plan" includes comparable benefits for employees who rely on spiritual means of healing;

(b) Comparable benefits for employees who rely on spiritual means of healing;

(c) Self insurance programs managed by the Board; and

(d) Employee assistance programs.

(2) "Benefits" means those goods and services provided under Benefit Plans.

(3) "Board" means the Public Employees' Benefit Board.

(4) "Consultant" means consultants, brokers or other advisory personnel hired by the Board pursuant to ORS 243.125(5) to assist in acquiring adequate Benefit Plan coverage for eligible state employees; assist in the study of all matters connected with the provision of adequate Benefit Plan coverage for eligible state employees; assist in the development and implementation of decision-making processes; design and implement additional programs to review, monitor and assist in the improvement of Eligible Employees and their dependents' health; and provide other services as required by the Board.

(5) "Contractor" means an individual or firm selected to provide Benefits and other services with whom the Board contracts;

ADMINISTRATIVE RULES

(6) "Eligible Employee" shall have the same definition as is described in ORS 243.105(4).

(7) "Emergency" means an unusual circumstance that creates a substantial risk of interruption of Benefit services which would require prompt execution of a contract to remedy the condition.

(8) "Proposal" means a competitive Proposal, binding on the Proposer and submitted in response to a Request for Proposals, where Proposal evaluation and contract award are based on criteria such as Proposer qualifications and experience, product features and characteristics, service quality and efficiency and conformance with the specifications and requirements of the solicitation. Price may be an evaluation criterion for Proposals, but will not necessarily be the predominant basis for contract award.

(9) "Proposer" means a person or entity who submits a Proposal in response to a Request for Proposals.

(10) "Renewal Contractors" and "Renewal Vendors" means those Contractors and Vendors who provided the same or similar employee Benefit Plan or other services under a contract with the Board in the year immediately prior. An employee Benefit Plan or other services contract is similar if it is reasonably related to the scope of work described in the procurement under which such a contract was awarded.

(11) "Request for Proposals" or "RFP" means the written document soliciting competitive written Proposals and setting forth the criteria and method to be used by the Board to determine the Responsible Proposers offering the best Responsive Proposals.

(12) "Responsible Proposer" shall have the meaning described in OAR 101-005-0130.

(13) "Responsive (Non-Responsive) Proposer" shall have the meaning described in OAR 101-005-0120.

(14) "Single Source" means the only vendor of a particular product or service reasonably available. If the Board chooses to procure a particular Benefit or service that is only available from one vendor, documentation must be maintained to support the determination that the product or service is available only from that one seller.

(15) "Formal Selection Procedure" means the process described in OAR 101-005-0040(1).

(16) "Informal Selection Procedure" means the process described in OAR 101-005-0040(2).

(17) "ORPIN" means the Oregon Procurement Information Network, an online service operated by the Department of Administrative Services that displays procurements and contracts issued by the State of Oregon's agencies.

(18) "Selection Committee" means the group of individuals comprised of PEBB staff, Board members, and/or constituents associated with PEBB who review, score, and recommend an Apparent Successful Proposer (ASP selected as a result of a RFP issued by PEBB) to the Board for approval.

(19) "Vendor" means the contractors with which PEBB will secure services that includes but is not limited to, printing and distributing Open Enrollment packets each year, newsletter construction and distribution each month, and online health information accessed by members.

Stat. Auth.: ORS 243.125(1)

Stats. Implemented: ORS 243.105(1), (2), & (4) & 243.125(5)

Hist.: PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 2-2005, f. 7-26-05, cert. ef. 7-29-05; PEBB 1-2009(Temp), f. & cert. ef. 2-24-09 thru 8-22-09; PEBB 2-2009, f. 7-29-09, cert. ef. 8-1-09

101-005-0040

Procurement and Renewal Processes

(1) Formal Selection Procedure: This procedure will be used for the procurement of Benefits and may be used for the procurement of other services. Exceptions to this procedure are specified in sections (2), (3), (4) and (5).

(a) Announcement: The Board will give notice of intent to contract for Benefits via the Vendor Information Program (VIP) System Oregon Procurement and Information Network (ORPIN), the Office of Minority, Women, and Small Emerging Business (OMWSEB), and in a trade periodical or newspaper of general circulation. The notice shall include a description of the Benefits or services sought, the scope of the services required, and a description of special requirements, if any. The notice will invite qualified prospective contractors to apply. The notice will specify when and where the application may be obtained, to whom it must be returned, and the closing date.

(b) Proposal: The Proposal from the prospective contractors will consist of a statement that describes the prospective contractor's credentials, performance data and other information sufficient to establish contractor's qualifications for providing the Benefits or services sought, as well as any other information requested in the announcement.

(c) Evaluation: The Board or its designees will evaluate the qualifications of all applicants and select prospective contractors as set forth in OAR 101-005-0110.

(d) Award of Contracts: The Board will make final selections based on the evaluation criteria including, but not limited to, applicant capability, experience, approach, compensation requirements, previous litigation and remedy applied, customer service history with PEBB, members, and clients; debarment status; and references, and will place emphasis on employee choice among high quality plans; plan performance and information; a competitive marketplace; employer flexibility in plan design and contracting; quality customer service; creativity and innovation; plan benefits as part of total employee compensation; the improvement of employee health; and applicable vendor services benefiting PEBB.

(2)(a) Informal Selection Procedure: This procedure may be used at the Board's discretion, when the informal selection procedure will not interfere with competition among prospective contractors, reduce the quality of services, is an amount less than \$150,000 in contract costs, or will not increase costs. The Board will contact a minimum of three prospective contractors known to the Board to be qualified to propose the sought-after services. The selection will be made by the Board based upon the factors described in paragraph (1)(d) of this rule. If three quotes are not received, the Board will make a written record of its efforts to obtain quotes.

(b) An Amendment(s) may be issued to the contract, but the cumulative Amendment(s) shall not increase the total Contract cost to sum that is greater than twenty-five percent (25%) of the original Contract cost.

(3)(a) Single Source Procedure: PEBB may negotiate with a single source provider of Benefits if the services are available only from one contractor, or the prospective contractor has special skills uniquely required for the adequate performance of the services.

(b) An Amendment(s) may be issued to the contract, but the cumulative Amendment(s) shall not increase the total Contract cost to greater than twenty-five percent (25%) of the original Contract cost.

(4) Renewal Procedure: If the Board does not issue an RFP or Single Source procurements to solicit formal proposals from qualified potential Contractors or Vendors, the Board may directly negotiate and enter into renewal contracts each Plan Year with Renewal Contractors or Renewal Vendors to provide Benefits and other services without following the procedures set forth in sections (1) and (2) above. The Board may renew contracts with Renewal Contractors or Renewal Vendors for as many years as the Board determines is in the best interest of the state and employees. The Board may invite renewal Proposals from those Contractors or Vendors who provided the same or similar employee Benefit Plan or other services in the year immediately prior. An employee Benefit Plan or other services contract is similar if it is reasonably related to the scope of work described in the procurement under which such a contract was awarded. The Board will negotiate with Renewal Contractors or Renewal Vendors and enter into contracts with them after giving full consideration to the factors listed in paragraph (1)(d) or to such of those factors as the Board determines shall be evaluated for the renewal.

(5) Emergency Appointment Procedure: The Board may select a Benefit Plan or other service Contractor without following any of the above procedures when Emergency conditions require. In such instance, the recommended appointment and a written description of the conditions requiring the use of this appointment procedure shall be submitted to the Board. The Board will determine if an Emergency exists, declare the Emergency and negotiate a contract with the Contractor after giving full consideration to the factors listed in paragraph (1)(d).

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.135

Hist.: PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 2-2005, f. 7-26-05, cert. ef. 7-29-05; PEBB 1-2009(Temp), f. & cert. ef. 2-24-09 thru 8-22-09; PEBB 2-2009, f. 7-29-09, cert. ef. 8-1-09

101-005-0070

Contract Amendments (Including Supplemental Work)

An amendment for additional services that are reasonably related to the scope of work under the original Benefits Plan or other services' contract, including extra work, or change that increases the original contract price or length of time, may be made with the Contractor without re-entering the formal procurement process provided that the amendment is reasonably related to the scope of work described in the procurement under which such a contract was awarded.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.135 & 243.125

Hist.: PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 2-2005, f. 7-26-05, cert. ef. 7-29-05; PEBB 1-2009(Temp), f. & cert. ef. 2-24-09 thru 8-22-09; PEBB 2-2009, f. 7-29-09, cert. ef. 8-1-09

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101-005-0080

RFP Protest; Request for Change; Request for Clarification

(1) Protest.

(a) Unless otherwise specified in the RFP, a Proposer must deliver a written protest to the Board not less than 10 (ten) calendar days prior to closing;

(b) Content of Protest. A Proposer's written protest shall include:

(A) A detailed statement of the legal and factual grounds for the protest;

(B) A description of the resulting prejudice to the Proposer; and

(C) A statement of the desired changes to the RFP.

(2) Request for Change.

(a) Unless otherwise specified in the RFP, a Proposer may request in writing a change to the Contract terms and conditions. If the RFP allows for a Proposer to make a request for changes, and unless otherwise specified in the RFP, a Proposer must deliver the written request for change to the Board not less than 10 (ten) calendar days prior to closing;

(b) A Proposer's written request for change shall include a statement of the requested changes to the Contract terms and conditions, including specifications together with the reason for the requested change.

(3) Board Response. The Board shall not consider a Proposer's request for change or protest after the deadline established for submitting such request or protest. The Board shall provide notice to the applicable entity if it entirely rejects a protest. If the Board agrees with the entity's request or protest, in whole or in part, the Board shall either issue an addendum reflecting its determination under OAR 137-047-0430 or cancel the solicitation under 137-047-0660.

(4) Extension of Closing. If the Board receives a written request for change or protest from a Proposer in accordance with this rule, the Board may extend closing if the Board determines an extension is necessary to consider the request or protest and to issue an addendum, if any, to the RFP.

(5) Clarification. Prior to the deadline for submitting a written request for change or protest, a Proposer may request that the Board clarify any provision of the RFP. The Board's clarification to a Proposer, whether orally or in writing, does not change the RFP and is not binding on the Board unless the Board amends the RFP by addendum.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 243.135 & 243.125

Hist.: PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 2-2005, f. 7-26-05, cert. ef. 7-29-05; PEBB 1-2009(Temp), f. & cert. ef. 2-24-09 thru 8-22-09; PEBB 2-2009, f. 7-29-09, cert. ef. 8-1-09

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Department of Agriculture Chapter 603

Rule Caption: Requires 2% biodiesel blends in compliance with Enrolled House Bill 3463.

Adm. Order No.: DOA 11-2009(Temp)

Filed with Sec. of State: 7-24-2009

Certified to be Effective: 7-24-09 thru 1-17-10

Notice Publication Date:

Rules Amended: 603-027-0410, 603-027-0420, 603-027-0430, 603-027-0440, 603-027-0490

Subject: Amends Oregon's motor fuel quality definitions, specifications, and dispenser labeling requirements to comply with HB 3463. Immediately implements HB 3463 mandating Oregon's diesel fuel be blended with a minimum of 2% by volume biodiesel effective in two phases after August 1 and October 1, 2009. Prohibits other renewable diesel from meeting the biodiesel blending requirements until January 2, 2012. Updates adopted edition of ASTM standards to 2009. Updates biodiesel blend dispenser labeling to include FTC approved labels. Updates labeling requirements of E85 ethanol dispensers to be consistent with current NIST model regulations. Failure to act immediately will result in serious prejudice to the public interest and safety.

By adopting this temporary rule, it further's Oregon's renewable fuel standard by immediately requiring diesel fuel to be blended with a minimum 2% biodiesel, assisting biodiesel producers, and increasing the use of renewable energy.

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

603-027-0410

Definitions

(1) "Accredited Laboratory" means a laboratory that is currently accredited by an independent laboratory accrediting body for analyzing motor fuels using American Society for Testing and Materials (ASTM) International test procedures and specifications.

(2) "Alcohol" means a volatile flammable liquid having the general formula $C_nH(2n+1)OH$ 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.

(3) "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 2009 Annual Book of ASTM Standards, Section 5, Volumes 05.01 through 05.05.

(4) "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.

(5) "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.

(6) "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.

(7) "Aviation Gasoline" means a type of gasoline suitable for use as a fuel in an aviation gas spark-ignition internal combustion engine.

(8) "Batch" and "Production Lot" means a homogenous production volume of finished biodiesel from one or more sources that is held in a single container where representative samples are taken and analyzed to provide an authentic certificate of analysis (COA) for the specific volume.

(9) "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.

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

(11) "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.

(12) "Biodiesel" means a motor vehicle fuel consisting of mono-alkyl esters of long chain fatty acids derived from vegetable oils, animal fats, or other nonpetroleum resources, not including palm oil, designated as B100 and complying with ASTM D6751. Biodiesel produced in or imported into Oregon for use as a blend stock shall comply with B100 biodiesel requirements including ASTM International D6751 and the Certificate of Analysis.

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(13) "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.

(14) "Certificate of analysis" means:

(a) A document verifying that B100 biodiesel has been analyzed and complies with, at a minimum, the following ASTM D 6751 biodiesel fuel test methods and specifications:

- (A) Flash point (ASTM D 93);
- (B) Acid number (ASTM D 664);
- (C) Cloud point (ASTM D 2500);
- (D) Water and sediment (ASTM D 2709);
- (E) Visual appearance (ASTM D 4176);
- (F) Free glycerin (ASTM D 6584);
- (G) Total glycerin (ASTM D 6584);
- (H) Oxidation stability (EN 14112 as per ASTM D 6751); and
- (I) Sulfur (ASTM D 5453 or ASTM D 7039).

(b) The ASTM International standards referenced in ORS 646.905(3) for free and total glycerin are incorrect. The correct ASTM International standards reference for free and total glycerin is ASTM D 6584.

(15) "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.)

(16) "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.)

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

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

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

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

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

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

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

(24) "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).

(25) "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.

(26) "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.

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

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

(29) "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.

(30) "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.

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

(32) "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.

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

(34) "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.

(35) "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.

(36) "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.

(37) "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.

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

(39) "Motor Vehicle Fuel" means gasoline, gasoline-ethanol blends, diesel, other renewable diesel, diesel-other renewable diesel blends, 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 jet fuels, liquefied petroleum gases or natural gases.

(40) "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.

(41) "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.

(42) "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.

(43) "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.

(44) "Other renewable diesel" means a diesel fuel substitute, produced from nonfossil renewable resources, that has an established ASTM International standard, is approved by the United States Environmental Protection Agency, and meets specifications of the National Conference on Weights and Measures, designated "100% Biomass-Based Diesel".

(45) "Other renewable diesel blend" means a fuel comprised of a blend of other renewable diesel fuel with petroleum-based diesel fuel, designated "XX% Biomass-Based Diesel Blend". In the abbreviation, "XX%", the XX represents the volume percentage of other renewable diesel in the blend.

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

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

(48) "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.

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

(50) "Production Lot" and "Batch" means a homogenous production volume of finished biodiesel from one or more sources that is held in a single container where representative samples are taken and analyzed to provide an authentic certificate of analysis (COA) for the specific volume.

(51) "Research Octane Number" means a numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison

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with reference fuels in a standardized ASTM D 2699 Research Method engine test.

(52) "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.

(53) "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.

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

(55) "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.

(56) "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).

(57) "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.

(58) "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.

(59) "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.

(60) "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, OL 1997, Ch. 310 (SB 414) & ORS 646.905 - 646.990

Stats. Implemented: OL 1997, Ch. 310 (SB 414), ORS 646.905 - 646.990 & 183

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; DOA 12-2008(Temp), f. 3-14-08, cert. ef. 3-17-08 thru 9-12-08; DOA 21-2008, f. & cert. ef. 9-11-08; DOA 11-2009(Temp), f. & cert. ef. 7-24-09 thru 1-17-10

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 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.

(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 ORS 646.912, the Oregon Department of Agriculture shall study and monitor ethanol fuel production, use, and sales in Oregon.

(b) Except as provided in OAR 603-027-0420(3)(c), all retail dealers, nonretail dealers, or wholesale dealers may only sell or offer for sale gasoline that contains ten percent ethanol by volume.

(c) A retail dealer, nonretail dealer, or wholesale dealer may sell or offer for sale gasoline that is not blended with ethanol if the gasoline is for use in:

(A) An aircraft;

(i) With a supplemental type certificate approved by the Federal Aviation Administration that allows the aircraft to use gasoline that is intended for use in motor vehicles, or

(ii) Issued a type certificate by an aircraft engine manufacturer that allows the aircraft to use gasoline that is intended for use in motor vehicles;

(B) An aircraft that has been issued an experimental certificate, described in 14 C.F.R. 21.191, by the Federal Aviation Administration and that is required by the manufacturer's specifications to use gasoline that is intended for use in motor vehicles;

(C) A light-sport aircraft, as defined in 14 C.F.R. 1.1, that is required by the manufacturer's specifications to use gasoline that is intended for use in motor vehicles;

(D) A vintage aircraft, as defined by the Oregon Department of Aviation by rule, that is required by the manufacturer's specifications to use gasoline that is intended for use in motor vehicles;

(E) An antique vehicle, as defined in ORS 801.125;

(F) A Class I all-terrain vehicle, as defined in ORS 801.190;

(G) A Class III all-terrain vehicle, as defined in ORS 801.194;

(H) A racing activity vehicle, as defined in ORS 801.404;

(I) A snowmobile, as defined in ORS 801.490;

(J) Tools, including but not limited to lawn mowers, leaf blowers, and chain saws; or

(K) A watercraft.

(d) Gasoline-ethanol blends shall contain not less than 9.2 percent by volume of agriculturally derived ethanol, exclusive of denaturants and permitted contaminants, 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 the gasoline has been sold, transferred, or otherwise removed from a refinery or terminal.

(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) Methyl 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 methyl ether,

(ix) Tert-butanol,

(x) Tert-pentanol or tert-amyl alcohol, and

(xi) Any other additive that has not been approved by the California Air Resources Board or the United States Environmental Protection Agency.

(b) Nothing in this section shall prohibit transshipment through this state, or storage incident to the transshipment, of gasoline that contains

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methyl tertiary butyl ether in concentrations that exceed 0.15 percent by volume or any of the oxygenates listed in OAR 603-027-0420(4)(a)(C), provided,

- (i) The gasoline is used or disposed of outside of this state; and
- (ii) The gasoline is segregated from gasoline intended for use within this state.

(c) Notwithstanding the additives in OAR 603-027-0420(4)(a), a person may sell, supply, or offer to sell or supply gasoline in this state that contains any oxygenate other than ethanol, if the California Air Resources Board (CARB), California Environmental Policy Council (CEPC), or the United States Protection Agency (U.S. EPA) allow use of the oxygenate.

(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 fuels identified on retail and nonretail dispensers, bills of lading, invoices, shipping papers, or other documentation with terms such 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 the following requirements:

(a) Cetane Number — A minimum cetane number of 47.0 as determined by ASTM Standard Test Method D 613;

(b) 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;

(c) Thermal Stability — A minimum reflectance measurement of 80 percent as determined by ASTM Standard Test Method D 6468 (180 minutes, 150 °C);

(d) Lubricity — A maximum wear scar diameter of 520 microns as determined by ASTM D 6079. If a single test of more than 560 microns is determined, a second test shall be conducted. If the average of the two tests is more than 560 microns, the sample does not conform to the requirements of this part.

(8) Biodiesel; B100 Biodiesel and Biodiesel intended for blending with diesel fuel shall,

(a) Meet the requirements of ASTM D 6751, "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels";

(b) Have a Certificate of Analysis for each batch or production lot produced in Oregon prior to blending with any diesel fuel sold or offered for sale in Oregon. Imported biodiesel shall have a Certificate of Analysis after entry into Oregon prior to blending, sale, or offer for sale in Oregon;

(c) If biodiesel with a Certificate of Analysis does not comply with the specifications of ASTM International D 6751 when tested by the Department of Agriculture, then until the producer's Certificate of Analysis is verified and acceptable to the Department, the Department may require the producer of the biodiesel to test future productions by one of the following:

(A) An accredited motor fuel laboratory, or

(B) A non-accredited motor fuel laboratory that meets all of the following requirements;

(i) The laboratory facilities must house and allow proper operation of all required equipment in accordance with the applicable test procedures;

(ii) The laboratory must use personnel trained to perform and analyze ASTM International D 6751 biodiesel fuel tests and other required tests;

(iii) The laboratory must use testing equipment that has been calibrated or verified to meet the requirements of each ASTM International test procedure used;

(iv) The laboratory must participate in an ASTM International proficiency program or similar national proficiency program for at least three times per year with appropriate results, and

(v) The laboratory must maintain current documentation of personnel qualifications, equipment verification, and proficiency results for at least one year. These records shall be available for inspection and reproduction upon request by the Director.

(9) Biodiesel Blends;

(a) Biodiesel blends through B5 must meet the requirements of ASTM D 975 Standard Specification for Diesel Fuel Oils.

(b) Biodiesel blends of B6 through B20 must meet the requirements of ASTM D 7467, Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6-B20).

(c) Blends of biodiesel and diesel fuels greater than B20 must meet the following requirements:

(A) The base diesel fuel must meet the requirements of ASTM D 975, Standard Specification for Diesel Fuel Oils; and

(B) The biodiesel blend stock must meet:

(i) The requirements of ASTM D 6751, Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels, and

(ii) The requirements in OAR 603-027-0420(8).

(d) Exception; Biodiesel may be blended with diesel fuel whose sulfur, lubricity, 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) Other Renewable Diesel must meet its established ASTM International standard, be approved by the United States Environmental Protection Agency, and comply with specifications of the National Conference on Weights and Measures.

(11) Biodiesel Blends Required.

(a) At least two weeks before each of the dates specified in paragraphs (A) and (B) of this subsection, the Department of Agriculture must notify all retail dealers, nonretail dealers, and wholesale dealers in this state that the capacity of biodiesel production facilities in Oregon has reached a level of at least five million gallons on an annualized basis and that, except as provided in subsection (e) of this section, a retail dealer, nonretail dealer, or wholesale dealer may only sell or offer for sale diesel fuel in Oregon containing at least two percent by volume biodiesel as follows:

(A) After August 1, 2009 in the counties of;

- (i) Clackamas,
- (ii) Clatsop,
- (iii) Columbia,
- (iv) Marion,
- (v) Multnomah,
- (vi) Polk,
- (vii) Tillamook,
- (viii) Washington, and
- (ix) Yamhill; and

(B) After October 1, 2009, in all other counties in this state not included in paragraph (A) of this subsection.

(C) Upon receipt of the notice and after the dates specified in 603-027-0420(11)(a)(A) and 603-027-0420(11)(a)(B), a retail dealer, nonretail dealer, or wholesale dealer may only sell or offer for sale diesel fuel in Oregon containing at least two percent biodiesel by volume.

(b) When the capacity of biodiesel production facilities in Oregon reaches a level of at least 15 million gallons on an annualized basis;

(A) The Department shall notify all retailers, nonretail dealers, and wholesale dealers in Oregon that the capacity of biodiesel production facilities in Oregon has reached a level of at least 15 million gallons on an annualized basis and that a retail dealer, nonretail dealer, or wholesale dealer may only sell or offer for sale diesel fuel in Oregon containing at least five percent by volume biodiesel within two months of the date on the notification under this subsection, and

(B) Two months after the date of the notice, a retail dealer, nonretail dealer, or wholesale dealer may only sell or offer for sale diesel fuel in Oregon containing at least five percent biodiesel by volume.

(c) Biodiesel blends and other renewable diesel blends shall contain the volume percent stated to the nearest;

(A) 1.0 volume percent for blends through 5.0 volume percent, and

(B) 2.0 volume percent for blends greater than 5 volume percent through 20 volume percent.

(d) Diesel fuel containing more than five percent biodiesel by volume or other renewable diesel with more than five percent renewable component by volume must be labeled as required in OAR 603-027-0430.

(e) Exemption. The minimum biodiesel fuel content in OAR 603-027-0420 do not apply to diesel fuel sold or offered for sale for use by railroad locomotives, marine engines, or home heating.

(12) Aviation Gasoline shall meet the requirements of ASTM D 910, "Standard Specification for Aviation Gasoline."

(13) E85 Fuel Ethanol shall meet the requirements of ASTM D 5798, "Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines."

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(14) 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; DOA 12-2008(Temp), f. 3-14-08, cert. ef. 3-17-08 thru 9-12-08; DOA 21-2008, f. & cert. ef. 9-11-08; DOA 11-2009(Temp), f. & cert. ef. 7-24-09 thru 1-17-10

603-027-0430

Classification and Method of Sale of Petroleum Products

(1) General Considerations:

(a) Documentation.

(A) When gasoline; gasoline-oxygenate blends; reformulated gasoline; M85 and M100 fuel methanol; E85 and E100 fuel ethanol; B100 biodiesel and biodiesel blends; renewable diesel and diesel-renewable diesel 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:

(i) Quantity,

(ii) The name of the product,

(iii) The particular grade of the product,

(iv) The word "Winter" or "Winterized" diesel if applicable,

(v) The word "Premium" diesel if applicable,

(vi) The volume percent biodiesel and other renewable diesel, if a biodiesel, biodiesel blend, other renewable diesel, or diesel-other renewable diesel blend through 5 volume percent to the nearest 1.0 volume percent and for greater than 5 volume percent through 20 volume percent blends to the nearest 2.0 volume percent,

(vii) The applicable automotive fuel rating,

(viii) The name and address of the seller and buyer,

(ix) The date and time of the sale,

(x) 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, and

(xi) For non-ethanol blended gasoline the documentation shall state that the gasoline is non-ethanol blended.

(B) 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.

(C) Each biodiesel producer, each operator of a biodiesel bulk facility and each person who imports biodiesel into Oregon for sale in this state shall keep, on a monthly basis for at least one year, at the person's registered place of business the certificate of analysis for each batch or production lot of biodiesel sold or delivered in Oregon.

(D) Each biodiesel producer in Oregon shall keep, on a monthly basis for at least one year, at the person's registered place of business, documentation declaring the producer's name, location address, date, and quantity of biodiesel production and sales. This documentation shall be completed on a form provided by the Department of Agriculture and mailed on a quarterly basis to the Department in Salem, Oregon.

(E) All retail dealers, nonretail dealers, and wholesale dealers in Oregon are required to provide, upon request of the Department, evidence of a certificate of analysis for the biodiesel received.

(F) Each ethanol production facility in Oregon shall keep, on a monthly basis for at least one year, 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. This documentation shall be completed on a form provided by the Department of Agriculture and mailed on a quarterly basis to the Department in Salem, Oregon.

(G) 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, biodiesel blends, 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 if applicable,

(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,

(D) The applicable automotive fuel rating, and

(E) If non-ethanol blended gasoline in compliance with OAR 603-027-0420, the dispensers shall be labeled,

"NON-ETHANOL BLENDED GASOLINE FOR EXEMPTED USE ONLY (ORS 646.913)" in capital letters and 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 to the consumer.

(c) Posting of Exceptions for Non-Ethanol Blended Gasoline. The exceptions for non-ethanol blended gasoline shall be posted at a business that sells or offers for sale non-ethanol blended gasoline in a position that is clear and conspicuous to the consumer. The exceptions shall be posted;

"NON-ETHANOL BLENDED GASOLINE FOR USE IN THE FOLLOWING APPLICATIONS ONLY;" in capital letters and type at least 6.4 millimeters (1/4 inch) in height, 1 millimeter (1/32 inch) stroke (width of type), followed by,

"AIRCRAFT WITH A SUPPLEMENTAL TYPE CERTIFICATE APPROVED BY THE FEDERAL AVIATION ADMINISTRATION THAT ALLOWS THE AIRCRAFT TO USE GASOLINE THAT IS INTENDED FOR USE IN MOTOR VEHICLES;

AIRCRAFT ISSUED A TYPE CERTIFICATE BY AN AIRCRAFT ENGINE MANUFACTURER THAT ALLOWS THE AIRCRAFT TO USE GASOLINE THAT IS INTENDED FOR USE IN MOTOR VEHICLES;

AN AIRCRAFT THAT HAS BEEN ISSUED AN EXPERIMENTAL CERTIFICATE, DESCRIBED IN 14 C.F.R. 21.191, BY THE FEDERAL AVIATION ADMINISTRATION AND THAT IS REQUIRED BY THE MANUFACTURER'S SPECIFICATIONS TO USE GASOLINE THAT IS INTENDED FOR USE IN MOTOR VEHICLES;

A LIGHT-SPORT AIRCRAFT, AS DEFINED IN 14 C.F.R. 1.1, THAT IS REQUIRED BY THE MANUFACTURER'S SPECIFICATIONS TO USE GASOLINE THAT IS INTENDED FOR USE IN MOTOR VEHICLES;

A VINTAGE AIRCRAFT, AS DEFINED BY THE OREGON DEPARTMENT OF AVIATION BY RULE, THAT IS REQUIRED BY THE MANUFACTURER'S SPECIFICATIONS TO USE GASOLINE THAT IS INTENDED FOR USE IN MOTOR VEHICLES;

AN ANTIQUE VEHICLE, AS DEFINED IN ORS 801.125; A CLASS I ALL-TERRAIN VEHICLE, AS DEFINED IN ORS 801.190; A CLASS III ALL-TERRAIN VEHICLE, AS DEFINED IN ORS 801.194;

A RACING ACTIVITY VEHICLE, AS DEFINED IN ORS 801.404;

A SNOWMOBILE, AS DEFINED IN ORS 801.490; TOOLS, INCLUDING BUT NOT LIMITED TO LAWN MOWERS, LEAF BLOWERS, AND CHAIN SAWS; OR A WATERCRAFT (Reference ORS 646.913)" in capital letters and type at least 3 millimeters (1/8 inch) in height, 0.4 millimeter (1/64 inch) stroke (width of type).

(d) 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 consistent 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 than 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

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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) Premium Diesel Fuel :

(a) Labeling of Premium Diesel Required. In addition to labeling requirements specified in OAR 603-027-0430(3), all retail and nonretail dispensers of premium diesel shall be labeled "Premium Diesel" (e.g. "Premium Diesel No. 2-D S15").

(b) Location of Premium Diesel Fuel Label. The location of the premium diesel fuel label shall be located 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 inch) in height, 1.5 millimeter (1/16 inch) stroke (width of type).

(6) Biodiesel and Other Renewable Diesel:

(a) Identification of Product.

(A) 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) Other renewable diesel and other renewable diesel blends shall be identified by the numerical value representing the volume percentage of other renewable diesel immediately followed by the percentage symbol (%) and then the term "Biomass-Based Diesel" or "Biomass-Based Diesel Blend". (Examples: "10% Biomass-Based Diesel Blend"; "20% Biomass-Based Diesel Blend"; "70% Biomass-Based Diesel Blend"; "100% Biomass-Based Diesel").

(b) Labeling of Retail and Non-Retail Dispensers Containing Between 5% and Up To and Including 20% Biodiesel or Other Renewable Diesel.

(A) If containing biodiesel, the dispenser(s) shall be labeled with either:

(i) The capital letter "B" followed by the numerical value representing the volume percentage of biodiesel fuel and ending with "Biodiesel Blend" (Examples: "B10 Biodiesel Blend"; "B20 Biodiesel Blend"); or

(ii) The phrase, "Biodiesel Blend Between 5% and 20%" or similar words; or

(iii) The Federal Trade Commission (FTC) 16 CFR Part 306.12 approved label "Biodiesel Blend" that is appropriate for blends from 5% to 20% biodiesel, or "B20 Biodiesel Blend" that is appropriate for 20% biodiesel blends only.

(B) If containing other renewable diesel, the dispenser(s) shall be labeled with either:

(i) "XX% Biomass-Based Diesel Blend" where the abbreviation "XX" represents the volume percentage of other renewable diesel in the blend; or

(ii) The phrase, "Biomass-Based Diesel Blend Between 5% and 20%" or similar words.

(c) Labeling of Retail and Non-Retail Dispensers Containing More Than 20% Biodiesel or More Than 20% Other Renewable Diesel.

(A) If containing more than 20% biodiesel, the dispenser(s) shall be labeled 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").

(B) If containing more than 20% other renewable diesel, the dispenser(s) shall be labeled with the numerical value representing the volume percentage of other renewable diesel immediately followed by the percent-

age symbol (%) and then the term "Biomass-Based Diesel" or "Biomass-Based Diesel Blend" (Examples: "100% Biomass-Based Diesel"; "70% Biomass-Based Diesel Blend").

(d) Documentation for Biodiesel, Biodiesel Blends, Other Renewable Diesel, and Other Renewable Diesel Blends. 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, other renewable diesel, or any combination thereof on an invoice, bill of lading, shipping paper, or other document in compliance with OAR 603-027-0430(1)(a).

(e) Exemption.

(A) Biodiesel blends containing 5% or less biodiesel by volume or 5% or less other renewable diesel by volume are exempted from the dispenser labeling requirements in OAR 603-027-0430(6) except,

(B) If a dispenser is labeled with any reference to biodiesel or other renewable diesel and the fuel contains 5% or less biodiesel or 5% or less other renewable diesel, then it shall be labeled either:

(i) "5% Or Less Biodiesel Blend", or

(ii) "5% Or Less Biomass-Based Diesel Blend".

(f) Size of Labeling Type. Except the FTC 16 CFR Part 306.12 approved labels, all labeling required in OAR 603-027-0430(6), shall be in type at least 12 mm (1/2 inch) in height and 1.5 mm (1/16 inch) stroke (width of type)

(7) Aviation Gasoline: Labeling of Grade Required. Aviation gasoline and dispensers shall be identified by and labeled with Grade 80, Grade 100, or Grade 100LL.

(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.

(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).

(C) A label must be posted that states, "Consult Vehicle Manufacturer Fuel Recommendations". This label must be posted on the dispenser front panels in a position clear and conspicuous from the driver's position in block letter type at least 6 mm (1/4 inch) in height by 0.8 mm (1/32 inch) stroke (width of type) and the color must be in definite contrast to the background color to which it is applied.

(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, OL 1997, Ch. 310 (SB 414) & 646.905 - 646.990 & 183

Stats. Implemented: OL 1997, Ch. 310 (SB 414), ORS 646.905 - 646.990 & 183
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; DOA 12-2008(Temp), f. 3-14-08, cert. ef. 3-17-08 thru 9-12-08; DOA 21-2008, f. & cert. ef. 9-11-08; DOA 11-2009(Temp), f. & cert. ef. 7-24-09 thru 1-17-10

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, Other Renewable Diesel, Other Renewable Diesel Blends, 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).

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(2) Product Storage Identification:

(a) Fill Connection Labeling.

(A) 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) In addition, storage tank fill connections of non-ethanol blended gasoline shall be permanently, plainly, and visibly marked that the product contained therein is non-ethanol blended gasoline.

(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, OL 1997, Ch. 310 (SB 414) & 646.905 - 646.990

Stats. Implemented: OL 1997, Ch. 310 (SB 414), ORS 646.905 - 646.990 & 183

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; DOA 12-2008(Temp), f. 3-14-08, cert. ef. 3-17-08 thru 9-12-08; DOA 21-2008, f. & cert. ef. 9-11-08; DOA 11-2009(Temp), f. & cert. ef. 7-24-09 thru 1-17-10

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 provided 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) Gasoline-ethanol blend dispensers not labeled that the product contains 10% by volume ethanol in compliance with OAR 603-027-0430.

(v) Gasoline dispenser(s) of non-ethanol blended gasoline not labeled for exempted use only in compliance with OAR 603-027-0430.

(vi) Exceptions for non-ethanol blended gasoline not posted in compliance with OAR 603-027-0430.

(vii) Use of Prohibited Terms. Prohibited terms used to describe the grade of gasoline or gasoline-oxygenate blends. (Ref. OAR 603-027-0430);

(viii) Gasoline dispenser(s) not labeled with the Antiknock Index (AKI) number;

(ix) Gasoline dispenser(s) for lead substitute motor vehicle fuels not properly identified;

(x) Diesel dispenser not labeled with either the identity of the product and/or grade dispensed;

(xi) 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;

(xii) Winter or winterized diesel fuel dispenser(s) not labeled in compliance with OAR 603-027-0430;

(xiii) Premium diesel fuel dispenser(s) not labeled in compliance with OAR 603-027-0430;

(xiv) Aviation gasoline dispenser(s) not labeled with the identity of the grade dispensed;

(xv) Fuel ethanol dispenser(s) not labeled with the correct automotive fuel rating, "For Use In Flexible Fuel Vehicles (FFV) Only", or "Consult Vehicle Manufacturer Fuel Recommendations" in compliance with OAR 603-027-0430;

(xvi) Fuel methanol dispenser(s) not labeled with the correct automotive fuel rating and the identity of the product dispensed;

(xvii) Biodiesel, biodiesel blend, other renewable diesel, or other renewable diesel blend fuel dispenser(s) not labeled in compliance with OAR 603-027-0430.

(B) Storage Tank(s); Motor vehicle fuel storage tank(s);

(i) Not correctly identified as to the product contained;

(ii) Not correctly identified that the product contained therein is non-ethanol blended gasoline. (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) Certificate of Analysis Documentation, Biodiesel Producer, Operator of a Biodiesel Bulk Facility, and each Person Who Imports Biodiesel not keeping on a monthly basis for at least one year, at the person's registered place of business the certificate of analysis for each batch or production lot of biodiesel sold or delivered in Oregon (Ref. OAR 603-027-0430);

(E) Documentation, Biodiesel Production Facility not keeping, on a monthly basis for at least one year, at the person's registered place of business, documentation declaring the producer's name, location address, date and quantity of biodiesel production and sales (Ref. OAR 603-027-0430);

(F) Documentation not delivered on a quarterly basis to the Oregon Department of Agriculture declaring the biodiesel producer's name, loca-

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tion address, date and quantity of biodiesel production and sales in compliance with OAR 603-027-0430;

(G) Documentation, Retail Dealer, Nonretail Dealer, and Wholesale Dealer not providing, upon request of the Department, evidence of a certificate of analysis for the biodiesel received (Ref. OAR 603-027-0430);

(H) 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.

(I) Documentation declaring the ethanol facility's name, location address, net ethanol production, date, quantity of ethanol produced, and sales in Oregon not delivered to the Oregon Department of Agriculture on a quarterly basis in compliance with OAR 603-027-0430;

(J) 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, biodiesel blends, diesel fuel, other renewable diesel fuel, and other renewable diesel fuel blends 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, other renewable diesel, other renewable diesel blends, 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) Certificate of analysis not provided for each batch or production lot of biodiesel produced in Oregon or imported into Oregon prior to blending with any diesel fuel sold or offered for sale in Oregon. (Ref. OAR 603-027-0420);

(M) Other renewable diesel sold or offered for sale does not meet fuel specifications (Ref. OAR 603-027-0420);

(N) Diesel fuel sold or offered for sale does not meet diesel-biodiesel blend requirements. (Ref. OAR 603-027-0420);

(O) Biodiesel, biodiesel blends, other renewable diesel, other renewable diesel blends, or any combination thereof content not to nearest 1.0 volume percent for blends through 5 percent by volume or not to nearest 2.0 volume percent for blends greater than 5 percent by volume through 20 percent by volume (Ref. OAR 603-027-0420);

(P) Aviation gasoline does not meet the requirements of ASTM D 910, "Standard Specification for Aviation Gasolines". (Ref. OAR 603-027-0420);

(Q) E85 Fuel Ethanol offered for sale does not meet ASTM Standard Fuel Specifications (Ref. OAR 603-027-0420);

(R) 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, OL 1997, Ch. 310 (SB 414) & 646.990 - 646.990

Stats. Implemented: OL 1997, Ch. 310 (SB 414), ORS 646.905 - 646.990 & 183

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; DOA 12-2008(Temp), f. 3-14-08, cert. ef. 3-17-08 thru 9-12-08; DOA 21-2008, f. & cert. ef. 9-11-08; DOA 11-2009(Temp), f. & cert. ef. 7-24-09 thru 1-17-10

Department of Community Colleges and

Workforce Development

Chapter 589

Rule Caption: Distribution of the Small School Base Portion of the Community College Support Fund.

Adm. Order No.: DCCWD 3-2009(Temp)

Filed with Sec. of State: 8-5-2009

Certified to be Effective: 8-5-09 thru 1-31-10

Notice Publication Date:

Rules Amended: 589-002-0100

Subject: Authority for the distribution of the Community College Support Fund (CCFS) is granted by OAR 589-002-0100. This rule amendment changes the distribution of the CCSF by increasing Small School Base payments per FTE.

The purpose of the Small Schools Base payment is to compensate for the higher cost of providing access to a quality education at Oregon's smaller community colleges. The Base payment is calculated by multiplying a set rate by the number of Weighted Reimbursable FTE as defined by rule.

Currently the Small School Base payment rate per FTE is \$600 up to 1,100 FTE and \$300 per unrealized FTE up to 1,100 for schools that have less than 1,100 FTE. This rule amendment increase the rate per FTE from \$600 to \$720 per FTE and from \$300 to \$360.

Rules Coordinator: Linda Hutchins—(503) 947-2456

589-002-0100

Distribution of Community College Support Fund

(1) Purpose Statement:

(a) It is in the state's interest to support a strong local community college system that meets local, regional and state economic and workforce development needs. Short- and long-term interests include the consideration of such things as comparable District funding capability, maintaining small districts as a means of educational access and stable, predictable funding. Oregon's Community College distribution formula is designed to provide a financial foundation to support undergraduate and lower-division education, professional technical education, remedial education, local response to workforce training and other educational services necessary at the local and state level.

(b) The State Board through the authority vested in it by ORS 341.626, uses this rule to state clearly and concisely what the statewide interests are for Oregon community colleges and students through the adoption of a policy-driven distribution formula. The overarching policy levers, chosen by the State Board, have been structured to support access and quality and to do so with equity for Oregon students.

(c) The State Board, the Department, and the seventeen Oregon Community Colleges plan to pursue equalization of resources regardless of funding levels. This goal is reflected in the following principles:

(A) An expectation that equalization will be achieved in six years.

(B) Significant additional funds in a biennium compared to the previous biennium will benefit every college. The State Board will determine what level is significant on a biennial basis.

(C) Historic share of total public resources will be based on the immediate previous year for every year, with the exception of 2005-06. For 2005-06, historic share of public resources will be based on the average of 2003-04 and 2004-05.

(D) Buffered FTE will be used in the formula. The buffering is accomplished by using a three-year weighted average as defined in section (8)(b).

(E) If significant additional resources are available compared to the previous biennium, equalization can go faster. The State Board will determine what level is significant on a biennial basis.

(F) The resource level available compared to the previous biennium may impact the pace of progress toward equalization.

(2) For purposes of this rule, the following definitions apply:

ADMINISTRATIVE RULES

(a) "Total Public Resources." The Community College Support Fund formula considers 100% of the next year's imposed property tax revenue and the General Fund appropriation from the legislature.

(b) "Property tax revenues" is defined as the amount determined by the Department of Revenue to be imposed on local property following the application of limits imposed by sections 11(b)(1) through 11(b)(3), Article XI, of the Oregon Constitution, and those limits imposed by legislation implementing Ballot Measure 50. This amount becomes the basis for operation of the funding formula without regard to uncollectible taxes, or taxes collected from previous years. Taxes levied or imposed by a community college district to provide a public library system established prior to January 1, 1995 shall be excluded from the definition of property taxes in this rule. Property tax revenues raised through voter approval of any local option or capital construction levy are not to be included as a resource to be distributed through the funding formula.

(c) "Community College Support Fund" is defined as those funds received through the State's General Fund appropriation and distributed to the community colleges for the purpose of funding educational programs.

(d) "Full-Time Equivalent (FTE) Enrollment" is defined as 510 clock hours for all coursework and for all terms including a fall 12-week term. For an 11 week fall term, the following calculation will be used; 11/12 of 510 hours or 467.5 hours.

(e) "Total Weighted Reimbursable FTE" is defined as the sum of 40% of first year prior to current FTE, 30% of second year prior to current FTE, and 30% of third year prior to current FTE.

(f) "Historic Share of Public Resources" is defined as the percent of statewide non-base total public resources allocated to each Oregon community college in the prior period. With the exception of 2005-06, historic share of public resources is calculated by dividing each college's total public resources from the prior year, exclusive of the base, by Total Weighted Reimbursable FTE from the prior year. For 2005-06, historic share of public resources is calculated by dividing each college's average total public resources from the 2003-04 and 2004-05 fiscal years, exclusive of the base, by the amount of frozen reimbursable FTE used in both the 2003-04 and 2004-05 fiscal years.

(g) "Equalization" is defined as equal public resource support per Weighted Reimbursable FTE, regardless of institution, and exclusive of the base. Equalization is measured by dividing Total Public Resources, exclusive of the base, by Weighted Reimbursable FTE.

(3) The Community College Support Fund shall be distributed in equal payments as follows:

(a) For the first year of the biennium, August 15, October 15, January 15, and April 15;

(b) For the second year of the biennium, August 15, October 15, and January 15;

(c) The final payment of each biennium is deferred until July 15 of the following biennium as directed by Senate Bill 1022 of the Third Special Session of the 71st Oregon Legislative Assembly.

(d) Should any of the dates set forth above occur on a weekend, payment shall be made on the next business day.

(e) All payments made before actual property taxes imposed by each district are certified by the Oregon Department of Revenue shall be based on the Department's best estimate of quarterly entitlement using property tax revenue projections. Payments shall be recalculated each year as actual property tax revenues become available from the Oregon Department of Revenue and any adjustments will be made in the final payment(s) of the fiscal year.

(4)(a) Districts shall be required to submit enrollment reports in the format specified by the Commissioner, including numbers of clock hours realized for all coursework, in a term-end enrollment report by the Friday of the sixth week following the close of each term. If reports are outstanding at the time of the quarterly payments, payment to the district(s) not reporting may be delayed at the discretion of the Commissioner.

(b) All payments made before actual Full-Time Equivalent enrollment data are available shall be based on the Department's best estimate of quarterly entitlement using enrollment data from previous years. Payments shall be recalculated each year as actual Full-Time Equivalent enrollment data become available and any adjustments will be made in the fiscal year.

(5) Reimbursement from the Community College Support Fund shall be made for professional technical, lower division collegiate, developmental education and other courses approved by the State Board in accordance with OAR 589-006-0100 through 589-006-0400. State reimbursement is not available for hobby and recreation courses as defined in 589-006-0400.

(6) Residents of the state of Oregon and the states of Idaho, Washington, Nevada, and California shall be counted as part of each

Community College's Total Reimbursable FTE base but only for those students who take part in coursework offered within Oregon's boundaries.

(7) State funding for community college district operations is appropriated by the legislature on a biennial basis to the Community College Support Fund. For each biennium the amount of state funds available for distribution through the funding formula shall be calculated based on the following:

(a) Funds to support corrections programs shall be subtracted from the amount allocated to the Community College Support Fund before the formula is calculated. The amount available for corrections shall be equal to the funding amount in the preceding biennium, except as adjusted to reflect the same percentage increase or decrease realized in the overall Community College Support Fund appropriation. Funding for individual corrections programs will be determined in consultation with the Department of Corrections.

(b) Funds to support contracted out-of-district (COD) programs shall be subtracted from the amount allocated to the Community College Support Fund before the formula is calculated. The amount available for COD's shall be equal to the number of reimbursable COD FTE from the prior year multiplied by the statewide average amount of Non-Base Community College Support Funds per weighted FTE for the prior year. Community colleges providing contracted out-of-district services will receive an allocation equal to the college's number of reimbursable COD FTE from the prior year multiplied by the statewide average amount of Non-Base Community College Support Funds per weighted FTE for the prior year.

(c) The State Board may establish a Strategic Fund.

(A) There are two basic categories for these funds. Incentivized statewide initiatives and activities and requests from individual Districts for assistance in meeting new requirements and expectations stemming from legislative change.

(B) The Commissioner will use a committee of stakeholders and Department staff to determine overall priorities for funding that consider the State Board work plan and initiatives.

(C) Strategic Funds provided to incentivize statewide activities or assist Community Colleges in meeting legislative expectations are provided only for the biennium in which funding is approved. Strategic Funds allocated for either purpose will not be considered in the distribution of funds through the formula described in Section 8 for the current biennium or future biennia.

(D) Any unused monies remaining in the current biennium's Strategic Fund will be allocated through the formula described in Section 8 at the end of the biennium.

(E) The Commissioner will review, rank, and approve proposals to incentivize statewide activities. After each proposal is approved, the Commissioner will provide the State Board with a report detailing the purpose of the activity, the amount of Strategic Fund monies approved, and the proposal's merit as assessed under the following parameters:

(i) Purpose of the proposal.

(ii) How does the activity support the initiatives and work plans of the Department and the State Board.

(iii) Does the activity relate to the Department's Key Performance Measures or other program-specific measures?

(iv) Is the funding one time (for this biennium) or will additional funding be needed in the future?

(v) If future funding is needed, how will those resources be obtained? Is the activity sustainable?

(vi) What is the activity's impact on the State three years from now? Five years from now?

(vii) What change is anticipated?

(viii) How will progress be measured?

(F) The Department will bring all requests for assistance in meeting new requirements or expectations stemming from legislative change to the State Board for discussion and consideration.

(G) The Department will assess the requests for assistance in meeting new requirements or expectations of the Legislature based on the following parameters:

(i) Purpose of the proposal.

(ii) How will the funds be used? To sustain or increase enrollment (not supplanting existing funds)?

(iii) Is the funding one time (for this biennium) or will additional funding be needed in the future?

(iv) If future funding is needed, how will those resources be obtained? Is the activity sustainable?

(v) What is the proposal's impact on the Community College three years from now? Five years from now?

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(vi) How will progress be measured.

(H) The Department will provide a recommendation and reasoning to the State Board on whether the request merits funding.

(d) Funds to support targeted investments such as distributed learning shall be subtracted from the amount allocated to the Community College Support Fund before the formula is calculated. The amount available for these investments shall be equal to the funding amount in the preceding biennium, except as adjusted to reflect the same percentage increase or decrease realized in the overall Community College Support Fund appropriation.

(e) Funds remaining in the Community College Support Fund shall be divided equally between the two years of the biennium, and will be distributed in equal payments as described in section (3) and through a distribution formula as described in section (8).

(8) Distribution of funds to Community College Districts from the Community College Support Fund shall be accomplished through a formula, based on the following factors:

(a) Base Payment. Each community college district shall receive a base payment of \$720 for each Weighted Reimbursable FTE up to 1,100 and \$360 per FTE for unrealized enrollments between actual Weighted Reimbursable FTE and 1,100 FTE. The base payment may be adjusted by the State Board each biennium. The base payment for each District will be adjusted according to the size of the District. District size for purposes of this adjustment will be determined each year by the FTE set forth in section (8)(b) of this rule. The base payment adjustments shall be:

- (A) 0-750 FTE 1.3513;
- (B) 751-1,250 FTE 1.2784;
- (C) 1,251-1,750 FTE 1.2062;
- (D) 1,751-2,250 FTE 1.1347;
- (E) 2,251-2,750 FTE 1.0641;
- (F) 2,751-3,250 FTE 1.0108;
- (G) 3,251-3,750 FTE 1.0081;
- (H) 3,751-4,250 FTE 1.0054;
- (I) 4,251-4,999 FTE 1.0027;
- (J) 5,000 or more FTE 1.000.

(b) Student-Centered Funding: The formula is designed to progress toward a distribution of funds based on Weighted Reimbursable FTE students. The equalized amount per Weighted Reimbursable FTE is determined by dividing total public resources — excluding base payments, contracted out-of-district payments, and any other payments directed by the State Board or the Legislature — by Total Weighted Reimbursable FTE. The Department shall make the calculation based on submission of FTE reports by the districts and in accordance with established FTE principles.

(A) A three-year weighted average of Total Reported Reimbursable FTE by the Community Colleges will be used.

(B) For 2005-06 through 2007-08: FTE will be “thawed” from its current level one year at a time, beginning in 2005-06 when actual 2003-04 FTE is included in the formula. Beginning in 2007-08, the weighted average of FTE will consider only actual FTE. The “frozen” 96,027 total reimbursable FTE statewide was set by the State Board in 2002-03.

(i) The calculation for 2005-2006 Total Reimbursable FTE is 2003-04 actual enrollments (weighted at 40%); 2002-03 enrollments set at 96,027 (weighted at 30%); 2001-02 enrollments set at 96,027 (weighted at 30%).

(ii) The calculation for 2006-07 Total Reimbursable FTE is 2004-05 actual enrollments (weighted at 40%); 2003-04 actual enrollments (weighted at 30%); 2002-03 enrollments set at 96,027 (weighted at 30%).

(iii) The calculation for 2007-08 Total Weighted Reimbursable FTE is 2006-07 actual enrollments (weighted at 40%); 2005-06 actual enrollments (weighted at 30%); 2004-05 actual enrollments (weighted at 30%).

(C) All future calculations will use a three-year weighted average with first year prior to current actual enrollment weighted at 40%, second year prior to current actual enrollment weighted at 30% and third year prior to current actual enrollment weighted at 30%.

(c) Equalization. The State Board of Education expects to achieve Equalization in funding for all community college students in six years.

(A) Progress to Equalization is defined as: On an individual Community College level, progress toward Equalization will close the gap between non-base total public resource support per Weighted Reimbursable FTE and fully equalized non-base total public resource support per Weighted Reimbursable FTE by some fraction per year.

(B) The proposed model calculates how far each Community College's non-base allocation is from full equity every year, then moves incrementally toward Equalization each year. Each Community College makes the same percentage movement to Equalization each year unless the

harm limit (described in section (8)(d)) is invoked. Community Colleges at or near equity do not move much in real dollars under the equity adjustment. Community Colleges further from equity move more in real dollars under the equity adjustment.

(C) In early years, the focus is on stability as Community Colleges adjust to Equalization. A smaller proportion of funds is distributed through Equalization and a larger proportion is distributed based on historic share of public resources. As the timeframe progresses, this proportion reverses, and in later years more funds are distributed through Equalization.

(d) Harm Limit. The harm limit is designed to prevent individual Community Colleges from losing more than a certain percent of non-base total public resources from one year to the next due to Equalization. The harm limit does not limit losses in total public resources due to changes in FTE enrollment, changes in the General Fund appropriation, or changes in public resources. The harm limit is determined by combining the percent change in state appropriation funds from one year to the next with an adjustment percent determined by the State Board each year. In determining the adjustment, and therefore the total harm limit that results from combining the adjustment with the percent change in resources, the Board should consider the following issues:

(A) The total harm limit must not unnecessarily impede progress toward Equalization in the expected six-year period.

(B) The total harm limit should be adequate to ameliorate unreasonable negative effects of Equalization.

(e) Distribution of Significant Additional State Resources. In a biennium when significant additional state resources are available compared to the state appropriation in the previous biennium, in each year of the biennium:

(A) Fifty percent of additional state resources will be allocated through the Equalization methodology.

(B) The remaining fifty percent of additional state resources will be allocated based on the Community College's historic share of public resources.

(C) The State Board will determine on a biennial basis what level of additional resources is considered significant.

(D) The State Board retains the authority to alter the percent of significant additional state resources allocated according to equity and historic share of public resources for each biennium, beginning in 2007-09.

(9) State general fund and local property taxes for territories annexed or formed effective June 1, 1996, or later shall not be included in the funding formula for the first three years of service. Additionally, the FTE generated in newly annexed territories shall not impact the funding formula during the first three years of service. Beginning in the fourth year, funding will be distributed through the formula as outlined in this rule.

Stat. Auth.: ORS 326.051, 341.015, 341.022, 341.317, 341.440, 341.525, 341.528, 341.626 & 341.665
Stats. Implemented: ORS 341.015, 341.022, 341.317, 341.440, 341.525, 341.528, 341.626 & 341.665
Hist.: IEB 9-1979, f. & ef. 6-11-79; EB 12-1991, f. & cert. ef. 7-19-91; Renumbered from 581.043-0260; ODE 27-2000, f. & cert. ef. 10-30-00; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581.041-0200; DCCWD 2-2001, f. & cert. ef. 5-7-01; DCCWD 3-2002, f. & cert. ef. 6-5-02; DCCWD 7-2002(Temp), f. & cert. ef. 12-16-02 thru 6-5-03; DCCWD 3-2003, f. & cert. ef. 5-14-03; DCCWD 1-2004, f. & cert. ef. 7-1-04; DCCWD 1-2005, f. & cert. ef. 7-13-05; DCCWD 2-2006(Temp), f. & cert. ef. 6-15-06 thru 11-30-06; DCCWD 6-2006, f. 10-3-06, cert. ef. 10-4-06; DCCWD 8-2006, f. 12-13-06, cert. ef. 12-15-06; DCCWD 2-2007, f. & cert. ef. 7-6-07; DCCWD 4-2007, f. & cert. ef. 10-1-07; DCCWD 3-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10

Department of Consumer and Business Services, Building Codes Division Chapter 918

Rule Caption: Aligns boiler and elevator inspection and permit fee rules with changes implemented in HB 2200.

Adm. Order No.: BCD 4-2009(Temp)

Filed with Sec. of State: 7-16-2009

Certified to be Effective: 7-16-09 thru 1-1-10

Notice Publication Date:

Rules Amended: 918-225-0600, 918-225-0630, 918-400-0800

Rules Suspended: 918-225-0605, 918-225-0610

Subject: These temporary rules implement statutory changes that resulted from the passage of House Bill 2200 during the 2009 legislative session. The rules update both boiler and elevator permitting and inspection fees to align with the new statutory requirements.

Rules Coordinator: Shauna M. Parker—(503) 373-7438

ADMINISTRATIVE RULES

918-225-0600

Operating Permit Cycles

Permits to operate boilers or pressure vessels shall be issued periodically according to vessel type, based on the schedule established by the division in Table 1-A.

NOTE: Table 1-A, Boiler and Pressure Vessel Operating Permit Periods, is available on the division's Web site at <<http://www.bcd.oregon.gov/rules.html#oar>>.

Stat. Auth.: ORS 480.595

Stats. Implemented: ORS 480.595

Hist.: BCA 36-1993, f. 12-30-93, cert. ef. 1-1-94; BCD 18-1997, f. 12-3-97, cert. ef. 1-1-98; BCD 14-2007, f. 12-28-07 cert. ef. 1-1-08; BCD 4-2009(Temp), f. & cert. ef. 7-16-09 thru 1-1-10

918-225-0605

Installation, Alteration and Repair Permit Procedures

The following permit procedures are established for installation, alteration or repair of boilers, pressure vessels or pressure piping systems by licensed contractors.

(1) Obtaining permits. Permit application forms for installation, alteration or repair of boilers, pressure vessels or pressure piping systems must be prepaid. Prenumbered permit application forms may be purchased individually or in bulk, from the Building Codes Division upon payment of \$16.50 for each form.

(2) Prepaid permit application forms do not authorize work until the contractor provides the required information to the division for review and approval. Prior to beginning the intended installation, repair or alteration, the contractor shall notify the deputy or special inspector who will inspect the work. Work shall not begin until the inspector has reviewed and approved the work to be performed.

(3) Filing and processing of permits.

(a) Prenumbered permit applications can be sent to the Building Codes Division Salem office, by mail or by facsimile transmission, or by any other method that delivers the permit application or a facsimile of the application to the division.

(b) The applicant may request approval notification, such as by mail, collect delivery by courier or facsimile transmission, and where the authorization should be delivered.

(c) Upon processing, the notification of approval or denial shall be shown on the permit application. The expenses of delivery other than by mail or facsimile transmission shall be prepaid or sent collect to the person requesting the delivery mode. The approval or denial shall be delivered to the applicant following the instructions provided. If no return instructions are received, the notification shall be by mail.

(4) Upon receipt of permit approval:

(a) The signed approval or facsimile transmittal showing an authorized signature shall be posted at the job site before beginning the work; or

(b) The approved permit number shall be posted at the job site and signed by the contractor.

(5) A permit issued under this rule is not transferable.

(6) This rule does not change the provisions for emergency permits in ORS 480.630(7). It is recommended, but not required, that emergency permits be reviewed and coordinated with the inspector responsible to inspect the completed work.

Stat. Auth.: ORS 480.630

Stats. Implemented: ORS 480.630

Hist.: BCD 10-1995, f. & cert. ef. 8-25-95; BCD 18-1997, f. 12-3-97, cert. ef. 1-1-98; BCD 36-2000, f. 12-29-00, cert. ef. 1-1-01; BCD 12-2008, f. 6-30-08, cert. ef. 7-1-08; Suspended by BCD 4-2009(Temp), f. & cert. ef. 7-16-09 thru 1-1-10

918-225-0610

Fees for Permits and Inspections

(1) Purpose and Scope of Rules. This rule sets permit and inspection fees.

(2) Authority for Action:

(a) ORS 480.595 authorizes the Board to establish boiler permit fees.

(3) ORS 480.607 authorizes establishment of fees and increases up to ten percent on fees set by ORS 480.595(3) and (4), 480.600(2), and 480.630(4) and (6).

(4) Other license fees are authorized by ORS 480.630.

(5) Permit fees generally under ORS 480.595 are established:

(a) Effective January 1, 2002, under ORS 480.595(3) and 480.607, operating permit fees, are:

(A) Boilers of 15 horsepower or less, \$71.50;

(B) Boilers greater than 15 horsepower to 100 horsepower, \$93.50;

(C) Boilers greater than 100 horsepower to 500 horsepower, \$110;

(D) Boilers greater than 500 horsepower, \$121;

(E) Cast iron boilers, \$71.50;

(F) Pressure vessels having a product volume of 20 cubic feet or less, \$60.50;

(G) Pressure vessels having a product volume greater than 20 cubic feet, \$82.50.

(b) The reinspection fee provided in ORS 480.595(4) shall be charged at the rate of \$66 per hour for travel and inspection time to defray the cost of a reinspection when deviations from the minimum safety standards are found during any inspection.

(6) The special permit fee set out in ORS 480.600(2) is \$27.50.

(7) Miscellaneous fees under ORS 480.605:

(a) The fees for shop inspection service provided in ORS 480.605(1) and witnessing hydrostatic or other tests under ORS 480.605(3) are:

(A) Hourly charges for travel and inspection, \$66;

(B) Hourly charge for travel and inspections before 8 a.m., after 5 p.m., on weekends and holidays, \$99.

(b) In addition to the hourly charge the actual cost of meals and lodging are also charged.

Stat. Auth.: ORS 480.545, 480.595, 480.600, 480.605, 480.607 & 480.630

Stats. Implemented: ORS 580.595, 480.600, 480.605, 480.607 & 480.630

Hist.: DC 17, f. 7-31-72, ef. 8-15-72; DC 19, f. 6-21-73, ef. 7-1-73; DC 8-1980, f. & ef. 7-1-80; DC 1-1981, f. & ef. 1-22-81; Renumbered from 814-025-0025; BCA 8-1990, f. 4-18-90, cert. ef. 5-1-90; BCA 13-1990, f. & cert. ef. 6-6-90; BCA 20-1991(Temp), f. & cert. ef. 6-14-91; BCA 30-1991, f. & cert. ef. 9-9-91; BCA 36-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 918-225-0050; BCD 10-1996(Temp), f. & cert. ef. 7-1-96; BCD 28-1996, f. & cert. ef. 12-6-96; BCD 16-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 36-2000, f. 12-29-00, cert. ef. 1-1-01; BCD 13-2002, f. 6-28-02, cert. ef. 7-1-02; BCD 17-2002(Temp), f. & cert. ef. 7-19-02 thru 1-14-03; BCD 31-2005, f. 12-20-02 cert. ef. 1-1-03; BCD 31-2005, f. 12-30-05, cert. ef. 1-1-06; BCD 14-2007, f. 12-28-07 cert. ef. 1-1-08; Suspended by BCD 4-2009(Temp), f. & cert. ef. 7-16-09 thru 1-1-10

918-225-0630

Special Fee for Operating Permits

The operating permit fee for dryer rolls for a paper machine is \$5.50 per roll, if the machine is under the inspection requirements of ORS 480.600(2).

Stat. Auth.: ORS 480.600

Stats. Implemented: ORS 480.600

Hist.: DC 10-1981, f. & ef. 7-6-81; Renumbered from 814-025-0051; BCA 36-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 918-225-0125; BCD 18-1997, f. 12-3-97, cert. ef. 1-1-98; BCD 36-2000, f. 12-29-00, cert. ef. 1-1-01; BCD 4-2009(Temp), f. & cert. ef. 7-16-09 thru 1-1-10

918-400-0800

Fees

(1) Subject to section (2) of this rule, the following elevator fees are adopted effective July 1, 2009 under ORS 460.165:

(a) Elevator contractor's license, \$585 for application or renewal;

(b) Plan reviews, when required, \$78;

(c) Operating permit inspections of:

(A) Dumbwaiters, sidewalk elevators, residential elevators, residential inclinators, or subveyors, \$60;

(B) Escalators, lowerators, manlifts, stagelifts, inclined elevators, platform hoists, or moving walks, \$98;

(C) Power-driven elevators with a four-floor rise or under, \$88;

(D) Power-driven elevators with over a four-floor rise, but under a 10-floor rise, \$108;

(E) Power-driven elevators with a 10-floor rise or over, but under a 20-floor rise, \$134;

(F) Power-driven elevators with a 20-floor rise or over, \$157.

(d) Reinspections on a mechanism in section (1)(c) of this rule made by request or in continued existence of a defect, \$75;

(e) For special inspections, testing, consultations, site visits, or other services for which no fee is otherwise specified, \$75 per hour for travel and inspection time;

(f) For the installation or alteration of an elevator, if the total cost of the installation or alteration, other than the inspection fee, is:

(A) \$1,000 or under — \$98;

(B) \$1,001 to \$14,999 — \$98, plus \$13 for each \$1,000 or fraction of \$1,000 by which the cost exceeds \$1,000;

(C) \$15,000 to \$49,999 — \$280, plus \$8 for each \$1,000 or fraction of \$1,000 by which the cost exceeds \$15,000;

(D) \$50,000 or over — \$553, plus \$3 for each \$1,000 or fraction of \$1,000 by which the cost exceeds \$50,000.

(2) Elevator alterations.

(a) No fee shall be charged when an alteration is limited to fixture upgrades to meet state-adopted accessibility standards;

(b) No fee shall be charged where the alteration is limited to the car interior upgrades that do not alter the gross weight of the car more than five percent;

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(c) When a group of elevators under common group control is proposed for an upgrade, and the same upgrade is proposed for all cars in the group, the inspection fee shall be the contract valuation for the entire elevator upgrade project rather than the higher separate inspection fee for each elevator in the group; and

(d) Where the upgrade for a group of elevators is not identical for each elevator, the fees shall be calculated separately based on the contract valuation for each elevator.

(3) Plan Review Fees. Where a complete set of drawings shows all elevators affected by the proposed installation or alteration, only one plan review fee shall be required rather than a separate fee for each elevator.

(4) Limited Elevator Mechanic's License. The following fees shall apply to licenses issued under OAR 918-400-0333 and 918-400-0380(1): \$60 for application or renewal.

(5) Reciprocating Conveyor Mechanic's Licenses. The following fees shall apply to licenses issued under OAR 918-400-0380(2) and (3):

(a) Reciprocating Conveyor Mechanic's license, \$300 for application or renewal;

(b) Restricted Reciprocating Conveyor Mechanic's license, \$50 for application or renewal.

Stat. Auth.: ORS 460.085

Stats. Implemented: ORS 460.061 & 460.165

Hist.: DC 25-1982, f. & ef. 12-16-82; Renumbered from 814-030-0030; BCA 21-1991(Temp), f. 6-14-91, cert. ef. 7-1-91 thru 12-27-91; BCA 29-1991, f. & cert. ef. 8-30-91; BCD 18-1995, f. & cert. ef. 12-15-95; Renumbered from 918-400-0050; BCD 11-1996(Temp), f. & cert. ef. 7-1-96; BCD 27-1996, f. & cert. ef. 12-4-96; BCD 10-1998(Temp), f. 6-2-98, cert. ef. 7-1-98 thru 12-27-98; BCD 25-1998, f. 12-22-98, cert. ef. 12-27-98; BCD 13-1999, f. & cert. ef. 10-1-99; BCD 14-2000(Temp), f. 7-20-00, cert. ef. 8-1-00 thru 1-27-01; BCD 25-2000, f. 9-29-00, cert. ef. 10-1-00; BCD 21-2002(Temp), f. 8-30-02, cert. ef. 9-1-02 thru 2-27-03; BCD 34-2002, f. 12-20-02, cert. ef. 1-1-03; BCD 12-2004, f. 8-20-04, cert. ef. 10-1-04; BCD 17-2007, f. 12-28-07, cert. ef. 1-1-08; BCD 4-2009(Temp), f. & cert. ef. 7-16-09 thru 1-1-10

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Rule Caption: Establishes an alternate certification process for small wind turbines.

Adm. Order No.: BCD 5-2009(Temp)

Filed with Sec. of State: 7-27-2009

Certified to be Effective: 7-27-09 thru 10-1-09

Notice Publication Date:

Rules Adopted: 918-311-0080

Subject: This temporary rule establishes an alternate certification process for wind turbines with a capacity of 100 kW or less. To be certified under the rule, a manufacturer submits a single turbine for field evaluation and then provides documentation to a jurisdiction that all other turbines of that particular model are the same as the evaluated one. Existing permitting, licensing, and inspection requirements also apply. If permanently adopted, the rule would expire on January 1, 2011.

Rules Coordinator: Shauna M. Parker—(503) 373-7438

918-311-0080

Alternate Certification for Installation of Small Wind Turbines

(1) Wind turbines with a name plate capacity of not more than 100kW that meet the following criteria are considered certified as required by ORS 479.610.

(2) Certification under this rule only applies to small wind turbines where:

(a) The product design is reviewed for compliance with appropriate product safety and functionality standards and stamped by an Oregon-licensed professional electrical engineer; and

(b) The inverter is listed or labeled by a Nationally Recognized Testing Laboratory.

(3)(a) To ensure the safety of the components under this rule:

(A) The manufacturer must submit one of each model of the product to an approved field evaluation firm for evaluation and approval as meeting electrical product safety standards;

(B) The manufacturer must certify that each additional turbine of the same model meets the approved electrical product safety standards of the evaluated model; and

(C) The field evaluation firm will provide for random evaluation of additional units as necessary, in accordance with the recommended practices required by OAR 918-306-0010(2)(c).

(b) If the approved model is changed it must be re-evaluated.

(4) Documentation demonstrating compliance with section (3) of this rule must be provided to the inspecting jurisdiction.

(5) Installations performed under this rule are required to comply with all appropriate permit, inspection, and licensing requirements.

(6) The provisions of this rule expire on January 1, 2011.

Stat. Auth.: ORS 479.760

Stat. Implemented: ORS 479.760

Hist.: BCD 5-2009(Temp) f. & cert. ef. 7-27-09 thru 10-1-09

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

Rule Caption: Adopts federal and state standards for aggregating loans to multiple borrowers.

Adm. Order No.: FCS 4-2009

Filed with Sec. of State: 8-7-2009

Certified to be Effective: 8-7-09

Notice Publication Date: 5-1-2009

Rules Adopted: 441-505-3070, 441-505-3075, 441-505-3080, 441-505-3085

Subject: These rules adopt the approaches taken by several contiguous states and the federal government for determining when loans to more than one borrower should be aggregated against a bank's legal lending limit. Currently, loans to more than one borrower are aggregated together when the obligation is made "for the benefit" of another person. This standard may prove difficult for financial institutions to apply, because it is subject to multiple interpretations. The division is adopting federal regulations concerning the existence of a "direct benefit" and "common enterprise" tests, as well as special rules for partnerships that were in the proposed rules but have been rearranged into separate rule in response to public comment.

Rules Coordinator: Shelley Greiner—(503) 947-7484

441-505-3070

Combining Loans to Separate Borrowers

(1) For purposes of ORS 708A.295, the phrase "obligations in the name of one person for the benefit of another person" shall include the following situations:

(a) When proceeds of an obligation to a borrower are to be used for the direct benefit of the other person, as defined by OAR 441-505-3075, to the extent of the proceeds so used; or

(b) When a common enterprise exists between the borrower and the other person, as defined by OAR 441-505-3080.

(2) For the purposes of calculating if the loans and other obligations of a person to an Oregon commercial bank outstanding at any time exceed 15 percent of the Oregon commercial bank's capital, the Oregon commercial bank shall include or aggregate obligations meeting the requirements under OAR 441-505-3075 or 441-505-3080 with obligations made to a borrower in the borrower's individual capacity.

(3) Obligations that are outstanding prior to the effective date of this rule may be renewed or extended as long as no additional funds, other than those funds the Oregon commercial bank agreed to lend prior to the effective date of this rule, are granted to either person in violation of 441-505-3070 to 441-505-3080.

Stat. Auth.: ORS 706.790

Stat. Implemented: ORS 708A.295

Hist.: FCS 4-2009, f. & cert. ef. 8-7-09

441-505-3075

Existence of a Direct Benefit

(1) The amount of money received from an obligation incurred by a borrower will be considered to be for the direct benefit of another person and will be attributed to the other person when the amount of money received is transferred to another person, or the assets purchased with the money received are transferred to another person.

(2) This rule does not apply to bona fide transactions made in good faith where the money received from a loan obligation is used to acquire property, goods, or services.

Stat. Auth.: ORS 706.790

Stat. Implemented: ORS 708A.295

Hist.: FCS 4-2009, f. & cert. ef. 8-7-09

441-505-3080

Existence of a Common Enterprise

A common enterprise will be deemed to exist and obligations of separate borrowers will be aggregated when any of the following occur:

ADMINISTRATIVE RULES

(1) When the expected source of repayment for each obligation is the same for each borrower and neither borrower has another source of income from which the obligation (together with the borrower's other obligations) may be fully repaid. An employer will not be treated as a source of repayment under this paragraph because of wages and salaries paid to an employee, unless the standards of section (2) of this rule are met;

(2) When obligations are incurred:

(a) By borrowers who are related directly or indirectly through common control, including where one borrower is directly or indirectly controlled by another borrower; and

(b) Substantial financial interdependence exists between or among the borrowers. "Substantial financial interdependence" exists when 50 percent or more of one borrower's gross receipts or gross expenditures on an annual basis are derived from transactions with the other borrower. Gross receipts and expenditures include gross revenues/expenses, inter-company loans, dividends, capital contributions, and similar receipts or payments;

(3) When separate persons borrow from a bank to acquire a business enterprise of which those borrowers will own more than 50 percent of the voting securities or voting interests, in which case a common enterprise is deemed to exist between the borrowers for purposes of combining the acquisition loans; or

(4) When the Director determines, based upon an evaluation of the facts and circumstances of particular transactions, that a common enterprise exists.

Stat. Auth.: ORS 706.790

Stat. Implemented: ORS 708A.295

Hist.: FCS 4-2009, f. & cert. ef. 8-7-09

441-505-3085

Lending Limit Rules for Loans to Partnerships

(1) Obligations to a partnership, joint venture, or association are obligations to each member of the partnership, joint venture, or association. This rule does not apply to limited partners in limited partnerships or to members of joint ventures or associations if the partners or members, by the terms of the partnership or membership agreement, are not held generally liable for the obligations or actions of the partnership, joint venture, or association, and those provisions are valid under applicable law.

(2)(a) Obligations to members of a partnership, joint venture, or association are not attributed to the partnership, joint venture, or association unless either OAR 441-505-3075 or 441-505-3080 is met. Both 441-505-3075 and 441-505-3080 are met between a member of a partnership, joint venture or association and such partnership, joint venture or association, when obligations are made to the member to purchase an interest in the partnership, joint venture or association.

(b) Obligations to members of a partnership, joint venture, or association are not attributed to other members of the partnership, joint venture, or association unless either OAR 441-505-3075 or 441-505-3080 are met.

Stat. Auth.: ORS 706.790

Stat. Implemented: ORS 708A.295

Hist.: FCS 4-2009, f. & cert. ef. 8-7-09

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Rule Caption: Clarifies application of new law to debt management contracts and implements additional counseling fee.

Adm. Order No.: FCS 5-2009(Temp)

Filed with Sec. of State: 8-14-2009

Certified to be Effective: 8-14-09 thru 2-9-10

Notice Publication Date:

Rules Adopted: 441-910-9000, 441-910-9001

Rules Amended: 441-910-0000

Rules Suspended: 441-910-0092, 441-910-0095

Subject: The legislative assembly passed House Bill 2191 to regulate debt management practices in Oregon. Among other things, the bill required written contracts with certain terms, regulated the maximum fees charged by a debt management service provider, and authorized a limited counseling fee to be implemented by the Department of Consumer and Business Services through rule. The bill applies to contracts made on or after the effective date of the bill. This temporary rulemaking clarifies the provisions of House Bill 2191 that apply to contracts made for debt management services. This temporary rulemaking also implements the limited counseling fee by rule as directed by legislature.

Rules Coordinator: Shelley Greiner—(503) 947-7484

441-910-0000

Definitions

The definitions of terms used in OAR chapter 441, division 910, are:

(1) "Fee" means a sum of money paid by the client that is retained by the debt consolidating agency for services rendered or to be rendered, regardless of the term used by the debt consolidating agency for this sum of money.

(2) "Fidelity bond" means insurance coverage against losses due to employee dishonesty.

(3) "For-profit debt consolidating agency" means a debt consolidating agency other than a non-profit debt consolidating agency.

(4) "Non-profit debt consolidating agency" means an organization which is exempt from taxation under section 501(c)(3) of the **Internal Revenue Code of 1954**, as amended and in effect on April 1, 1983, and which actually operates as a non-profit organization.

(5) "Surety bond" means insurance coverage against losses due to failure in performance of required duties or responsibilities.

(6) "Trust account" means an account held in a financial institution into which all funds received or handled by the debt consolidating agency on behalf of the agency's clients are initially deposited.

(7) "Voluntary contribution" means a payment of money by a creditor to support the debt consolidating agency's services.

Stat. Auth.: ORS 697, 2009 OL ch. 604, § 21

Stats. Implemented: ORS 697.632

Hist.: DC 2-1984, f. & ef. 1-16-84; Renumbered from 814-106-0000; FCS 4-2005, f. 12-8-05, cert. ef. 1-1-06; FCS 5-2009(Temp), f. & cert. ef. 8-14-09 thru 2-9-10

441-910-0092

Fee for General Counseling

(1) A non-profit debt consolidating agency may submit to the director a written request to charge a fee not to exceed \$35 for a comprehensive counseling session.

(2) The request must demonstrate the need to charge the fee by including:

(a) The debt consolidating agency's total fund balance or net worth for the prior two fiscal years;

(b) Projected costs of providing comprehensive counseling sessions;

(c) Any sources of revenue to cover the projected costs of providing comprehensive counseling sessions; and

(d) Any other information the debt consolidating agency deems relevant for the director's decision.

(3) A debt consolidating agency must consider the consumer's ability to pay the fee described in section (1) of this rule, and if appropriate, reduce or waive the fee.

(4) A debt consolidating agency may not charge the set-up fee described in ORS 697.692 to any client who has paid the counseling fee described in section (1) of this rule.

(5) A debt consolidating agency may charge no more than one fee described in section (1) of this rule to any client in any 90 day period.

(6) Any approval of the fee will be made in writing by the director and is effective until approval is cancelled or withdrawn by the director.

Stat. Auth.: ORS 697.692

Stats. Implemented: ORS 697.692

Hist.: FCS 4-2005, f. 12-8-05, cert. ef. 1-1-06; Suspended by FCS 5-2009(Temp), f. & cert. ef. 8-14-09 thru 2-9-10

441-910-0095

Fee for Education Class

(1) At least 30 days prior to conducting a new category of education classes, a debt consolidating agency may submit a written request for approval of fees to be charged.

(2) The request shall enumerate all expenses by category and include a description of the purpose of the class and a description of all materials for which the debt consolidating agency seeks to charge consumers.

(3) Expenses for which approval is sought must not exceed the actual cost for materials and services.

(4) If the expenses for which approval is sought are associated with a federally or state mandated class, the debt consolidating agency must identify the class in its request and indicate whether or not the agency has been certified to provide the education.

(5) Approval by the Director shall be made in writing for each category of class and shall continue for each such class taught until cancelled or withdrawn by the Director.

(6) Prior to making any substantive changes to materials used in an approved class or any increase in fees charged, the debt consolidating agency must submit the proposed changes to the Director for review and approval.

Stat. Auth.: ORS 697.632

ADMINISTRATIVE RULES

Stats. Implemented: ORS 697.692(5)
Hist.: FCS 5-2000, f. & cert. ef. 3-9-00; FCS 2-2004, f. & cert. ef. 8-5-04; FCS 4-2005, f. 12-8-05, cert. ef. 1-1-06; Suspended by FCS 5-2009(Temp), f. & cert. ef. 8-14-09 thru 2-9-10

441-910-9000

Contract Applicability

(1) A debt consolidation agency registered under ORS 697.612 or a credit service organization registered under ORS 646A.256 shall be considered a debt management service provider for purposes of entering into contracts under 2009 Or Laws ch. 604, §§ 5, 8, 9, 11, 14, 20, and 23.

(2) A person that performs a debt management service as described under 2009 Or Laws ch. 604, § 1 for a consumer but is not required to be registered until January 1, 2010 shall enter into contracts in compliance with the provisions of 2009 Or Laws ch. 604, §§ 5, 8, 9, 11, 14, 20, and 23.

Stat. Auth.: 2009 OL ch. 604 § 21

Stat. Implemented: 2009 OL ch. 604, §§ 5 & 29

Hist.: FCS 5-2009(Temp), f. & cert. ef. 8-14-09 thru 2-9-10

441-910-9001

Additional Counseling Fees

(1) In addition to the fees allowed in exchange for debt management services under ORS 697.692, as amended by 2009 Or Laws ch. 604, § 9, a debt consolidation agency, a credit service organization, or a person performing debt management services may charge a consumer fee of \$25 for a counseling session. A debt management service provider shall not charge a consumer more than \$50 for all instances of counseling occurring within a 30-day period.

(2) For purposes of this rule, "counseling" means instruction, advice, or recommendations given as a result of consultation with a consumer that:

(a) Occurs in one continuous span of 45 minutes;

(b) Occurs after a consumer signs a contract for debt management services;

(c) Covers ongoing services provided by the debt management service provider, as described in the contract for debt management services; and

(d) Advises the consumer on particular topics with respect to the services as described in the contract for debt management services, including:

(A) Causes and conditions of the consumer's current financial situation;

(B) The consumer's financial goals and responsibilities;

(C) Options available to the consumer;

(D) Development of a spending plan or budget;

(E) Possible referrals to outside organizations or agencies; and

(F) Review and revisions necessary to implement the budget plan.

Stat. Auth.: 2009 OL ch. 604, § 9

Stat. Implemented: 2009 OLs ch. 604, § 9

Hist.: FCS 5-2009(Temp), f. & cert. ef. 8-14-09 thru 2-9-10

**Department of Consumer and Business Services,
Insurance Division
Chapter 836**

Rule Caption: Physician Credentialing and Recredentialing in Connection with Health Care Service Contractors.

Adm. Order No.: ID 5-2009

Filed with Sec. of State: 7-21-2009

Certified to be Effective: 10-1-09

Notice Publication Date: 6-1-2009

Rules Amended: 836-052-0900

Subject: This rulemaking adopts recent changes to the Oregon Practitioner Credentialing Application and the Oregon Practitioner Recredentialing Application recommended by the Advisory Committee on Physician Credentialing Information in the Office for Oregon Health Policy and Research. The changes bring Oregon standards into compliance with national and federal standards. The applications allow collection of uniform information needed by health care service contractors to credential and recredential physicians seeking designation as participating providers for health plans. The Director of DCBS and the Director of Human Services are required to adopt identical rules in a timely manner to carry out the recommendations.

The Oregon Practitioner Credentialing Application and the Oregon Practitioner Recredentialing Application with the changes adopted by this rule are available for review through the Insurance Division website at www.oregoninsurance.org. Then click on "Laws,

Rules and Bulletins." If you wish to have a paper copy of the applications, please call 503-947-7272.

Rules Coordinator: Sue Munson—(503) 947-7272

836-052-0900

Physician Credentialing, Health Care Service Contractors

(1) The Oregon Practitioner Credentialing Application and the Oregon Practitioner Recredentialing Application, both of which were approved by the Advisory Committee on Physician Credentialing Information (ACPCI) on September 22, 2008, and both of which carry that date, are adopted with respect to hospitals and health care service contractors as Exhibits 1 and 2 to this rule.

(2) Each hospital and health care service contractor shall use the application forms adopted in section (1) of this rule

(3) This rule is adopted pursuant to the authority of ORS 442.807 for the purpose of enabling the collection of uniform information necessary for hospitals and health care service contractors to credential physicians seeking designation as a participating practitioner for a health plan, thereby implementing ORS 442.800 to 442.807 with respect to hospitals and health care service contractors.

Stat. Auth.: ORS 442.807

Stats. Implemented: ORS 442.800 - 442.807

Hist.: ID 12-2001, f. & cert. ef. 10-15-01; ID 1-2004, f. & cert. ef. 2-3-04; ID 2-2005, f. & cert. ef. 3-1-05; Renumbered from 836-052-0700, ID 10-2007, f. 12-3-07, cert. ef. 1-1-08; ID 5-2009, f. 7-21-09, cert. ef. 10-1-09

Rule Caption: Elimination of use of guaranty contracts as proof of coverage with Workers' Compensation Division.

Adm. Order No.: ID 6-2009

Filed with Sec. of State: 8-14-2009

Certified to be Effective: 8-14-09

Notice Publication Date: 7-1-2009

Rules Amended: 836-043-0046, 836-043-0056

Subject: OAR 836-043-0001 to OAR 836-043-0091 govern the operation of the Oregon Workers' Compensation Insurance Plan (WCIP). The WCIP provides workers' compensation coverage for employers who are in good faith entitled to insurance but who are unable to procure coverage in a regular manner. Enrolled Senate Bill 559 (2007 Session) eliminated insurer filing of a guaranty contract as proof of employer coverage with the Workers' Compensation Division effective July 1, 2009. OAR 836-043-0046 and 836-043-0056 include references to filing of a guaranty contract. The Insurance Division is amending the rules to comply with the 2007 legislative changes to the Oregon Workers' Compensation laws.

The proposed amendments eliminate references to a guaranty contract and termination of a guaranty contract. Adoption of these changes will conform ORS 836-043-0001 to ORS 836-043-0091 governing WCIP to the changes made by SB 559 in 2007.

Rules Coordinator: Sue Munson—(503) 947-7272

836-043-0046

Rates and Forms, Policy Term, Additional Coverages and Other Provisions

(1) An insurer issuing a policy to an employer to which the Plan applies shall write the policy according to the classifications, forms including but not limited to policy endorsements, change of ownership forms, supplemental leasing forms, and rates and rating plans including retrospective rating plans authorized for use in the assigned risk market by the Plan Administrator and approved by the Insurance Commissioner as required in ORS 737.265(2).

(2) The policy information page and all endorsements must be properly identified as a Plan or AR (Assigned Risk) policy, and policy information submitted on hard copy must show the Plan or AR indicator with the policy number on the Information Page. The Policy Information Page and all endorsements must be submitted to the Plan Administrator or its designee within the time frame and in the format established by the Plan Administrator.

(3) The servicing carrier shall issue a policy and proof of coverage as required by ORS 656.419, for a term of at least one year, unless insurance for a shorter term has been requested. A short-term policy may be obtained only once within a 12-month period unless otherwise agreed by the servicing carrier.

(4) The servicing carrier may make additional coverages described in the Supplement to the Plan available to an employer.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 656.427, 656.730 & 731.244

Stats. Implemented: ORS 656.419, 656.427, 656.730 & 737.265

Hist.: ID 10-1996, f. 6-27-96, cert. ef. 7-1-96; ID 18-2008, f. 12-9-08, cert. ef. 1-1-09; ID 6-2009, f. & cert. ef. 8-14-09

836-043-0056

Insurer Cancellation and Nonrenewal of Workers' Compensation Insurance Policies or Surety Bonds

The following provisions of this rule govern when an insurer cancels or fails to renew a workers' compensation insurance policy or surety bond:

(1) An insurer canceling coverage under ORS 656.427 for an employer who has an undisputed premium obligation not more than 30 days past due shall take the following actions:

(a) At the time the insurer gives notice of the cancellation, the insurer shall notify the employer of the right to placement in the Plan if eligible under OAR 836-043-0043;

(b) Provide the employer, not later than the tenth day after the employer's contact for Plan coverage, an accurately filled-in "Request for Coverage" form, using the form prescribed in Exhibits 1 and 2 to OAR 836-043-0024; and

(c) The insurer shall date stamp the request for coverage identifying the insurer's name and forward the form to the Plan administrator with payment, not later than the fifth day after receiving the signed request form from the employer.

(2) An employer or its agent desiring Plan coverage, whose coverage is being cancelled or nonrenewed under ORS 656.427 and who does not have an undisputed premium obligation more than 30 days past due, shall:

(a) Give notice to the canceling or nonrenewing insurer, prior to the termination of coverage, that the employer intends to become an insured employer under the Plan; and

(b) Verify coverage elections and other information provided in the Request for Coverage form (Exhibits 1 and 2 to OAR 836-043-0024), and sign the request form and return the form with the deposit premium check to the canceling or nonrenewing insurer before the end of coverage or not later than the tenth day after the insurer issues the Request for Coverage form, if later.

(3) The Plan Administrator shall process the Request for Coverage form received with a deposit premium prior to the coverage ending date in the manner provided for a Plan application, except that the Plan Administrator shall bind coverage under the Plan for Request for Coverage upon the date of receipt of the form (Exhibits 1 and 2 to OAR 836-043-0024) by the canceling or nonrenewing insurer in accordance with this rule or the ending date of previous coverage, if later.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 656.427, 656.730 & 731.244

Stats. Implemented: ORS 656.419, 656.427, 656.730 & 737.265

Hist.: ID 10-1996, f. 6-27-96, cert. ef. 7-1-96; ID 6-2009, f. & cert. ef. 8-14-09

Department of Energy Chapter 330

Rule Caption: Public Records Request Procedures and Fees.

Adm. Order No.: DOE 1-2009(Temp)

Filed with Sec. of State: 7-27-2009

Certified to be Effective: 7-27-09 thru 1-23-10

Notice Publication Date:

Rules Adopted: 330-001-0020

Subject: Public Records Requests

(1) Scope and Applicability. This rule governs requests for inspection of Oregon Department of Energy (department) documents under the Public Records Law, ORS Chapter 192.

(2) Request for Examination of Public Records. Requests for examination of public records shall be made according to department administrative rule OAR chapter 330 division 330-001-0020.

(3) Miscellaneous Items Concerning Fees:

(a) The fees charged shall be those found in department Policy and Procedure COM-01.

(b) A waiver or reduction of fees requested under ORS 192.440 must be submitted in writing, show how a waiver or reduction is in

the public interest and that availability will benefit the general public;

(c) No fees are charged:

(A) to state officials;

(B) For first copies of department publications;

(C) to public libraries, public educational institutions, or federal, state, county or city agencies participating in a cooperative program with the department (what about others participating in such a program?), or

(D) To examine records readily available which do not require supervision during the inspection.

Rules Coordinator: Kathy Stuttaford—(503) 378-4128

330-001-0020

Public Records Request

(1) All public records of the Oregon Department of Energy are available for public inspection and copying at the Department during usual business hours, except for records that the Department has determined to be exempt or conditionally exempt from disclosure in accordance with ORS Chapter 192.410-191.505 and any other references establishing an exemption to disclosure of public records.

(2) A request to inspect or obtain copies of a public record or information from public records shall be made in writing or in person, and shall include:

(a) The name, address and telephone number of the requester, except as considered unnecessary by the director;

(b) An identification of the needed public record, or of the type and format of needed public record information, if known to the requester; and

(c) The number of copies requested of the record, if copies are requested.

(3) A person who is receiving a copy of a public record or information from a public record shall pay for the department's actual cost for:

(a) Staff time necessary to locate and handle the records, to delete material exempt from disclosure and to supervise the inspection by the requester;

(b) Producing the copy or the information; and

(c) Other supplies or services necessary to furnish the copy or information.

(4) The director may reduce or waive payment of the fee for access of a public record if the director determines that the reduction or waiver will aid the effective administration of department operations.

(5) The requester shall pay all fees for access of a public record in advance unless later payment is approved by the director.

(6) The director establishes fees and miscellaneous charges in agency policy, reviewed periodically, but not less than every three years, to insure all charges reflect no more than the actual cost of producing and processing.

Stat. Auth.: ORS 192.430 & 192.440

Stats. Implemented: ORS 192.410 - 192.505

Hist.: DOE 1-2009(Temp), f. & cert. ef. 7-27-09 thru 1-23-10

Department of Fish and Wildlife Chapter 635

Rule Caption: Directed Sardine Fishery Closes Effective July 18, 2009.

Adm. Order No.: DFW 85-2009(Temp)

Filed with Sec. of State: 7-17-2009

Certified to be Effective: 7-18-09 thru 12-31-09

Notice Publication Date:

Rules Amended: 635-004-0017

Rules Suspended: 635-004-0017(T)

Subject: This amended rule closes the second period of the directed sardine fishery effective July 18 through September 14, 2009. Rule modifications include reductions to the directed fishery allocations for the second and third periods by 750 mt and 450 mt respectively and conform with changes made to federal rules, published in the Federal Register on June 30 and July 17, 2009.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-004-0017

Inclusions and Modifications

(1) OAR chapter 635, division 004, modifies or is in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660**.

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(2) The Code of Federal Regulations (CFR), Title 50, Part 660, provides requirements for commercial sardine fishing in the Pacific Ocean. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations.

(3) Notwithstanding the regulations as defined in OAR 635-004-0016, the National Oceanic and Atmospheric Administration (NOAA), by means of the Federal Register/Vol. 74, No. 124/Tuesday, June 30, 2009, announced inseason management measures effective July 1, 2009, including but not limited to, reductions to the directed fishery allocations for the second and third periods by 750 mt and 450 mt respectively.

(4) Notwithstanding the regulations as defined in OAR 635-004-0016, the National Oceanic and Atmospheric Administration (NOAA), by means of the Federal Register/Vol. 74, No. 136/Friday, July 17, 2009, announced inseason management measures effective July 18, 2009, including but not limited to, closure of the directed sardine fishery through September 14, 2009.

[Publications: Publications references are available from the agency.]
Stat. Auth.: ORS 506.119
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 38-2009, f. & cert. ef. 4-22-09; DFW 78-2009(Temp), f. 6-30-09, cert. ef. 7-1-09 thru 12-28-09; DFW 85-2009(Temp), f. 7-17-09, cert. ef. 7-18-09 thru 12-31-09

Rule Caption: Columbia River Sport Sturgeon Fishery Extended Below Wauna Powerlines.

Adm. Order No.: DFW 86-2009(Temp)

Filed with Sec. of State: 7-22-2009

Certified to be Effective: 7-24-09 thru 12-31-09

Notice Publication Date:

Rules Amended: 635-023-0095

Rules Suspended: 635-023-0095(T)

Subject: Amend rule to allow retention of white sturgeon in the Columbia River and tributaries from the Wauna Powerlines downstream to the mouth at Buoy 10, including Youngs Bay from Friday, July 24 through Sunday, July 26 (3 days). Revisions are consistent with Joint State Action taken by the states of Oregon and Washington on July 21, 2009.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-023-0095

Sturgeon Season

(1) The **2009 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 **2009 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 with a fork length of 38-54 inches, three days per week, Thursdays through Saturdays, 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;
- (b) May 9 through June 28;
- (c) July 2 through July 5;
- (d) July 10 through July 12;
- (e) July 17 through July 19; and
- (f) July 24 through July 26.

(5) The retention of white sturgeon in the area identified in section (4) of this rule is prohibited May 1 through May 8, June 29 through July 1, July 6 through July 9, July 13 through July 16, July 20 through July 23, and July 27 through December 31.

(6) During the fishing period as identified in subsection (4)(a) of this rule, only white sturgeon with a fork length of 38-54 inches may be retained.

(7) During the fishing period as identified in subsection (4)(b) of this rule, only white sturgeon with a fork length of 41-54 inches may be retained.

(8) During the fishing period as identified in subsection (4)(c) through subsection (4)(f) of this rule, only white sturgeon with a fork length of 41-54 inches may be retained.

(9) The Columbia River and tributaries from John Day Dam upstream to McNary Dam (John Day Reservoir) is closed to the retention of sturgeon effective 12:01 a.m. Monday, April 13, 2009.

(10) The Columbia River and tributaries from The Dalles Dam upstream to John Day Dam (The Dalles Reservoir) are closed to the retention of sturgeon effective 12:01 a.m. Sunday, April 19, 2009.

(11) The Columbia River and tributaries from Bonneville Dam upstream to The Dalles Dam (Bonneville Reservoir) is closed to the retention of sturgeon effective 12:01 a.m. Saturday, June 6, 2009.

(12) 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.

(13) 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; DFW 23-2008(Temp), f. 3-12-08, cert. ef. 3-15-08 thru 9-10-08; DFW 28-2008(Temp), f. 3-24-08, cert. ef. 3-26-08 thru 9-10-08; DFW 72-2008(Temp), f. 6-30-08, cert. ef. 7-10-08 thru 12-31-08; DFW 78-2008(Temp), f. 7-9-08, cert. ef. 7-12-08 thru 12-31-08; DFW 86-2008(Temp), f. & cert. ef. 7-25-08 thru 12-31-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 156-2008(Temp), f. 12-31-08, cert. ef. 1-1-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 33-2009(Temp), f. 4-2-09, cert. ef. 4-13-09 thru 10-9-09; DFW 63-2009(Temp), f. 6-3-09, cert. ef. 6-6-09 thru 10-9-09; DFW 83-2009(Temp), f. 7-8-09, cert. ef. 7-9-09 thru 12-31-09; DFW 86-2009(Temp), f. 7-22-09, cert. ef. 7-24-09 thru 12-31-09

Rule Caption: Oregon Ocean, Terminal Area, and Coastal Zone Sport Salmon Fisheries.

Adm. Order No.: DFW 87-2009(Temp)

Filed with Sec. of State: 7-31-2009

Certified to be Effective: 8-1-09 thru 12-31-09

Notice Publication Date:

Rules Amended: 635-013-0007, 635-013-0009, 635-014-0090, 635-016-0090

Rules Suspended: 635-013-0009(T), 635-014-0090(T)

Subject: Amend rules to implement Ocean sport fisheries for mixed stock, terminal areas, and coastal streams within the Marine, Northwest and Southwest zones beginning August 1, 2009.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-013-0007

Special South Coast Seasons

In addition to the open seasons prescribed in OAR 635-013-0005 there are open seasons for Chinook salmon as follows:

(1) Elk River Area.

(a) From October 15 through November 30 in all Pacific Ocean waters shoreward of a line drawn from Cape Blanco (42°50'20" N. Lat.) thence SW to Black Rock (42°49'24" N. Lat. 124°35'00" W. Long.), thence SSW to Best Rock (42°47'24" N. Lat. 124°35'42" W. Long.), thence SE to 42°43'48" N. Lat. 124°32'08" W. Long., thence due East through Tichenor Rock (42°43'48" N. Lat. 124°30'36" W. Long.) to shore;

(b) During the season described for the Elk River Area in section (1)(a) of this rule it is *unlawful* to take Chinook salmon less than 20 inches in length. No more than two Chinook salmon may be retained per day, and no more than 1 non fin-clipped Chinook salmon retained per day and 5 non fin-clipped Chinook salmon in the seasonal aggregate when combined with all other waters in the Northwest Zone, Southwest Zone, and all state waters terminal area seasons in the Marine Zone with a 5 Chinook salmon seasonal

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aggregate limit, and no more than 10 total non fin-clipped Chinook in the seasonal aggregate from all waters in the Northwest Zone, Southwest Zone, and all state waters terminal area seasons in the Marine Zone. Seasonal aggregate applies to all non fin-clipped Chinook salmon retained between August 1 and December 31, 2009. It is *unlawful* to use multipoint or barbed hooks.

Stat. Auth.: ORS 496.138, 496.146, & 506.119
Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 25-1982, f. & ef. 4-30-82; FWC 62-1983(Temp), f. & ef. 11-1-83; FWC 69-1984(Temp), f. & ef. 10-2-84; FWC 59-1985(Temp), f. & ef. 9-13-85; FWC 59-1986(Temp), f. & ef. 9-19-86; FWC 77-1986(Temp), f. & ef. 11-26-86; FWC 76-1987, f. & ef. 9-15-87; FWC 84-1988, f. & cert. ef. 9-9-88; FWC 83-1989, f. 8-31-89, cert. ef. 9-16-89; FWC 86-1990, f. 8-24-90, cert. ef. 9-1-90; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; FWC 101-1992, f. 9-29-92, cert. ef. 10-1-92; FWC 114-1992(Temp), f. 10-26-92, cert. ef. 10-27-92; FWC 62-1993, f. & cert. ef. 10-1-93; FWC 56-1994, f. 8-30-94, cert. ef. 9-1-94; FWC 78-1994(Temp), f. 10-20-94, cert. ef. 10-21-94; FWC 81-1995, f. 9-29-95, cert. ef. 10-1-95; FWC 84-1995(Temp), f. 10-13-95, cert. ef. 10-16-95; FWC 86-1995(Temp), f. 10-20-95, cert. ef. 10-21-95; FWC 56-1996, f. 9-27-96, cert. ef. 10-1-96; FWC 30-1997, f. & cert. ef. 5-5-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 121-2008(Temp), f. & cert. ef. 10-2-08 thru 12-31-08; Administrative correction 1-23-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09

635-013-0009

Tillamook Terminal Area Ocean Fishery

(1) In addition to the open seasons prescribed in OAR 635-013-0004 there are open seasons for Chinook salmon in the areas described in Section (2) of this rule.

(2) The Pacific Ocean waters inside an area south of Twin Rocks (45°35'54" N. Lat.) and north of Pyramid Rock (45°29'48" N. Lat.) and seaward three nautical miles offshore are open for Chinook salmon September 1 through October 31.

(3) During the open season for adipose fin-clipped coho salmon in the ocean, the Terminal Area described in section (2) of this rule is open to angling for salmon consistent with federal sport salmon management measures for the area from Cape Falcon to Humbug Mountain.

(4) During the period of September 1–October 31, in the area described in section (2) above no more than 1 non fin-clipped Chinook salmon retained per day and 5 non fin-clipped Chinook salmon in the seasonal aggregate when combined with all other waters in the Northwest Zone and Southwest Zone, and all state waters terminal area seasons in the Marine Zone with a 5 Chinook salmon seasonal aggregate limit, and no more than 10 total non fin-clipped Chinook in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone, and all state waters terminal area seasons in the Marine Zone. Seasonal aggregate applies to all non fin-clipped Chinook salmon retained between August 1 and December 31, 2009. For purposes of this rule, adult salmon are Chinook having a length greater than 24 inches.

(5) No more than two single-point, single-shank barbless hooks are required in the ocean when these ocean waters are open for the adipose fin-clipped coho salmon fishery and in the ocean outside the Terminal Area at all times.

Stat. Auth.: ORS 496.138, 496.146, & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 45-1983(Temp), f. & ef. 9-16-84; FWC 57-1984(Temp), f. & ef. 9-15-84; FWC 64-1984(Temp), f. & ef. 9-21-84; FWC 59-1985(Temp), f. & ef. 9-13-85; FWC 59-1986(Temp), f. & ef. 9-19-86; FWC 76-1987, f. & ef. 9-15-87; FWC 84-1988, f. & cert. ef. 9-9-88; FWC 83-1989, f. 8-31-89, cert. ef. 9-16-89; FWC 86-1990, f. 8-24-90, cert. ef. 9-1-90; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 19-1997(Temp), f. 3-17-97, cert. ef. 4-15-97; FWC 30-1997, f. & cert. ef. 5-5-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 18-2003(Temp) f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; Administrative correction 1-23-09; DFW 27-2009(Temp), f. 3-11-09, cert. ef. 3-15-09 thru 9-10-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09

635-014-0090

Inclusions and Modifications

(1) The **2009 Oregon Sport Fishing Regulations** provide requirements for the Northwest 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 **2009 Oregon Sport Fishing Regulations**.

(2) Fishhawk Lake (Nehalem Basin) is open for trout angling through October 31, 2009.

(a) Retention of trout is allowed, 2 per day; 2 daily limits in possession; 8-inch minimum length;

(b) Angling restricted to artificial flies and lures only through August 31, 2009.

(3) Notwithstanding all other requirements provided in the 2009 Oregon Sport Fishing Regulations, the following additional rules apply to angling in waters of the Northwest Zone:

(a) All waters of the Necanicum River, Sand Lake, Nestucca River Basin (including the Little Nestucca River), Salmon River, and Siuslaw River Basin that are open for Chinook salmon are limited to no more than 1 adult non fin-clipped Chinook salmon per day and 5 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with all other waters in the Northwest Zone and Southwest Zone, and all state waters terminal area seasons in the Marine Zone with a 5 adult non fin-clipped Chinook salmon seasonal aggregate limit, and no more than 10 total adult non fin-clipped Chinook salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone, and all state waters terminal area seasons in the Marine Zone. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31, 2009.

(b) In those waters of the Necanicum River listed as open for Chinook or steelhead angling, fin-clipped coho may be retained as part of the adult and jack salmon daily bag limit.

(A) Retention of trout is allowed, 2 per day; 2 daily limits in possession; 8-inch minimum length;

(B) Angling restricted to artificial flies and lures only May 23 through August 31, 2009.

(c) In those waters of the Nehalem River Basin listed as open for salmon or steelhead in the 2009 Oregon Sport Fishing Regulations, the daily catch limit is 2 adult salmon or steelhead in combination except:

(A) Closed for Chinook salmon from August 1 through December 31, 2009;

(B) From August 1 through December 31, the daily catch limit increases to three total adult salmon or steelhead in combination if at least 1 retained salmon is an adult coho with a healed fin clip; and

(C) Open for adipose fin-clipped coho inland from the tips of the jetties upstream to Miami River-Foley Creek Road bridge as per zone regulations. All retained coho salmon must have a healed fin-clip, except: Open in Nehalem Bay upstream to the Miami-Foley Bridge on the South Fork Nehalem River and upstream to North Fork Road Bridge (at Aldervale) on the North Fork for all coho from September 1 through the earlier of November 30 or attainment of an adult coho quota of 1,000 non-finclipped coho.

(D) The daily catch limit may include one adult non fin-clipped coho salmon per day and one non fin-clipped jack coho salmon, and no more than 5 total adult non fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(d) In those waters of the Tillamook Basin (including the Miami, Kilchis, Wilson, Trask, and Tillamook rivers), listed as open for salmon or steelhead in the 2009 Oregon Sport Fishing Regulations, the daily catch limit is 2 adult salmon or steelhead except:

(A) In those waters open for Chinook salmon the daily catch limit may include no more than 1 adult non fin-clipped Chinook salmon per day and 5 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with all other waters in the Northwest Zone and Southwest Zone, and all state waters terminal area seasons in the Marine Zone with a 5 adult non fin-clipped Chinook salmon seasonal aggregate limit, and no more than 10 total adult non fin-clipped Chinook salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone, and all state waters terminal area seasons in the Marine Zone. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31, 2009; and

(B) in those waters open for coho salmon from August 1 through October 31, the daily catch limit increases to three total adult salmon or steelhead in combination if at least 1 of the retained salmon is an adult coho with a healed fin clip.

(e) In all waters of the Siletz River Basin, Yaquina River Basin, Alsea River Basin, and Yachats River Basin open for Chinook salmon, the daily catch limit may include no more than 1 adult non fin-clipped Chinook salmon per day and 2 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with all other waters in the Northwest Zone and Southwest Zone, and all state waters terminal area seasons in the Marine Zone with a 2 adult non fin-clipped Chinook salmon seasonal aggregate limit, and no more than 10 total adult non fin-clipped Chinook salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone, and all state waters terminal area seasons in the Marine

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Zone. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31, 2009.

(f) Within the Siletz River Basin the following additional rules apply:

(A) Drift Creek (Siletz River Basin) upstream of the confluence with Quarry Creek at river mile 8 is closed for Chinook salmon from August 1 through December 31, 2009; and

(B) all waters of the Siletz River (including all tributaries) upstream of Morgan Park at river mile 25.0 are closed for Chinook salmon from August 1 through December 31, 2009.

(g) Within the Yaquina River Basin the following additional rules apply:

(A) All waters of the Yaquina River upstream of the confluence of the Yaquina River and Big Elk Creek at river mile 18.3 and all waters of Big Elk Creek (Yaquina River Basin) are closed for Chinook salmon from August 1 through December 31, 2009; and

(B) All retained coho salmon must have a healed fin-clip, except open in Yaquina River and Bay upstream to the confluence of the Yaquina River and Big Elk Creek at river mile 18.3 for all coho from September 1 through the earlier of November 30 or attainment of an adult coho quota of 500 non-finclipped coho. The daily catch limit may include one adult non fin-clipped coho salmon per day and one non fin-clipped jack coho salmon, and no more than 5 total adult non fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(h) Within the Alsea River Basin the following additional rules apply:

(A) All waters of Drift Creek (Alsea River Basin) upstream of the lower Drift Creek Wilderness Area boundary at river mile 10.5 are closed for Chinook salmon from August 1 through December 31, 2009; and

(B) All waters of the Alsea River upstream of the confluence with Five Rivers at river mile 21; and

(C) All waters of Five Rivers are closed for Chinook salmon from August 1 through December 31, 2009.

(i) Within the Siuslaw River Basin the following additional rules apply:

(A) All waters of the Siuslaw River upstream of the confluence with Lake Creek at river mile 30 are closed for Chinook salmon from August 1 through December 31, 2009;

(B) All waters of Lake Creek are closed for Chinook salmon from August 1 through December 31, 2009.

[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 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; FDW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; 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 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 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 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 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef. 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert. ef. 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; DFW 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 104-2006(Temp), f. 9-19-06, cert. ef. 10-1-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 63-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 43-2009(Temp), f. 5-5-09, cert. ef. 5-22-09 thru 10-31-09; DFW 67-2009(Temp), f. 6-9-09, cert. ef. 6-15-09 thru 10-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09

635-016-0090

Inclusions and Modifications

(1) The **2009 Oregon Sport Fishing Regulations** provide requirements for the Southwest 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 **2009 Oregon Sport Fishing Regulations**.

(2) Notwithstanding all other requirements provided in the 2009 Oregon Sport Fishing Regulations, the following restrictions apply to angling in waters of the Southwest Zone:

(a) All waters of the Umpqua River Basin (including Smith River), Coquille River Basin, and Elk River Basin that are open for Chinook salmon are limited to no more than 1 non fin-clipped adult Chinook salmon retained per day and 5 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with all other waters in the Northwest Zone and Southwest Zone, and all state waters terminal area seasons in the Marine Zone with a 5 adult non fin-clipped Chinook salmon seasonal aggregate limit, and no more than 10 total adult non fin-clipped Chinook in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone, and all state waters terminal area seasons in the Marine Zone. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31, 2009.

(b)(A) All waters of the Coos River Basin and Rogue River Basin that are open for Chinook salmon are limited to no more than 2 adult non fin-clipped Chinook salmon retained per day, and no more than 10 total adult non fin-clipped Chinook in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone, and all state waters terminal area seasons in the Marine Zone. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31, 2009.

(B) Rogue River mainstem from Gold Ray Dam to Dodge Bridge: from 12:01 a.m. August 1 thru 11:59 p.m. August 31, 2009 only adult fin-clipped Chinook salmon may be retained. Non fin-clipped jacks may be retained. Catch limits and other restrictions listed in the 2009 Oregon Sport Fishing Regulations for the Southwest Zone remain in effect.

(c) All waters of Floras Creek, Floras Lake, New River, New Lake, Sixes River, Hunter Creek, Pistol River, and Chetco River that are open for Chinook salmon are limited to no more than 1 adult non fin-clipped Chinook salmon per day and 2 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with all other waters in the Northwest Zone and Southwest Zone, and all state waters terminal area seasons in the Marine Zone with a 2 adult Chinook salmon seasonal aggregate limit, and no more than 10 total adult non fin-clipped Chinook in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone, and all state waters terminal area seasons in the Marine Zone. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31, 2009.

(d) All waters of the North Fork Smith River (Umpqua River Basin) are closed for Chinook salmon between August 1 and December 31, 2009.

(e) Within the Coos River Basin the following additional rules apply:

(A) All waters of the Millicoma River upstream of the Doris Place Boat Ramp at river mile 0.25 are closed for Chinook salmon between August 1 and December 31, 2009, and closed for steelhead from August 1 through November 14;

(B) All waters of the South Fork Coos River upstream from the confluence with Besse Cr. at river mile 6.25 are closed for Chinook salmon from August 1 through December 31, 2009, and closed for steelhead from August 1 through November 14; and

(C) Open for non fin-clipped coho salmon in Coos River and Bay upstream to the Doris Place Boat Ramp at river mile 0.25 on the Millicoma River and upstream to the confluence with Besse Cr. at river mile 6.25 on the South Fork Coos River from September 1 through the earlier of November 30 or attainment of an adult coho quota of 1,000 non-finclipped coho. The daily catch limit may include one adult non fin-clipped coho salmon per day and one non fin-clipped jack coho salmon, and no more than 5 total adult non fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(f) Within the Coquille River Basin the following additional rules apply:

(A) All waters of the Coquille River Basin upstream of the Highway 42S bridge (Sturdivant Park) at river mile 24.0 are closed for Chinook salmon between August 1 and December 31, 2009, and closed for steelhead from August 1 through November 14;

(B) Open for non fin-clipped coho salmon in Coquille River and Bay upstream to the Highway 42S bridge (Sturdivant Park) at river mile 24.0

ADMINISTRATIVE RULES

from September 1 through the earlier of November 30 or attainment of an adult coho quota of 1,500 non-finclipped coho. The daily catch limit may include one adult non fin-clipped coho salmon per day and one non fin-clipped jack coho salmon, and no more than 5 total adult non fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(g) All waters of Floras Creek upstream of the County Road 124 bridge over Floras at river mile 5.0 are closed for Chinook salmon between August 1 and December 31, 2009.

(h) All waters of the Sixes River upstream of Edson Cr. are closed for Chinook salmon between August 1 and December 31, 2009.

(i) All waters of the Chetco River upstream of the Highway 101 Bridge are closed to angling from August 1 through November 6, 2009, and are closed for Chinook salmon upstream of the US Forest Service Bridge at river mile 10.5 from August 1 through December 31, 2009.

(j) All waters of the Winchuck River are closed to Chinook angling from August 1 through December 31, 2009.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138 & 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 80-1993(Temp), f. 12-21-93, cert. ef. 1-1-94; FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 79-1994(Temp), f. 10-21-94, cert. ef. 7-22-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 57-1995(Temp), f. 7-3-95, cert. ef. 7-4-95; FWC 59-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 82-1995(Temp), f. 9-29-95, cert. ef. 10-1-95; FWC 90-1995(Temp), f. 11-29-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 52-1996, f. & cert. ef. 9-11-96; FWC 61-1996, f. & cert. ef. 10-9-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 32-1997(Temp), f. & cert. ef. 5-23-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 24-1998(Temp), f. & cert. ef. 3-25-98 thru 9-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 52-1998(Temp), f. 7-10-98, cert. ef. 7-11-98 thru 7-24-98; DFW 55-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 48-2000(Temp), f. 8-14-00, cert. ef. 8-15-00 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 8-2001, f. & cert. ef. 3-5-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 42-2001(Temp), f. 5-25-01, cert. ef. 5-29-01 thru 7-31-01; 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 97-2001(Temp), f. 10-4-01, cert. ef. 11-1-01 thru 12-31-01; DFW 105-2001(Temp), f. 10-26-01, cert. ef. 11-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; 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 55-2002(Temp), f. 5-28-02, cert. ef. 7-1-02 thru 11-31-02; 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 124-2002(Temp), f. & cert. ef. 10-30-02 thru 12-31-02 (Suspended by DFW 125-2002(Temp), f. 11-8-02, cert. ef. 11-9-2002); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; 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 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 127-2004, f. 12-22-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 24-2006(Temp), f. 4-25-06, cert. ef. 5-13-06 thru 10-31-06; DFW 37-2006(Temp), f. 6-26-06, cert. ef. 6-5-06 thru 12-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 47-2007(Temp), f. 6-18-07, cert. ef. 6-21-07 thru 10-31-07; DFW 56-2007(Temp), f. 7-6-07, cert. ef. 8-1-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 137-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 54-2008(Temp), f. 5-28-08, cert. ef. 6-1-08 thru 7-31-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 138-2008(Temp), f. 10-28-08, cert. ef. 11-1-08 thru 11-30-08; DFW 140-2008(Temp), f. 11-4-08, cert. ef. 11-5-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 57-2009(Temp), f. 5-27-09, cert. ef. 6-1-09 thru 7-31-09; DFW 77-2009(Temp), f. 6-29-09, cert. ef. 7-1-09 thru 7-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09

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Rule Caption: Treaty Indian Fall Fisheries for Columbia River Above Bonneville Dam.

Adm. Order No.: DFW 88-2009(Temp)

Filed with Sec. of State: 7-31-2009

Certified to be Effective: 8-1-09 thru 12-31-09

Notice Publication Date:

Rules Amended: 635-041-0063, 635-041-0075

Subject: Amended rules allow the commercial sales of fish caught during the Treaty Indian sturgeon setline and the fall salmon platform and hook-and-line fisheries in the Columbia River above Bonneville Dam (Zone 6). The setline fishery begins at 6:00 a.m. Monday, August 3, 2009 and runs through 6:00 p.m. Saturday, August 15, 2009, or until the guideline is reached. The fall platform and hook-and-line chinook and steelhead fishery begins at 12:01 a.m. Saturday, August 1, 2009 and runs through Saturday, October 31, 2009. Implementation is consistent with actions taken May 26 and July 31, 2009 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0063

Sturgeon Setline Fishery

(1) White sturgeon may be taken by setline for commercial purposes from 6:00 a.m. Monday, August 3 through 6:00 p.m. Saturday, August 15, 2009 (or when guideline is met) in the John Day Pool. Sturgeon taken must be 43-54 inches in fork length.

(2) Closed areas are set forth under OAR 635-041-0045.

(3) During the white sturgeon setline season it shall be *unlawful* to:

(a) Operate any fishing gear other than setlines except as provided in OAR 635-041-0060;

(b) Operate any setline having more than 100 hooks;

(c) Use other than single hooks size 9/0 or larger;

(d) Operate any setline on which the buoy or marker does not have the tribal identification number of the individual operating the line clearly marked on it and which is attached in a manner that will not allow it to float visibly on the surface at all times.

(4) Notwithstanding OAR 635-041-0045(6)–(11), it is lawful during the open season to fish for white sturgeon by means of set lines in The Dalles Pool only.

(5) Allowable sales: White sturgeon between 43–54 inches in fork length from John Day Pool may be sold or kept for subsistence use.

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, Renumbered from 635-035-0063; FWC 6-1980, f. & ef. 1-28-80; FWC 12-1980, f. & ef. 2-29-80; FWC 64-1980(Temp), f. & ef. 11-7-80; 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 9-1983(Temp), f. & ef. 3-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; 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 10-1988, f. & cert. ef. 3-4-88; FWC 48-1988, f. & cert. ef. 6-21-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 12-1989(Temp), f. & cert. ef. 3-21-89; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 9-1991, f. & cert. ef. 1-31-91; FWC 37-1991(Temp), f. & cert. ef. 4-3-91; FWC 4-1992, f. 1-30-92, cert. ef. 2-1-92; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 41-1992(Temp), f. 6-30-92, cert. ef. 7-1-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 15-1996(Temp), f. & cert. ef. 4-1-96; FWC 25-1996(Temp), f. 5-14-96, cert. ef. 5-15-96; FWC 23-1997(Temp), f. 4-4-97, cert. ef. 4-7-97; FWC 35-1997(Temp), f. & cert. ef. 6-13-97; FWC 40-1997(Temp), f. 6-20-97, cert. ef. 6-23-97; FWC 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 50-1998(Temp), f. 6-25-98, cert. ef. 6-26-98 thru 7-24-98; DFW 57-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 22-1999(Temp), f. & cert. ef. 4-1-99 thru 4-23-99; DFW 28-1999(Temp), f. & cert. ef. 4-23-99 thru 7-31-99; DFW 41-1999(Temp), f. & cert. ef. 6-7-99 thru 7-31-99; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 14-2000(Temp), f. 3-17-00, cert. ef. 3-20-00 thru 7-31-00; DFW 31-2000(Temp), f. 6-9-00, cert. ef. 6-10-00 thru 7-31-00; DMV 43-2000(Temp), f. 8-7-00, cert. ef. 8-8-00 thru 8-20-00; DFW 66-2000(Temp), f. 9-29-00, cert. ef. 10-20-00 thru 12-31-00; DFW 43-2001(Temp), f. 5-23-01, cert. ef. 5-24-01 thru 11-20-01; DFW 65-2001(Temp), f. & cert. ef. 7-24-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 114-2001(Temp), f. & cert. ef. 12-13-01 thru 12-31-01; DFW 51-2002(Temp), f. & cert. ef. 5-22-02 thru 9-1-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 121-2002(Temp), f. 10-24-02, cert. ef. 10-27-02 thru 12-31-02; DFW 49-2003(Temp), f. & cert. ef. 6-5-03 thru 9-1-03; DFW 58-2003(Temp), f. & cert. ef. 7-9-03 thru 12-31-03; DFW 67-2003(Temp), f. 7-18-03, cert. ef. 7-21-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 69-2006(Temp), f. 7-28-06, cert. ef. 7-31-06 thru 12-31-06; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 60-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 19-2009, f. & cert. ef. 2-26-09; DFW 88-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09

635-041-0075

Fall Salmon Season

(1) Commercial sale of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River is allowed beginning 6:00 a.m. Saturday, August 1, 2009 until further notice.

(a) Allowable sales include Chinook, steelhead, sockeye, walleye, carp, shad, catfish, yellow perch and bass landed in mainstem platform hook and line and Yakama Nation Zone 6 tributary fisheries, and in the Yakama Nation fishery on the Washington shoreline from 600 feet below the fish ladder at the Bonneville Dam North shore powerhouse, downstream to Beacon Rock (bank fishing only). Sturgeon may not be retained in the Yakama fishery below Bonneville. Fish may NOT be sold on USACE Property below Bonneville Dam, but may be caught and transported off USACE property for sale.

(b) Gear is restricted to subsistence fishing gear: hoopnets, dipnets, and rod and reel with hook-and-line.

(c) Sturgeon may not be sold. However, white sturgeon between 43 and 54 inches in fork length taken from The Dalles and John Day pools may be kept for subsistence use. White sturgeon between 38 and 54 inches in fork length taken from the Bonneville Pool may be kept for subsistence use.

(d) Closed areas, except the Spring Creek sanctuary, as set forth in OAR 635-041-0045 remain in effect.

(e) Sales of fish caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; Drano Lake/Little White Salmon River; and

ADMINISTRATIVE RULES

Big White Salmon River are allowed during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982(Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984(Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988(Temp), f. 9-27-88, f. & cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989(Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. 9-7-90, cert. ef. 9-10-90; FWC 98-1990(Temp), f. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. 9-17-91, cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. 9-1-92, cert. ef. 9-2-92; FWC 87-1992(Temp), f. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. 10-2-92, cert. ef. 10-5-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. 9-6-96, cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. 8-29-97, cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. 9-16-97, cert. ef. 9-17-97; DFW 68-1998(Temp), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(Temp), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. 9-12-03, cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. 10-12-04, cert. ef. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction 10-3-04; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 11-19-05; DFW 71-2006(Temp), f. 7-31-06, cert. ef. 8-1-06 thru 12-31-06; DFW 86-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 94-2006(Temp), f. 9-8-06, cert. ef. 9-11-06 thru 12-31-06; DFW 101-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 115-2006(Temp), f. 10-13-06, cert. ef. 10-15-06 thru 12-31-06; Administrative correction 1-16-07; DFW 60-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 12-31-07; DFW 77-2007(Temp), f. 8-17-07, cert. ef. 8-22-07 thru 12-31-07; DFW 88-2007(Temp), f. 9-10-07, cert. ef. 9-11-07 thru 12-31-07; DFW 95-2007(Temp), f. 9-21-07, cert. ef. 9-25-07 thru 12-31-07; DFW 100-2007(Temp), f. 9-28-07, cert. ef. 10-3-07 thru 12-31-07; DFW 110-2007(Temp), f. 10-16-07, cert. ef. 10-20-07 thru 12-31-07; DFW 106-2008(Temp), f. 9-4-08, cert. ef. 9-6-08 thru 10-31-08; DFW 112-2008(Temp), f. 9-17-08, cert. ef. 9-18-08 thru 10-31-08; DFW 117-2008(Temp), f. & cert. ef. 9-22-08 thru 10-31-08; DFW 122-2008(Temp), f. & cert. ef. 9-29-08 thru 10-31-08; DFW 125-2008(Temp), f. 10-6-08, cert. ef. 10-7-08 thru 10-31-08; DFW 134-2008(Temp), f. & cert. ef. 10-17-08 thru 10-31-08; DFW 141-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 11-30-08; DFW 88-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09

Rule Caption: Fall Commercial Seasons Set for Columbia River Mainstem and Select Area Fisheries.

Adm. Order No.: DFW 89-2009(Temp)

Filed with Sec. of State: 8-3-2009

Certified to be Effective: 8-4-09 thru 12-31-09

Notice Publication Date:

Rules Amended: 635-042-0031, 635-042-0145, 635-042-0160, 635-042-0170, 635-042-0180

Subject: Amended rules set the 2009 fall commercial salmon seasons for the Columbia River mainstem in zones 1 thru 5 and the Columbia River Select Areas. Fall Select Area fisheries implemented include: Youngs Bay; Blind and Knappa sloughs; Tongue Point/South Channel and Deep River.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0031

Early Fall Salmon Season

(1) Salmon and white sturgeon may taken for commercial purposes in the waters of the Columbia River:

(a) Zones 1-5, as identified in OAR 635-042-0001 as follows:

(A) 7:00 p.m. Tuesday, August 4 to 7:00 a.m. Wednesday, August 5, 2009 (12 hours);

(B) 7:00 p.m. Thursday, August 6 to 7:00 a.m. Friday, August 7, 2009 (12 hours); and

(C) 7:00 p.m. Sunday, August 9 to 7:00 a.m. Monday, August 10, 2009 (12 hours);

(b) Zones 3-5, upstream of the Kalama River (above a line projected from the Goble Ramp on the Oregon shore to the downstream end of Kalama Chemical dock on the Washington shore) as follows:

(A) 8:00 p.m. Tuesday, August 18 to 6:00 a.m. Wednesday, August 19, 2009 (10 hours);

(B) 8:00 p.m. Thursday, August 20 to 6:00 a.m. Friday, August 21, 2009 (10 hours); and

(C) 8:00 p.m. Sunday, August 23 to 6:00 a.m. Monday, August 24, 2009 (10 hours);

(c) Zones 4-5 as follows:

(A) 8:00 p.m. Tuesday, August 25 to 6:00 a.m. Wednesday, August 26, 2009 (10 hours); and

(B) 8:00 p.m. Thursday, August 27 to 6:00 a.m. Friday, August 28, 2009 (10 hours).

(2) It is *unlawful* to use a gill net having a mesh size less than 9 inches or more than 9.75 inches (as described in OAR 635-042-0010 (4)). Nets not specifically authorized for use in this fishery may be onboard the vessel 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.

(3) A maximum of nine white sturgeon, 43-54 inches in fork length, may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) the fishery is open. The sturgeon possession and sales limit includes mainstem fisheries only. Retention of green sturgeon is prohibited.

(4) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-A, Cowlitz River, Kalama-A, Lewis-A, Washougal River and Sandy River sanctuaries are in effect during open fishing periods identified above.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: FWC 63-1987, f. & ef. 8-7-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 56-1989(Temp), f. & cert. ef. 8-11-89; FWC 58-1989(Temp), f. & cert. ef. 8-14-89; FWC 80-1989(Temp), f. 8-28-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. 8-20-97, cert. ef. 8-24-97; FWC 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. 9-29-99, cert. ef. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 86-2001(Temp), f. & cert. ef. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. 8-2-02, cert. ef. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. ef. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. ef. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. ef. 8-12-04 thru 12-31-04; DFW 82-2004(Temp), f. & cert. ef. 8-16-04 thru 12-31-04; DFW 86-2004(Temp), f. 8-19-04 thru 12-31-04; DFW 88-2004(Temp), f. & cert. ef. 8-20-04 thru 12-31-04; Administrative correction 2-18-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 88-2005(Temp), f. 8-11-05, cert. ef. 8-14-05 thru 12-31-05; DFW 90-2005(Temp), f. & cert. ef. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; Administrative correction 1-19-06;

ADMINISTRATIVE RULES

DFW 72-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. 8-11-06, cert. ef. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. 8-24-06, cert. ef. 8-25-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 72-2007(Temp), f. 8-17-07, cert. ef. 8-23-07 thru 8-31-07; Administrative Correction 9-16-07; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 93-2008(Temp), f. & cert. ef. 8-12-08 thru 12-31-08; DFW 95-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; DFW 100-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 9-30-08; DFW 102-2008(Temp), f. & cert. ef. 8-26-08 thru 9-1-08; Administrative correction 9-29-08; Administrative correction 10-21-08; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09

635-042-0145

Youngs Bay Salmon Season

(1) Salmon and white sturgeon may be taken for commercial purposes in those waters of Youngs Bay.

(a) The open fishing periods are established in segments categorized as the winter fishery; the spring fishery; the summer fishery; and the fall fishery as follows: Fall Season:

(A) 7:00 a.m. Wednesday, August 5 to 7:00 p.m. Thursday, August 6, 2009 (36 hours);

(B) 6:00 a.m. Wednesday, August 12 to 6:00 p.m. Thursday, August 13, 2009 (36 hours);

(C) 6:00 a.m. Wednesday, August 19 to 6:00 p.m. Thursday, August 20, 2009 (36 hours);

(D) 6:00 a.m. Wednesday, August 26 to 6:00 p.m. Thursday, August 27, 2009 (36 hours); and

(E) 7:00 p.m. Monday, August 31 to noon Saturday, October 31, 2009 (61 days);

(b) The fishing area for the Youngs Bay fall fisheries includes:

(A) All waters from the new Highway 101 Bridge upstream to the upper boundary markers at Battle Creek Slough; except for those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River).

(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 more than 9.75 inches during the fall season from August 5 though August 27, 2009. It is *unlawful* to use a gill net having a mesh size that is more than 6-inches after August 27, 2009.

(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.

(c) Nets not specifically authorized for use in this fishery may be onboard the vessel 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.

(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) above, the weekly aggregate sturgeon limit applies to possessions and sales in the Youngs Bay fishery and other open Select Area fisheries only.

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 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; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09

635-042-0160

Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon and white sturgeon may be taken for commercial purposes during the open fishing periods described below:

(a) Open fishing periods for the fall season in Blind and Knappa Sloughs are:

(A) 7:00 p.m. Tuesday, August 25 to 7:00 a.m. Wednesday, August 26, 2009 (12 hours);

(B) 7:00 p.m. Wednesday, August 26 to 7:00 a.m. Thursday, August 27, 2009 (12 hours);

(C) 7:00 p.m. on Monday, Tuesday, Wednesday and Thursday nights to 7:00 a.m. the following morning (12 hours) from August 31 through September 18, 2009 (12 nights); and

(D) 6:00 p.m. on Monday, Tuesday, Wednesday and Thursday nights to 8:00 a.m. the following morning (14 hours) from September 21 through October 30, 2009 (24 nights).

(b) The fishing areas for the season is:

(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 boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore. Markers define an area closure of about a 100 foot radius at the mouth of Big Creek.

(c) Gear restrictions are as follows:

(A) During the fall fishery, outlined above in sections (1)(a) and (1)(b), 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. It is *unlawful* to use a gill net having a mesh size that is greater than 9.75-inches.

(B) Nets not specifically authorized for use in this fishery may be onboard the vessel 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.

(2) A maximum of three white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through

ADMINISTRATIVE RULES

Saturday) that the fishery is open. During the fishing periods identified in section (1)(a) above, the weekly aggregate sturgeon limit applies to possessions and sales in the Youngs Bay fishery and other open Select Area fisheries only.

(3) 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. 8-4-04 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 7-31-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 7-31-05; 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; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 103(Temp), f. 8-26-08, cert. ef. 9-2-08 thru 10-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09

635-042-0170

Tongue Point Basin and South Channel

(1) Tongue Point includes all waters bounded by a line from a yellow marker midway between the red light USCG navigation light (#2) at the tip of Tongue Point and the downstream (northern most) pier (#8) to the flashing green USCG navigation light (#3) at the rock jetty on the northwesterly tip of Mott Island, a line from a marker at the south end of Mott Island easterly to a marker on the northwest bank on Lois Island and a line from a marker on the southwest end of Lois Island due westerly to a marker on the opposite bank.

(2) South Channel includes all waters bounded by a line from a marker on John Day Point through the USCG navigation buoy #7 thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the USCG navigation light #10 thence northwesterly to a marker on the sand bar defining the terminus of South Channel.

(3) Salmon and sturgeon may be taken for commercial purposes in those waters of Tongue Point and South Channel as described in sections (1) and (2) of this rule. Open fishing periods are:

(a) 7:00 p.m. on Monday, Tuesday, Wednesday and Thursday nights to 7:00 a.m. the following morning (12 hours) from August 31 through September 18, 2009 (12 nights); and

(b) 4:00 p.m. on Monday, Tuesday, Wednesday and Thursday nights to 8:00 a.m. the following morning (16 hours) from September 21 through October 30, 2009 (24 nights).

(4) Gear restrictions are as follows:

(a) In waters described in section (1) as Tongue Point basin, gill nets may not exceed 250 fathoms in length and weight limit on the lead line is not to exceed two pounds on any one fathom. It is *unlawful* to use a gill net

having a mesh size that is more than 6-inches. While fishing during the seasons described in this rule, gillnets with lead line in excess of two pounds per fathom may be stored on boats.

(b) In waters described in section (2) as South Channel, nets are restricted to 100 fathoms in length with no weight restrictions on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is *unlawful* to use a gill net having a mesh size that is more than 6-inches. While fishing during the seasons described in this rule, gillnets up to 250 fathoms in length may be stored on boats.

(5) 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 section (3) above, the weekly aggregate sturgeon limit applies to possessions and sales in the Youngs Bay fishery and other open Select Area fisheries only.

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; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; DFW 15-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 41-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. 5-29-98, cert. ef. 5-31-98 thru 6-9-98; DFW 45-1998(Temp), f. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; 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 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 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; 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. 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 97-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 12-2004(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. 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 76-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 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 1-20-07; 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 44-2008(Temp), f. 4-25-08, cert. ef. 4-28-08 thru 10-24-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09

635-042-0180

Deep River Select Area Salmon Season

(1) Salmon and white sturgeon may be taken for commercial purposes from the US Coast Guard navigation marker #16 upstream to the town of Deep River.

(2) The Fall fishing season is open:

(a) 7:00 p.m. on Monday, Tuesday, Wednesday, Thursday, and Friday nights to 9:00 a.m. the following morning (14 hours) from August 31 through September 19, 2009; and

(b) 4:00 p.m. on Monday, Tuesday, Wednesday, Thursday, and Friday nights to 9:00 a.m. the following morning (17 hours) from September 21 through October 31, 2009.

(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. During the fall season, outlined above in sections (2)(a) and (2)(b) above, it is *unlawful* to use a gill net having a mesh size that is more than 6-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 sections (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 only.

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 44-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 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. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; DFW 12-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 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 1-20-06; 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 44-2008(Temp), f. 4-25-08, cert. ef. 4-28-08 thru 10-24-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09

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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; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 23-2009(Temp), f. 3-5-09, cert. ef. 3-6-09 thru 4-30-09; DFW 35-2009(Temp), f. 4-7-09, cert. ef. 4-8-09 thru 4-30-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09

Rule Caption: Fall Commercial Seasons revised for Columbia River Mainstem Fisheries.
Adm. Order No.: DFW 90-2009(Temp)
Filed with Sec. of State: 8-7-2009
Certified to be Effective: 8-8-09 thru 12-31-09
Notice Publication Date:
Rules Amended: 635-042-0031
Rules Suspended: 635-042-0031(T)
Subject: Amended rule modifies the fall commercial salmon season in the Columbia River mainstem, for the fishing period previously scheduled from 7:00 p.m. Sunday, August 9 to 7:00 a.m. Monday, August 10, 2009, from Zones 1-5 to Zones 2-5.
Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0031
Early Fall Salmon Season
(1) Salmon and white sturgeon may be taken for commercial purposes in the waters of the Columbia River:
(a) Zones 1-5, as identified in OAR 635-042-0001 as follows:
7:00 p.m. Tuesday, August 4 to 7:00 a.m. Wednesday, August 5, 2009 (12 hours); and
7:00 p.m. Thursday, August 6 to 7:00 a.m. Friday, August 7, 2009 (12 hours).
(b) Zones 2-5 as follows:
7:00 p.m. Sunday, August 9 to 7:00 a.m. Monday, August 10, 2009 (12 hours);
(c) Zones 3-5, upstream of the Kalama River (above a line projected from the Goble Ramp on the Oregon shore to the downstream end of Kalama Chemical dock on the Washington shore) as follows:
8:00 p.m. Tuesday, August 18 to 6:00 a.m. Wednesday, August 19, 2009 (10 hours); 8:00 p.m. Thursday, August 20 to 6:00 a.m. Friday, August 21, 2009 (10 hours); and 8:00 p.m. Sunday, August 23 to 6:00 a.m. Monday, August 24, 2009 (10 hours);
(d) Zones 4-5 as follows:
8:00 p.m. Tuesday, August 25 to 6:00 a.m. Wednesday, August 26, 2009 (10 hours); and 8:00 p.m. Thursday, August 27 to 6:00 a.m. Friday, August 28, 2009 (10 hours).
(2) It is unlawful to use a gill net having a mesh size less than 9 inches or more than 9.75 inches (as described in OAR 635-042-0010 (4)). Nets not specifically authorized for use in this fishery may be onboard the vessel 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.
(3) A maximum of nine white sturgeon, 43-54 inches in fork length, may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) the fishery is open. The sturgeon possession and sales limit includes mainstem fisheries only. Retention of green sturgeon is prohibited.
(4) Closed waters, as described in OAR 635-042-0005 for Grays River, Elomin-A, Cowlitz River, Kalama-A, Lewis-A, Washougal River and Sandy River sanctuaries are in effect during open fishing periods identified above.

Rule Caption: Adopt Regulations Pertaining to Commercial Harvest of Bait Fish in Inland Waters.
Adm. Order No.: DFW 91-2009
Filed with Sec. of State: 8-10-2009
Certified to be Effective: 8-10-09
Notice Publication Date: 8-1-2009
Rules Adopted: 635-004-0042
Rules Amended: 635-004-0025, 635-006-0001, 635-006-0160, 635-006-0205
Rules Repealed: 635-004-0042(T)
Subject: Adopted and amended rules relating to the commercial harvest of bait fish in Oregon inland waters. At the request of Industry, rule modification allowing albacore tuna fishing vessels that use live bait to capture bait after delivering tuna, promoting these vessels to land in Oregon ports.
Housekeeping and technical corrections to the regulations were also made to ensure rule consistency.
Rules Coordinator: Therese Kucera—(503) 947-6033

635-004-0025
Closed Season
There is no closed season or area for the taking of ocean food fish for commercial purposes except:
(1) As provided in these rules or in the **Code of Federal Regulations, Title 50 Part 660, subpart G**.
(2) It is *unlawful* at all times to take Ocean food fish for commercial purposes from Oregon coastal bays, the Oregon estuary waters of the Columbia River, or from man-made structures, that extend from coastal bays, or within 200 yards of any man-made structure. This closure does not apply to:
(a) Ocean food fish taken in specific fisheries established by rule;
(b) Ocean food fish taken to be sold or used for scientific or educational purposes, or for live public display; or to
(c) Pacific herring, Pacific sardine (pilchard), anchovies, smelt, candlefish, and shad that are taken by hook-and-line and sold as bait.
(d) Pacific herring, Pacific sardine (pilchard), anchovies, smelt, candlefish, and shad that are taken by beach seine in the Umpqua estuary and sold as bait.
(3) All species other than those whose harvest is authorized under subsection (2) above, must be immediately returned to the water unharmed.
(4) It is *unlawful* to take surfperch for commercial purposes from the Pacific Ocean from August 1 through September 30.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

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Stats. Implemented: ORS 506.129

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FWC 38, f. & ef. 1-23-76, Renumbered from 625-010-0550; FWC 8-1979, f. 3-1-79, ef. 3-2-79; FWC 9-1979(Temp), f. & ef. 3-5-79 through 3-31-79; FWC 50-1979, f. & ef. 11-1-79, Renumbered from 635-036-0275; FWC 95-1994, f. 12-28-95, cert. ef. cert. ef. 1-1-95; FWC 71-1996, f. 12-31-96, cert. ef. 1-1-97; DFW 97-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 63-2002(Temp) f. & cert. ef. 6-18-02 thru 12-14-02; DFW 103-2002(Temp), f. 9-13-02 cert. ef. 9-14-02 thru 9-30-02; DFW 115-2002, f. & cert. ef. 10-21-02; DFW 135-2002, f. 12-23-02, cert. ef. 1-1-03; DFW 91-2009, f. & cert. ef. 8-10-09

635-004-0042

Inland Waters Anchovy Fishery

(1) Anchovies may be harvested by commercial vessels in Tillamook, Yaquina, Winchester, and Coos Bays to be used as live bait in commercial fishing operations by the catching vessel from July 1 through October 31.

(2) Any vessel engaged in the commercial taking of anchovies must obtain a license as described in 635-006-0140 or 635-006-0160.

(3) Any person engaged in or assisting in the taking of anchovies from the waters of this state must possess a commercial fishing license as described in OAR 635-006-0145 or 635-006-0160.

(4) It is *unlawful* to use any fishing gear or method of harvest for the taking of anchovy other than:

(a) Purse seine with a maximum length of 50 fathoms (300 feet), defined as the maximum distance from the first to last pursing rings on the purse line;

(b) Lampara net; or

(c) Hook and line "jigging."

(5) All species other than anchovies, taken in operation of gear authorized by this rule, must be returned to the water immediately unharmed.

(6) The Department shall provide a logbook to each individual permitted by this rule to harvest anchovies to be used as live bait. Each permit holder is responsible for maintaining the logbook in accordance with the instructions contained therein and shall, up on request of an authorized representative of the Department, permit examination and transcription of information from such logbook.

(7) Fishers intending to fish as described above must notify Oregon State Police 12 hours prior to fishing by calling 1-800-452-7888. Notification shall include vessel name and number, fishing location, and estimated time of activity.

Stat. Auth.: ORS 506.119

Stats Implemented: ORS 506.109 and 506.129

Hist.: DFW 46-2009(Temp), f. 5-6-09, cert. ef. 6-1-09 thru 11-1-09; DFW 91-2009, f. & cert. ef. 8-10-09

635-006-0001

Definitions

For the purposes of OAR 635-006-0001 through 635-006-1210:

(1) "Commercial fishing license" means the commercial fishing licenses required by ORS 508.235 and, for purposes of the Limited Fish Seller Permit, includes an Albacore Tuna Landing License.

(2) "Commission" means the Oregon Fish and Wildlife Commission.

(3) "Department" means the Oregon Department of Fish and Wildlife.

(4) "Director" means the Director of the Oregon Department of Fish and Wildlife.

(5) "Fair market value" shall be based on the market price of food fish or shellfish at the same time and place that the fish are landed, or the price established in OAR 635-006-0232 when the market price cannot be determined. For species not listed in OAR 635-006-0232, fair market value shall be based on the average price per pound paid to law enforcement officials for any fish or shellfish confiscated from persons landing legal overages, or the average ex-vessel price per pound paid for that species in that port during the month in which the overage occurred, whichever is greater. Unless otherwise noted, the fair market value is the price per pound and is based on round weight.

(6) "Fish buyer" means an individual employed by a wholesale fish dealer or food fish canner to purchase or receive food fish or shellfish from commercial fishers at locations other than the licensed premises of the wholesale fish dealer or food fish canner.

(7) "Fish-buying station" means a location other than the licensed premises of a wholesale fish dealer or food fish canner at which such wholesale fish dealer or food fish canner purchases or receives food fish or shellfish from commercial fishers.

(8) "Food fish canner" means a wholesale fish dealer who cans food fish including shellfish in hermetically sealed containers whereby no further preservation, artificial or otherwise, is required.

(9) "Harvester" means any person legally authorized to take food fish for commercial purposes.

(10) "Import" means to transport into Oregon from outside the State of Oregon.

(11) "Land" or "landing" means to begin transfer of fish from a fishing vessel. Once transfer begins, all fish aboard the vessel are counted as part of the landing, except anchovies being held live on a vessel for the purpose of using for bait in that vessel's commercial fishing operation.

(12) "Landing fees" means all fees due to the Department based on the pounds of fish or value of fish landed.

(13) "Limited fish seller" means any person who holds a valid Oregon commercial fishing license and who has obtained an annual Limited Fish Seller Permit which enables the fisher to sell any species of food fish, taken in lawful activity directly from his or her boat, pursuant to ORS 508.550.

(14) "Limited fish seller - nontreaty Columbia River Gillnet Salmon Vessel Permit fishery" means a person who holds a valid Oregon commercial fishing license, a Columbia River Gillnet Salmon Vessel Permit, and who has obtained an annual limited fish seller permit which enables the fisher to sell any species of food fish, taken in lawful activity directly from his or her boat or at locations away from the boat.

(15) "Nonreporting fish dealer" means a wholesale fish dealer or fish bait dealer who buys food fish exclusively from other wholesale fish dealers or bait dealers.

(16) "Overage" means any landing or portion of a landing that exceeds groundfish trip limits. Groundfish trip limits are approved by Pacific Fisheries Management Council and implemented by the National Marine Fisheries Service.

(17) "Possession" means holding any food fish, shellfish or parts thereof in a person's custody or control.

(18) "Processing" means smoking, reducing, loining, steaking, pickling, filleting, or fresh packaging requiring freezing of food fish, or any part thereof. (Does not include cooking crab.)

(19) "Processor" means a person who buys fresh food fish from a licensed commercial fisher or a wholesale fish dealer and processes food fish for sale through retail outlets or for sale to the ultimate consumer.

(20) "Purchase" means to obtain by paying money or its equivalent, trade, or barter.

(21) "Receive" or "Receiving" means to take or come into possession of.

(22) "Retail fish bait dealer" means a person who buys fresh food fish or shellfish from a wholesale fish dealer or wholesale fish bait dealer, and sells to the ultimate consumer for use as bait.

(23) "Retail fish dealer" means a person who buys fresh food fish or shellfish from wholesale fish dealers, undertakes limited processing activity (limited to loining of tuna, filleting, smoking, steaking, or pickling food fish or shellfish), and sells only to the ultimate consumer.

(24) "Retain" means to keep in possession or use.

(25) "Shellfish canner" means a wholesale fish dealer who cans only shellfish in hermetically sealed containers whereby no further preservation, artificial or otherwise, is required.

(26) "Transport" means, for purposes of OAR 635-006-0165, to move the food fish after landing.

(27) "Ultimate consumer" means the party that utilizes the product as food, including restaurants.

(28) "Value" means the monetary value of the food fish, or parts thereof, including eggs and other by-products, at the point of landing, as usually determined by the first exchange between the harvester and the first purchaser. In addition:

(a) Value is typically the amount of money which the first purchaser pays at the time and place that the fish are off-loaded from a vessel, or brought to shore if there is no vessel involved in harvesting, before any reductions or deductions in the amount of money as a result of the dealer furnishing ice, fuel, food or other commodities; and

(b) Value includes bonuses and other payments based directly on the quantity or quality of food fish exchanged, regardless of the time of payment of such bonuses or other payments; and

(c) Value includes any payments based on the proportion or percentage of processed products recovered from the food fish landed in the round or other form; and

(d) Value for food fish not sold by the harvester is the value received for comparable fish sold to a wholesale fish dealer at the same time and place that the fish are landed; and

(e) Value for food fish purchased from a harvester, by the harvester when acting as a wholesale fish dealer, is the price that is or would be paid to any other harvester for the same fish; and

(f) Value for food fish sold by a limited fish seller is the retail price received by the harvester from the first purchaser; and

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(g) Value for food fish imported from out of state but not previously taxed out of state is the price paid for the fish by the first Oregon purchaser.

(29) "Wholesale fish bait dealer" means a person who buys food fish or shellfish, or parts thereof, from a licensed commercial fisher, licensed commercial bait fisher, or licensed angler, and sells or uses such food fish or shellfish for bait, scientific or educational purposes, or live public display.

(30) "Wholesale fish dealer" means a person who:

- (a) Buys food fish or shellfish from a commercial fisher; or
- (b) Processes food fish or shellfish or any part thereof; or
- (c) Sells food fish or shellfish to retail dealers or other wholesale fish dealers.

Stat. Auth.: ORS 506.119 & 513.020

Stats. Implemented: ORS 506.129, 508.025, 508.040 & 508.550

Hist.: FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; DFW 38-1999, f. & cert. ef. 5-24-99; DFW 63-2003, f. & cert. ef. 7-17-03; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 91-2009, f. & cert. ef. 8-10-09

635-006-0160

Bait Fishing License

A bait fishing license is issued in accordance with ORS 508.312 of the commercial fishing laws and is required for any individual taking or assisting in the taking of food fish or shellfish for sale to a fish bait dealer or for use as bait in a commercial fishing operation. It is unlawful to take any food fish or shellfish under this license for human consumption purposes.

Stat. Auth.: ORS 506.109, 506.119 & 506.129

Stats. Implemented: ORS 506.109, 506.119 & 506.129

Hist.: FC 246, f. 5-5-72, ef. 5-15-72, Renumbered from 625-040-0095, Renumbered from 635-036-0560; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; DFW 91-2009, f. & cert. ef. 8-10-09

635-006-0205

Required Reports

(1) Every licensed wholesale fish dealer, wholesale fish bait dealer, food fish canner, and shellfish canner shall report all food fish or shellfish received from commercial fishers or commercial bait fishers authorized to land his or her catch in Oregon or received from a fish dealer from another state in which no tax or fee is levied and collected on the food fish or shellfish.

(2) As used in these regulations, any licensed wholesale fish dealer, fish buying station, fish buyer, bait dealer or canner whose licensed premises includes a receiving or docking facility for unloading the catch from a commercial fishing vessel shall be considered as the receiver and purchaser and shall have the responsibility for weighing the catch, reporting, and paying landing fees on such catch. The aforementioned premises shall only be licensed by one wholesale dealer, fish buying station, fish buyer, bait dealer or canner at one given time, except as provided in section (3) of this rule.

(3) Notwithstanding section (2) of this rule, upon receipt and approval by the Department of a Memorandum of Understanding in a form provided by the Department and signed by both parties, a licensed wholesale fish dealer or canner (identified as primary dealer) whose licensed premises includes a receiving or docking facility for unloading the catch from a commercial fishing vessel may act as an agent for another licensed wholesale fish dealer or canner (identified as secondary dealer).

(a) Through the Memorandum of Understanding the primary dealer agrees:

(A) To unload fish or shellfish products at their licensed receiving or buying dock from fishing vessels who are providing catch to the secondary dealer as per prior agreement and arrangement with the secondary dealer;

(B) To confirm that the landing is legal and the species are legal;

(C) To accurately report on Fish Receiving Tickets, assigned to the secondary dealer by the Department, all landing information in accordance with OAR 635-006-0210, with the exception of price;

(D) To obtain fisher signature on the Fish Receiving Ticket reporting such catch or if necessary, a dock ticket for net-caught groundfish in accordance with OAR 635-006-0211;

(E) To, upon transfer of the landed product from the primary dealer to the secondary dealer, provide the Fish Receiving Ticket record of the landing to the secondary dealer; and

(F) To retain a record of the required landing information of such catches.

(b) In addition through the Memorandum of Understanding, the secondary dealer agrees:

(A) To obtain the appropriate buyer's license;

(B) To complete the Fish Receiving Ticket that reports the transferred product landed at the receiving or buying dock of the primary dealer, by adding the species ex-vessel price;

(C) To submit copies to the Department in accordance with OAR 635-006-0210(2); and

(D) To submit to the Department a monthly remittance report and accompanying landing fees in accordance with OAR 635-006-0215.

(c) The Department may withdraw its approval of any Memorandum of Understanding effective seven calendar days from postmark of written notice, based on the failure to abide by any of the terms of the Memorandum of Understanding or violation of any provision of this rule. If the Department withdraws its approval, then section (2) of this rule shall be applicable.

(4) Two basic reports required for reporting the commercial catch of food fish and shellfish and the payment of landing fees due on such catch are:

(a) The State of Oregon Fish Receiving Ticket; and

(b) The Fish Dealer Monthly Remittance Report. These reports shall be submitted on forms supplied or approved by the Department and completed in accordance with OAR 635-006-0210 and 635-006-0215.

(5)(a) All pink shrimp unloaded at a receiving or docking facility of a wholesale fish dealer or shellfish canner shall be weighed and the net weight (pounds of raw shrimp landed) recorded on a Fish Receiving Ticket before being removed from the receiving facility and prior to processing;

(b) Notwithstanding subsection (5)(a) of this rule, a minimum sampling method or equivalent method may be used to estimate the net weight provided such method is approved and authorized in writing by the Department;

(c) Those wholesale fish dealers or canners authorized to use the sampling procedure in subsection (5)(b) of this rule are subject to inspection for accuracy by the Department or by the Oregon State Police, at any time. Authorization for use of a sampling procedure may be withdrawn if, in the judgment of the Department, the procedure employed is likely to be inaccurate.

(6)(a) Wholesale fish bait dealers landing less than 5,000 pounds daily of species defined in OAR 635-004-0025 subsections (2)(c) and (2)(d) may request the Department allow an estimate of the net weight of fish caught on a Fish Receiving Ticket.

(b) The Department may issue a written approval of requests made under subsection (6)(a) of this rule if the permittee uses a minimum sampling method or equivalent method to estimate the net weight, provided such method is acceptable to the Department.

(c) Those wholesale fish bait dealers authorized to use a sampling procedure approved under subsection (6)(b) of this rule are subject to inspection for accuracy by the Department or by the Oregon State Police, at any time. Authorization for use of a sampling procedure may be withdrawn if, in the judgment of the Department, the procedure employed is likely to be inaccurate.

Stat. Auth.: ORS 506.119 & 508.530

Stats. Implemented: ORS 506.129 & 508.535

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 274(74-6), f. 3-20-74, ef. 4-11-74; FWC 28, f. 11-28-75, ef. 1-1-76. Renumbered from 625-040-0130. Renumbered from 635-036-0575; FWC 15-1981, f. 4-24-81, ef. 5-1-81; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 78-1993, f. & cert. ef. 12-6-93; FWC 23-1996, f. & cert. ef. 5-10-96; DFW 38-1999, f. & cert. ef. 5-24-99; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 91-2009, f. & cert. ef. 8-10-09

Rule Caption: Amend Rules relating to harassing wildlife with a permit.

Adm. Order No.: DFW 92-2009(Temp)

Filed with Sec. of State: 8-11-2009

Certified to be Effective: 8-11-09 thru 2-5-10

Notice Publication Date:

Rules Amended: 635-043-0105

Rules Suspended: 635-043-0105(T)

Subject: Amend rules relating to harassment of non-threatened or non-endangered migratory birds.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-043-0105

Permit Required to Harass Wildlife

Any landowner suffering damage from wildlife (except for bobcat, red fox, cougar, bear, and non-threatened or non-endangered migratory birds) to property that they own or lawfully occupy, and desiring to control the damage by means of harassment shall first secure a Wildlife Harassing Permit by applying to the Department. Harassment of non-threatened or

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non-endangered migratory birds shall not result in the take of migratory birds, their eggs or their nests.

Stat. Auth.: ORS 183 & 496

Stats. Implemented: ORS 183 & 496

Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-025-0225, Renumbered from 635-007-0345; FWC 52-1987, f. & ef. 7-23-87; FWC 49-1991, f. & cert. ef. 5-13-91; FWC 58-1994, f. & cert. ef. 9-1-94; DFW 12-2002, f. & cert. ef. 2-12-02; DFW 37-2009(Temp), f. & cert. ef. 4-13-09 thru 8-31-09; DFW 92-2009(Temp), f. & cert. ef. 8-11-09 thru 2-5-10

Rule Caption: Amendments regarding harvest of game birds, season dates, open areas, and bag limits.

Adm. Order No.: DFW 93-2009

Filed with Sec. of State: 8-12-2009

Certified to be Effective: 8-12-09

Notice Publication Date: 7-1-2009

Rules Amended: 635-008-0050, 635-008-0147, 635-008-0155, 635-045-0000, 635-051-0000, 635-052-0000, 635-053-0000, 635-054-0000, 635-060-0000

Subject: Amended rules regarding the harvest of game birds including 2009–2010 season dates, open areas, regulations and bag limits and proposed 2010–2015 Upland Game Bird Frameworks.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-008-0050

Fish and Wildlife Commission to Post and Enforce Rules

In compliance with authority contained in ORS 496.146(9), and penalties prescribed in ORS 496.992, the following rules are adopted to protect wildlife, fish, lands, and appurtenances or management activities and objectives on lands where title to, or control of, rests in the State of Oregon, acting by and through its Department of Fish and Wildlife. In addition to the requirements and restrictions contained in chapter 635, divisions 011, 021, 045, 046, 050, 051, 052, 053, 054, and 060; the following rules shall apply to all Department wildlife areas referenced in chapter 635, division 008 except as modified by the rules for individual wildlife areas.

(1) In order to further the purposes of ORS 496.012 or to protect public safety, portions of wildlife areas may be posted and closed to all entry. Entering an area posted “closed to entry” is prohibited except by permit.

(2) Leaving garbage and litter on the area is prohibited.

(3) Posted Refuges and Safety Zones are closed to hunting and shooting.

(4) Motor vehicles are prohibited except on parking areas and open roads or as provided for in the following rules.

(5) A permit is required to remove firewood, cut trees, dig or remove artifacts or archeological specimens, minerals, sand, gravel, rock, or any other article, product or material found on the area except for fish and wildlife taken as permitted by law.

(6) A permit is required to graze livestock except riding and pack animals in actual use for recreational purposes. Trespass livestock may be removed and/or impounded at the owner's expense in compliance with ORS Chapter 607.

(7) No person shall display behavior which unreasonably deters, distracts or hinders others in the peaceable enjoyment of the area.

(8) The Department may evict any person from the area for any violation of any department rules or regulations or when continued presence of that person could cause a threat to the rights and safety of others or property.

(9) No person, commercial vendor or company shall dispense or sell material, goods or items on the area, except by permit.

Stat. Auth.: ORS 498

Stats. Implemented: ORS 498

Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005; FWC 53-1994, f. & cert. ef. 8-25-94; DFW 93-2009, f. & cert. ef. 8-12-09

635-008-0147

Rules Regarding Public Use for Sauvie Island Wildlife Area

The Sauvie Island Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the Sauvie Island Wildlife Area Long Range Plan unless otherwise excluded or restricted by the following rules:

(1) Hunting is prohibited except by permit.

(2) Discharging firearms is prohibited except for shotguns on designated Dog Training Areas, Trapshooting Areas, or as authorized during game bird and game mammal season, or by permit.

(3) Public use is prohibited from 10 p.m. to 4 a.m. daily, except by permit.

(4) Camping is prohibited except on areas designated for that use, or by permit.

(5) All dogs must be on leash, except when in the designated dog training area, or by permit.

(6) Open fires are prohibited, except by permit.

(7) Any vehicle found parked or unattended on the wildlife area between the hours of 10 p.m and 4 a.m., or obstructing public access, may be towed at the expense of the registered owner or owners.

(8) No person shall possess or use lead shot at any time on the area.

(9) Horses and bicycles are restricted to roads open to vehicles, or by permit.

(10) Portions of Sauvie Island Wildlife Area are closed to all entry except by hunting permit during authorized waterfowl hunting seasons.

(11) Portions of Sauvie Island Wildlife Area will be closed from the end of waterfowl hunting season through April 30 each year.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162 & 496.992

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162 & 496.992

Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(16); FWC 12-1990, f. & cert. ef. 2-2-90, Renumbered from 635-008-0150; FWC 8-1993, f. & cert. ef. 2-8-93; FWC 53-1994, f. & cert. ef. 8-25-94; DFW 26-2009(Temp), f. & cert. ef. 3-11-09 thru 8-10-09; DFW 32-2009(Temp), f. & cert. ef. 3-30-09 thru 8-10-09; DFW 93-2009, f. & cert. ef. 8-12-09

635-008-0155

Summer Lake Wildlife Area

The Summer Lake Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the 2007 Summer Lake Wildlife Area Management Plan unless otherwise excluded or restricted by the following rules:

(1) Posted Refuges are closed to all entry during authorized game bird and game mammal hunting seasons, except to retrieve lawfully taken wildlife, or by permit.

(2) Entering any portion of the Wildlife Area south of Thousand Springs Lane (Lake County Road 4-17), except the Foster Place unit and open roads and campgrounds, between October 2 through 4:00 AM on October 10, 2009 is prohibited.

(3) Discharging firearms is prohibited except as authorized during game bird and game mammal hunting seasons, or by permit.

(4) Motor vehicles and other motor driven modes of transportation are prohibited except on parking areas and open roads, or by permit.

(5) Camping or leaving vehicles unattended is prohibited except on areas designated for that use, and may not exceed 14 days per stay, except by permit.

(6) Running or training of dogs is prohibited except by permit.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162 & 496.992

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162 & 496.992

Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(17); FWC 53-1994, f. & cert. ef. 8-25-94; DFW 118-2007, f. 10-31-07, cert. ef. 1-1-08; DFW 93-2009, f. & cert. ef. 8-12-09

635-045-0000

Purpose

(1) The purpose of these rules is to list definitions pursuant to hunting seasons for big game and game birds.

(2) The documents entitled “**2009-2010 Oregon Game Bird Regulations**”, and “**2009 Oregon Big Game Regulations**”, are incorporated by reference into these rules. These documents are available at hunting license vendors and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 36-1988, f. & cert. ef. 6-13-88; FWC 47-1989, f. & cert. ef. 7-25-89; FWC 14-1990, f. & cert. ef. 2-2-90; FWC 91-1990, f. & cert. ef. 9-4-90; FWC 42-1996, f. & cert. ef. 8-12-96; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 118-2007, f. 10-31-07, cert. ef. 1-1-08; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 150-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 93-2009, f. & cert. ef. 8-12-09

ADMINISTRATIVE RULES

635-051-0000

Purpose

(1) The purpose of these rules is to establish dates, areas and other restrictions for hunting game birds pursuant to ORS Chapter 496.

(2) The document entitled "**2009-2010 Oregon Game Bird Regulations**," is incorporated by reference into these rules.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 8-1988, f. & cert. ef. 9-2-88; FWC 45-1997, f. & cert. ef. 8-13-97; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2003(Temp), f. & cert. ef. 8-26-03 thru 2-20-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 93-2009, f. & cert. ef. 8-12-09

635-052-0000

Purpose

(1) The purpose of these rules is to establish season dates, areas and bag limits for migratory upland game birds pursuant to ORS Chapter 496.

(2) The document entitled "**2009-2010 Oregon Game Bird Regulations**," is incorporated by reference into these rules.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 61-1988, f. & cert. ef. 7-28-88; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 93-2009, f. & cert. ef. 8-12-09

635-053-0000

Purpose

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for hunting upland game birds pursuant to ORS Chapter 496.

(2) The document entitled "**2009-2010 Oregon Game Bird Regulations**," is incorporated by reference into these rules.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 81-1988, f. & cert. ef. 9-2-88; FWC 33-1996, f. & cert. ef. 6-7-96; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 2-2004(Temp), f. 1-13-04, cert. ef. 1-16-04 thru 1-31-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 93-2009, f. & cert. ef. 8-12-09

635-054-0000

Purpose

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for hunting ducks, geese, coots, common snipe and crow pursuant to ORS Chapter 496.

(2) The document entitled "**2009-2010 Oregon Game Bird Regulations**," is incorporated by reference into these rules.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 82-1988, f. & cert. ef. 9-2-88; FWC 45-1997, f. & cert. ef. 8-13-97; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 56-1999(Temp), f. & cert. ef. 12-1-98 thru 12-18-98; DFW 98-1998(Temp), f. & cert. ef. 12-18-98 thru 2-28-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 87-2004(Temp), f. & cert. ef. 8-18-04 thru 9-16-04; Administrative correction 10-25-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 93-2009, f. & cert. ef. 8-12-09

635-060-0000

Purpose and General Information

(1) The purpose of these rules is to describe the requirements and procedures for controlled hunts pursuant to ORS 496.162.

(2) The documents entitled "**2009-2010 Oregon Game Bird Regulations**," and "**2009 Oregon Big Game Regulations**," are incorporated by reference into these rules. These documents are available at hunting license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 118, f. & ef. 6-3-77; FWC 25-1978, f. & ef. 5-26-78; FWC 32-1978, f. & ef. 6-30-78; FWC 29-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 7-1981, f. 2-18-81, ef. 6-1-81; FWC 10-1981, f. & ef. 3-31-81; FWC 22-1981, f. & ef. 6-29-81; FWC 21-1982, f. & ef. 3-31-82; FWC 38-1982, f. & ef. 6-25-82; FWC 34-1984, f. & ef. 7-24-84; FWC 16-1985, f. & ef. 4-11-85; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 40-1987, f. & ef. 7-6-87; FWC 12-1988, f. & cert. ef. 3-10-88; FWC 37-1988, f. & cert. ef. 6-3-88; FWC 14-1989, f. & cert. ef. 3-28-89; FWC 48-1989, f. & cert. ef. 7-25-89; FWC 23-1990, f. & cert. ef. 3-21-90; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 28-2002(Temp), f. 4-1-02, cert. ef. 4-2-02 thru 9-28-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 118-2007, f. 10-31-07, cert. ef. 1-1-08; DFW 60-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 93-2009, f. & cert. ef. 8-12-09

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Rule Caption: Pacific Halibut All-Depth and Nearshore Sport Fisheries Closed from Cape Falcon to Humbug Mountain.

Adm. Order No.: DFW 94-2009(Temp)

Filed with Sec. of State: 8-14-2009

Certified to be Effective: 8-16-09 thru 12-31-09

Notice Publication Date:

Rules Amended: 635-039-0085

Subject: Amended rule closes the sport fishery for Pacific halibut in the area between Cape Falcon and Humbug Mountain, Oregon, at 11:59 p.m. on Sunday, August 16, 2009 when the quota of 180,088 pounds is projected to have been taken. This rule is consistent with regulations that have been implemented by the federal government and the International Pacific Halibut Commission for the 2009 Oregon recreational fishery for Pacific halibut.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-039-0085

Halibut Seasons

(1) The Pacific halibut sport fishery in Oregon is regulated by the federal government and the International Pacific Halibut Commission (IPHC). OAR chapter 635, division 039 incorporates into Oregon Administrative Rules, by reference, modifications or additions to provisions determined by the IPHC and to the extent they are consistent with Title 50 of the Code of Federal Regulations, Part 300, Subpart E (61FR35550, July 5, 1996) Vol. 74, No. 52, dated March 19, 2009 and Vol. 24, No. 78 (corrections), dated April 24, 2009 and as amended by Federal Regulations. Therefore, persons must consult the Federal Regulations in addition to Division 039 rules to determine applicable halibut fishing seasons.

(2) Effective 11:59 p.m., Sunday, August 16, 2009 the Central Oregon (Cape Falcon to Humbug Mountain, OR) all-depth summer season is closed to the retention of Pacific halibut.

(3) Effective 11:59 p.m., Sunday, August 16, 2009 the Central Oregon (Cape Falcon to Humbug Mountain, OR) nearshore season inside the 40-fathom line is closed to the retention of Pacific halibut.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 89-2005(Temp), f. & cert. ef. 8-12-05 thru 12-12-05; DFW 107-2005(Temp), f. 9-14-05, cert. ef. 9-15-05 thru 10-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-19-06; DFW 34-2006(Temp), f. 5-25-06, cert. ef. 5-27-06 thru 8-3-06; Administrative correction 8-22-06; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 35-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 8-2-07; DFW 67-2007(Temp), f. 8-9-07, cert. ef. 8-12-07 thru 9-30-07; DFW 76-2007(Temp), f. 8-17-07, cert. ef. 8-24-07 thru 9-30-07; DFW 84-2007(Temp), f. 9-5-07, cert. ef. 9-15-07 thru 9-30-07; DFW 87-2007(Temp), f. 9-10-07, cert. ef. 9-14-07 thru 10-28-07; DFW 90-2007(Temp), f. 9-19-07, cert. ef. 9-20-07 thru 10-31-07; Administrative correction 11-17-07; DFW 57-2008(Temp), f. 5-30-08, cert. ef. 6-1-08 thru 7-31-08; DFW 81-2008(Temp), f. 7-11-08, cert. ef. 8-2-08 thru 9-30-08; DFW 92-2008(Temp), f. & cert. ef. 8-11-08 thru 9-30-08; DFW 101-2008(Temp), f. 8-25-08, cert. ef. 8-29-08 thru 9-30-08; DFW 107-2008(Temp), f. 9-5-08, cert. ef. 9-7-08 thru 12-31-08; DFW 111-2008(Temp), f. & cert. ef. 9-16-08 thru 12-31-08; DFW 120-2008(Temp), f. 9-25-08, cert. ef. 9-27-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 55-2009(Temp), f. & cert. ef. 5-22-09 thru 8-6-09; DFW 94-2009(Temp), f. 8-14-09, cert. ef. 8-16-09 thru 12-31-09

ADMINISTRATIVE RULES

Department of Geology and Mineral Industries Chapter 632

Rule Caption: Procedures for Transferring the Mined Land Reclamation Program from Columbia County to the State.

Adm. Order No.: DGMI 2-2009(Temp)

Filed with Sec. of State: 8-10-2009

Certified to be Effective: 8-10-09 thru 1-31-10

Notice Publication Date:

Rules Adopted: 632-030-0061

Subject: The rule provides for the transition of surface mining authority from Columbia County to the State as directed by Senate Bill 191A and requested by Columbia County. Specifically, it provides procedures for transfers of operating permits and limited exemptions and a mechanism to avoid a lapse in reclamation financial assurance authority.

Rules Coordinator: Gary W. Lynch—(541) 967-2039, ext. 23

632-030-0061

Repeal of the Columbia County Surface Mining Ordinance

(1) This rule implements the changes made to ORS 517.770, 517.775, and 517.780 by 2009 Enrolled SB 191. This rule provides for transfer of the regulation of mining operations from Columbia County to the Department upon repeal of the Columbia County Surface Mining Ordinance.

(2) Within fourteen days after the effective date of this rule, the Department, with the cooperation and assistance of Columbia County, will notify any person with mining operations subject to a Columbia County operating permit that the County has repealed its surface mining ordinance effective September 1, 2009, and that, after that date, regulation of mining in the County will be subject to the Mined Land Reclamation Act and the Board's rules implementing the Act.

(3) Within thirty days after receiving notice from the Department, any person subject to a County operating permit must:

(a) Revise the person's existing surety bond to add the Department as an obligee under the bond and provide the Department with a copy of the revised bond;

(b) Revise the person's existing surety bond to substitute the Department for the County as the obligee under the bond and provide the Department with a copy of the revised bond;

(c) Transfer any existing assignment of deposit held by Columbia County as financial security for an operating permit to the Department; or

(d) Secure a new surety bond on a form approved by the Department in the same amount as the existing surety bond or alternative form of financial security required by the County.

(4) Within 60 days after the effective date of the repeal of the Columbia County surface mining ordinance, a person operating under a County operating permit must submit a complete application for a new operating permit to the Department as provided in OAR 632-030-0020, or the person may apply to the Department to terminate mining operations in accordance with the reclamation plan authorized in the County permit. The application for a new operating permit must comply with OAR 632-030-0015 and include all applicable fees. The Department may reject any incomplete application.

(5) The Department will determine whether it will allow mining operations to continue on an interim basis for a period not to exceed one year under the Columbia County permit while the new permit application with the Department is pending or whether it will require operations to be terminated and reclaimed under the County operating permit and reclamation plan. The Department will notify the permit applicant of the Department's decision. The Department will not allow a mining operation that is subject to a County closure or suspension order on the effective date of the repeal of the County's Surface Mining Ordinance to operate on an interim basis while a new permit application is being processed. Any such operation must be terminated and reclaimed.

(6) If the Department allows mining to continue on an interim basis under the Columbia County operating permit, the Department will review the application, mining plan, existing reclamation plan, and the conditions in the County operating permit. The Department will also review the amount of the bond or alternative form of financial security required by the County. The Department may require the amount of the bond or alternative form of financial security to be increased as a condition for interim operation under the County permit.

(7) The Department will issue a new operating permit or deny the application for a new permit within 12 months after receiving a complete application as provided in subsection (4) of this rule.

(8) Within 90 days after the effective date of the repeal of the Columbia County Surface Mining Ordinance, any person operating under a County certificate of limited exemption must submit a complete application to the Department to transfer the limited exemption to the Department. The application must be submitted on a form approved by the Department and must include an aerial map showing the exemption boundaries, appropriate fees, and a proposed erosion control plan. The Department will review the application and erosion control plan and may require the applicant to submit additional information or revisions to the erosion control plan. Within 90 days after receiving the application, the Department will approve or disapprove the application for a limited exemption. If the Department fails to act on the application within 90 days after receiving the application, the application will be deemed to be approved.

Stat. Auth.: ORS 516.090, 517.780, 517.800 & 517.840

Stats. Implemented: ORS 517.770, 517.775, 517.780, 517.790 & 2009 SB 191

Hist.: DGMI 2-2009(Temp), f. & cert. eff. 8-10-09 thru 1-31-10

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

Rule Caption: Amend OAR 309-040 to include the opportunity for Adult Foster Home residents to file Advance Directives.

Adm. Order No.: MHS 4-2009(Temp)

Filed with Sec. of State: 8-6-2009

Certified to be Effective: 8-6-09 thru 2-2-10

Notice Publication Date:

Rules Amended: 309-040-0410

Subject: The Addictions & Mental Health Division is amending rules in OAR 309-010 to require Adult Foster Homes to offer information & assistance with understanding & filming Advance Directives.

Rules Coordinator: Richard Luthe—(503) 947-1186

309-040-0410

Residents' Rights, Complaints, and Grievances

(1) Residents' Bill of Rights.

(a) The Provider will guarantee the Residents' Bill of Rights as described in ORS 443.739. The provider will post them in a location that is accessible to residents, parents/guardian/advocates. A copy of the Residents' Bill of Rights will be given to each resident and parent/guardian/advocate along with a description of how to exercise these rights.

(b) The provider will explain and document in the resident's file that a copy of the Resident's Bill of Rights is given to each resident at admission, and is posted in a conspicuous place including the name and phone number of the office to call in order to report complaints. The Bill of Rights states each resident has the right to:

(A) Be treated as an adult, with respect and dignity;

(B) Be encouraged and assisted to exercise constitutional and legal rights as a citizen including the right to vote and be informed of all house rules;

(C) Receive appropriate care and services and prompt medical care as needed. Be informed of the resident's medical condition and the right to consent to or refuse treatment;

(D) Adequate personal privacy and privacy to associate and communicate privately with any person of choice, such as family members, friends, advocates, and legal, social service and medical professionals, send and receive personal mail unopened, and engage in telephone conversations as explained in 309-040-0365(17); have medical and personal information kept confidential;

(E) Have access to and participate in activities of social, religious, and community groups;

(F) Be able to keep and use a reasonable amount of personal clothing and belongings and to have a reasonable amount of private, secure storage space.

(G) Be free of discrimination in regard to race, color, national origin, sex, religion, sexual orientation, or disability;

(H) Manage his/her financial affairs unless legally restricted. Be free from financial exploitation. The provider will not charge or ask for application fees or nonrefundable deposits and will not solicit, accept or receive

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money or property from a resident other than the amount agreed to for services;

(I) A safe and secure environment;

(J) Written notices prior to rate increases and evictions;

(K) A written agreement regarding services to be provided and agreed upon rates;

(L) Voice suggestions, complaints, or grievances without fear of retaliation;

(M) Freedom from training, treatment, chemical or physical restraints except as agreed to, in writing, in a resident's PCP. Be free from chemical or physical restraints except as ordered by a physician or other qualified practitioner;

(N) Be allowed and encouraged to learn new skills, to act on their own behalf to their maximum ability, and to relate to residents in an age appropriate manner;

(O) An opportunity to exercise choices including such areas as food selection, personal spending, friends, personal schedule, leisure activities, and place of residence;

(P) Freedom from punishment. Behavior intervention programs must be approved in writing on the resident's PCP;

(Q) Freedom from abuse and neglect;

(R) The opportunity to contribute to the maintenance and normal activities of the household;

(S) Access and opportunity to interact with persons with/without disabilities;

(T) The right not to be transferred or moved out of the adult foster home without 30 days' advance written notice and an opportunity for a hearing as described in ORS 443.738(11)(b) and OAR 411-088-0080. A provider may transfer or discharge a resident only for medical reasons including a medical emergency described in ORS 443.738(11)(a), or for the welfare of the resident or other residents, or for nonpayment; and

(U) Utilize advance directives. Advance directives will be explained to each resident upon admission. If the resident does not already have any advance directive or directives, he or she will be given an opportunity to complete them. If any advance directives are completed by the resident the provider shall document these directives in the resident's record.

(2) Complaints and Grievances. Any person who believes these rules have been violated may file a complaint with the Department and/or CMHP. OMHAS and/or CMHP will investigate any complaint or grievance regarding the AFH.

(3) Complaint and Grievance Notice. The OMHAS and/or CMHP will furnish each Adult Foster Home with a Complaint and Grievance Notice, which must be posted in a conspicuous place stating the telephone number of OMHAS and the CMHP and the procedure for making complaints or grievances.

(4) Complaint and Grievance Actions. A copy of all Adult Foster Home complaints or grievances will be maintained by OMHAS. All complaints or grievances and actions taken on the complaint or grievance, indexed by the name of the provider, will:

(a) Be placed into the public file at OMHAS. Information regarding the investigation of the complaint or grievance will not be filed in the public file until the investigation has been completed;

(b) Protect the privacy of the complainant or grievant and the resident; and

(c) Treat the names of the witnesses as confidential information.

(5) Substantiated Complaints or Grievances. Providers who acquire substantiated complaints or grievances pertaining to the health, safety or welfare of residents may have their licenses suspended, revoked or not renewed, or may have conditions placed on the license.

(6) Retaliation Against a Resident. The Adult Foster Home provider, resident manager, or caregiver will not retaliate in any way against any resident after a complaint or grievance has been filed with the Department. Retaliation may include, but is not limited to:

(a) Increasing charges or threatening to increase charges;

(b) Decreasing or threatening to decrease services, rights or privileges;

(c) Threatening to increase charges or decrease services, rights or privileges;

(d) Taking or threatening to take any action to coerce or compel the resident to leave the Adult Foster Home; or

(e) Abusing, harassing, or threatening to abuse or harass a resident in any manner.

(7) Retaliation Against Others. A complainant, grievant, witness or caregiver of an Adult Foster Home will not be subject to retaliation by a provider, or resident manager, or substitute caregiver for making a report or

being interviewed about a complaint or being a witness. Retaliation may include, but is not limited to, caregiver dismissal or harassment, or restriction of access to either the Adult Foster Home or a resident.

(8) Immunity. The complainant will have immunity from any civil or criminal liability with respect to the making or content of a complaint or grievance made in good faith.

(9) Public Complaint Files. Any person has the right to inspect and receive a photocopy of the public complaint files, including protective services files, maintained by the Department upon written request subject to the Department's procedures, ORS 192.410 through 192.505, and photocopy charges for public record requests.

Stat. Auth.: ORS 409.010, 409.050 & 443.735

Stats. Implemented: ORS 127.700 - 127.737 & 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); Renumbered from 309-040-0065, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 4-2009(Temp), f. & cert. ef. 8-6-09 thru 2-2-10

Department of Human Services,

Children, Adults and Families Division:

Child Welfare Programs

Chapter 413

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 8-2009

Filed with Sec. of State: 7-29-2009

Certified to be Effective: 8-3-09

Notice Publication Date: 7-1-2009

Rules Amended: 413-015-0470

Subject: OAR 413-015-0470 about the disposition notifications the Department provides as a result of a Child Protective Services (CPS) assessment is being amended to state that written notification is required for all CPS assessment dispositions unless supervisory approval for an exception is obtained. This rule also is being amended to state that when the perpetrator is the parent or caregiver of the victim, the notice must indicate whether the Department will provide services as a result of the CPS assessment. This rule also is being amended to require the Department to document that notification was attempted or made within five business days of supervisory approval of the CPS assessment.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-015-0470

Notifications

(1) Requirements for Providing Notifications. The CPS worker must:

(a) Unless the Department determines that disclosure is not permitted under ORS 419B.035, notify the reporter, if the reporter provided the Department with contact information, whether contact was made, whether the Department determined that child abuse or neglect occurred, and whether services will be provided.

(b) Provide the child's parents, including a non-custodial legal parent, and caregivers written notification of all CPS assessment dispositions (unfounded, unable to determine, or founded) and whether the Department will provide services as a result of the CPS assessment. When the child's parent is the perpetrator, the notice under subsection (c) of this section also must be provided. If notification may make a child or adult unsafe, a CPS supervisor may authorize an exception to the requirement to provide notification based on documentation supporting that conclusion.

(c) Provide perpetrators written notification of founded dispositions. This written notification must include information about the founded disposition review process as outlined in Child Welfare Policy I-A.6.1, "Notice and Review of CPS Founded Dispositions", OAR 413-010-0700 to 413-010-0750. When the perpetrator is the parent or caregiver of the victim, the notice also must include whether the Department will provide services as a result of the CPS assessment. If the notification could make a child or adult unsafe, a CPS supervisor may authorize an exception to the requirement to provide notification based on documentation that supports this conclusion.

(2) Documentation of Notifications. The CPS worker must document that the notifications described in this rule have been attempted or made within the following time lines:

(a) Prior to completing the CPS assessment for a notification provided under subsection (1)(a) of this rule.

(b) Within five business days of supervisory approval of the CPS assessment for a notification provided under subsection (1)(b) or (1)(c) of this rule.

Stat. Auth.: ORS 418.005

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Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.005 - 419B.050
Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 8-2009, f. 7-29-09, cert. ef. 8-3-09

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 9-2009(Temp)

Filed with Sec. of State: 8-12-2009

Certified to be Effective: 8-12-09 thru 12-28-09

Notice Publication Date:

Rules Adopted: 413-010-0505, 413-010-0515, 413-090-0135

Rules Amended: 413-090-0000, 413-090-0010, 413-090-0030, 413-090-0130, 413-090-0150

Rules Suspended: 413-010-0505(T), 413-010-0515(T), 413-090-0000(T), 413-090-0010(T), 413-090-0030(T), 413-090-0130(T), 413-090-0135(T), 413-090-0150(T)

Subject: OAR 413-010-0505, which was adopted by temporary rule on July 1, 2009 and concerns hearing requests about payments made in various child welfare programs, is being amended to set out the process that applies when the Department sends a contested case notice by regular mail and then receives a late hearing request.

OAR 413-010-0515, which was adopted by temporary rule on July 1, 2009 and concerns continuation of benefits pending a hearing about payments made in various child welfare programs, is being amended to state exceptions in which continuing benefits are not provided.

OAR 413-090-0000 and 413-090-0030 — which were amended by temporary rule on July 1, 2009 and concern payment for family foster care, enhanced supervision, and residential treatment — are being further amended to make minor changes clarifying the rules.

OAR 413-090-0010 — which was amended by temporary rule on July 1, 2009 and concerns eligibility for payments for family foster care, shelter care, enhanced shelter care, enhanced supervision, and residential treatment — is being further amended to state the payment rates, provide further detail about the eligibility requirements for these rates, and clarify the rule.

OAR 413-090-0130 (which was amended by temporary rule on July 1, 2009 and concerns the eligibility of a child or young adult for personal care services) and 413-090-0135 (which was adopted by temporary rule on July 1, 2009 and concerns provider eligibility requirements for personal care services) are being further amended to make minor changes clarifying the rules.

OAR 413-090-0150 — which was amended by temporary rule on July 1, 2009 and concerns payment determinations for personal care services when a child or young adult is placed with a foster parent or relative caregiver by the Department — is being further amended to state the payment rates and the further detail about the eligibility requirements for these rates.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-010-0505

Hearing Requests

For a contested case covered by these rules (OAR 413-010-0500 to 413-010-0535):

(1) A request for a hearing is complete when the Department's Administrative Hearing Request form is completed and signed by the claimant or the claimant's representative and is received by the Department.

(2) To be timely, a completed hearing request must be received by the Department not later than 30 days following the mailing date of the notice.

(3) In the event a request for a hearing is not timely, OAR 137-003-0528 applies except to the extent provided otherwise in section (4) of this rule.

(4) If a contested case notice was sent by regular mail, and the claimant or claimant's representative indicates that neither the claimant nor claimant's representative received or had actual knowledge of the contested case notice:

(a) The Department shall advise the claimant or claimant's representative of the right to request a hearing under subsection (b) of this section.

(b) When the Department receives a hearing request that is not timely (see section (2) of this rule) no later than 60 days after the deadline under section (2) of this rule:

(A) If the Department finds that the claimant and claimant's representative did not receive the written notice and did not have actual knowl-

edge of the notice, the Department refers the request for hearing to the Office of Administrative Hearings (OAH) for a contested case hearing on the merits of the Department's action described in the notice.

(B) When paragraph (A) of this subsection does not apply, the Department refers the request for hearing to the Office of Administrative Hearings for a contested case proceeding to determine whether the claimant or claimant's representative received the written notice or had actual knowledge of the notice. The Department must show that the claimant or claimant's representative had actual knowledge of the notice or that the Department mailed the notice to the correct address of the claimant or claimant's representative.

(5) In the event there is no right to a contested case hearing on an issue, the Department may enter an order accordingly. The Department may refer a hearing request to the Office of Administrative Hearings for a decision on the question of whether there is a right to a contested case hearing.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005, 2009 OL ch. 126

Hist.: CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 9-2009, f. & cert. ef. 8-12-09

413-010-0515

Continuation of Benefits

(1) When the Department terminates or reduces benefits or services under subsections (1)(a) to (1)(f) of OAR 413-010-0500, a claimant may receive continuing benefits to the extent provided in this rule while the contested case is pending until a final order is issued in the case. Continuing benefits are not available to maintain benefits or services at a level for which the only issues in the contested case hearing are issues of state or federal law or policy or change in state or federal law or policy.

(2) To be entitled to continuing benefits, the claimant must indicate that the claimant wants continuing benefits on the hearing request form received by the Department.

(3) To the extent the Department's action is sustained by the hearing decision, a dismissal of the hearing request, or the withdrawal of a hearing request by the claimant, the Department may institute recovery procedures to recoup the cost of any continuing benefits to the extent they were furnished solely by reason of this rule.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005

Hist.: CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 9-2009, f. & cert. ef. 8-12-09

413-090-0000

Purpose

These rules, OAR 413-090-0000 to 413-090-0050, describe the responsibilities of the Department for payment of costs on behalf of an eligible child or young adult placed by the Department with a substitute caregiver, including payment to:

(1) A foster parent or relative caregiver for:

(a) The foster care base rate;

(b) Effective September 1, 2009, the cost of enhanced supervision;

(c) The cost of housing the child of a dependent minor, unless the dependent minor parent receives benefits under a program administered by the Department of Human Services under Chapter 461 of the Oregon Administrative Rules; or

(d) The cost of family group home care.

(2) A provider of residential treatment services.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 9-2003, f. & cert. er. 1-7-03; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 9-2009, f. & cert. ef. 8-12-09

413-090-0010

Eligibility for Payments

(1) Family Foster Care.

(a) The Department reimburses a foster parent or relative caregiver a base rate on behalf of an eligible child or young adult in the Department's physical or legal custody who is placed by the Department in the foster parent or relative caregiver's home. Payment for the base rate is made on a monthly basis, or prorated for a portion of a month, after the month in which the care has been provided. The reimbursement period includes the day the child or young adult enters the home, but excludes the day the child or young adult leaves the home.

(b) Effective September 1, 2009, the Department provides payment of the base rate of \$639 per month for a child under six years old, \$728 per month for a child six through twelve years old, and \$823 per month for a child or young adult 13 through 20 years old.

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(c) The base rate includes the following categories:

- (A) Food — including the cost to cover a child or young adult's special or unique nutritional needs;
- (B) Clothing — including purchase and replacement;
- (C) Housing — including maintenance of household utilities, furnishings, and equipment;

(D) Daily supervision — including teaching and directing to ensure the child or young adult is attended to appropriate to his or her age and developmental level and to ensure safety;

(E) Personal incidentals — including personal care items, entertainment, reading materials, and miscellaneous items; and

(F) The cost of providing transportation — including local travel associated with expenditure for gas and oil, vehicle maintenance and repair, and transportation to and from extracurricular, child care, recreational, and cultural activities.

(2) **Shelter Care.** The Department reimburses a foster parent or relative caregiver a shelter care rate on behalf of an eligible child or young adult during the first 20 days of substitute care after the Department has obtained physical or legal custody of the child or young adult. The daily shelter care rate is \$24.60 for a child under six years old, \$28.00 for a child six through twelve years old, and \$31.60 per month for a child or young adult 13 through 20 years old.

(3) **Enhanced Shelter Care.** Effective September 1, 2009, the Department reimburses a foster parent or relative caregiver an enhanced shelter care rate on behalf of an eligible child or young adult during the first 20 days of substitute care in the first foster care or relative caregiver home after a child or young adult has resided in a residential treatment placement unless an enhanced supervision level of care has been determined.

(4) **Enhanced supervision.** Payment to a foster parent or relative caregiver for enhanced supervision responsibilities on behalf of an eligible child or young adult is made when the CANS screening indicates the child meets one of three levels of care at an amount determined by the Department.

(a) If the child or young adult qualifies as Level 1 (moderate needs), the payment is \$212 per month.

(b) If the child or young adult qualifies as Level 2 (intermediate needs), the payment is \$414 per month.

(c) If the child or young adult qualifies as Level 3 (advanced needs), the payment is \$850 per month.

(5) The Department reimburses a foster family group home on behalf of an eligible child or young adult as provided in the signed contract between the Department and the foster parent or relative caregiver.

(6) Effective September 1, 2009, the Department reimburses a foster parent or relative caregiver for room and board (see subsection (1)(b) of this rule) for the child of a dependent minor parent when the dependent minor parent does not receive other public assistance for the dependent minor parent's child or have other means of financial support.

(7) **Residential Treatment.** Payment by the Department to a residential treatment care provider on behalf of an eligible child or young adult is made as provided in the signed contract between the Department and the residential treatment provider.

(8) **Payments prohibited.**

(a) Payment cannot be made for two simultaneous 24 hour substitute care services.

(b) Neither payment nor utilization credit may be given for simultaneous contracted treatment services, such as day treatment and residential treatment.

(c) The Department will not authorize payment for the care of a child or young adult in a home or facility supported by public funds and maintained only as a secure facility for individuals under the jurisdiction of a juvenile court.

(d) Any exception to this rule must be approved in writing by the Director, or if for a Target Planning Child, by the CAF Target Planning and Consultation Committee. Exceptions will be considered only when federal funds will not be claimed.

(9) A payment by the Department under this rule to a foster parent or relative caregiver is inalienable by any assignment or transfer and exempt from execution, levy, attachment, garnishment, and other legal process under the laws of the state of Oregon.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.470, 418.625

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 2-1999, f. & cert. ef. 3-5-99; SOSCF 20-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 9-2003, f. & cert. er. 1-7-03; CWP 20-2003(Temp), f. 1-31-03 thru 7-30-03; CWP 27-2003, f. & cert. ef. 7-31-03; CWP 34-2003(Temp), f. 10-31-03, cert. ef. 11-13-03 thru 4-28-04; CWP 7-2004, f. & cert. ef. 4-1-04; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 28-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 10-2008, f. 6-

27-08, cert. ef. 6-28-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 9-2009, f. & cert. ef. 8-12-09

413-090-0030

Payment for Temporary Absences

(1) **Family Foster Care:**

(a) During a child or young adult's temporary absence, continued payment may be made to the foster parent or relative caregiver for no longer than 14 days, when:

(A) The plan is for the child or young adult to return to the care of the same foster parent, relative caregiver, or provider; and

(B) No other foster parent or relative caregiver is receiving a payment for the child or young adult during the period of the absence.

(b) The caseworker may authorize payment for up to seven days for a child or young adult's temporary absence from the home of the foster parent or relative caregiver for a home visit, vacation, or special activity or when the child or young adult has run away from the home.

(c) The caseworker must obtain authorization from the District Manager or designee for payment for more than seven days but less than the maximum of fourteen days for a child or young adult's temporary absence from the home of the foster parent or relative caregiver.

(d) **Hospitalization.** The foster parent or relative caregiver continues to receive payment when 24-hour medical care is required and the foster parent or relative caregiver continues to exercise caregiving responsibilities in anticipation of the return of the child or young adult. (Hospitalization for medical treatment is not considered a substitute care placement with a duplicate payment.)

(2) **Residential Treatment.**

(a) A payment or utilization credit may be made to a contracted provider of residential treatment for no longer than 14 days when the child or young adult is on a home visit or planned visit to another provider in the following circumstances:

(A) The visit is part of planned activities identified in the BRS service plan of the child or young adult. Caseworkers will be aware of the inclusion of planned visits in the service plan due to their involvement in the service planning process as outlined in Child Welfare Policy I-E.4.3, "Residential Services", OAR 413-080-0200 to 413-080-0270.

(B) The assigned caseworker is informed prior to the visit taking place.

(b) Although a child or young adult may be allowed more than four consecutive visit days or eight total days per month, Department workers may not authorize payment or utilization credit for more than four consecutive days or eight total visit days per month under any circumstances.

(c) Department workers may not authorize payment or utilization credit for days a child or young adult has runaway before physically entering a provider's facility or therapeutic foster home or for days after the child or young adult has physically left a provider's facility or a therapeutic foster home as discharged.

(d) **Hospitalization.** The provider will continue to receive payment when 24-hour medical care is required for a maximum of 14 days when the provider continues to exercise caregiving responsibilities in anticipation of the return of the child or young adult. (Hospitalization for medical treatment is not considered a substitute care placement with a duplicate base rate payment.)

(e) **Planned Visits to Another Provider.** It is the responsibility of the purchase-of-care provider to reimburse the resource that the child or young adult visits at a reasonable rate to be agreed upon by both parties. The Department does not authorize payments to two providers for a child or young adult at the same time.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 20-1999, f. 9-15-99, cert. ef. 9-20-99; CWP 9-2003, f. & cert. er. 1-7-03; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 9-2009, f. & cert. ef. 8-12-09

413-090-0130

Personal Care Services Eligibility

To receive personal care services, a child or young adult must:

(1) Be placed outside of the child or young adult's home by the Department, either through a voluntary custody or placement agreement

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between the Department and the child's parent or legal guardian or a court order;

(2) Be eligible to receive medical services funded through either the state general fund or Title XIX;

(3) Be ineligible for Supplemental Security Income (SSI);

(4) Have no available resources from the natural support system of friends, neighbors, or other community resources; and

(5) Have a documented, diagnosed physical or mental impairment and needs which can be met through provision of personal care services.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; SOSCF 6-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 9-2009, f. & cert. ef. 8-12-09

413-090-0135

Provider Eligibility

For a provider to provide personal care services covered under OAR 413-090-0150, the Contract Registered Nurse or Personal Care RN Manager must:

(1) Determine the individual is a qualified provider under OAR 413-090-0110(9); and

(2) When the personal care services require the provider to perform a delegated nursing task, the Contract Registered Nurse or Personal Care RN Manager must follow the applicable requirements in OAR 851-047-0000 to 851-047-0040 when delegating the nursing task, and leave procedural guidance for the provider, which is not transferable to another individual.

Stat. Auth. ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 9-2009, f. & cert. ef. 8-12-09

413-090-0150

Payment Determination

(1) Payment for providing the personal care services identified in the personal care services assessment is based on the child or young adult meeting a level of care that corresponds to the needs identified in the personal care service assessment as determined by the Department.

(a) If the child or young adult qualifies as Level 1 (moderate needs), the payment is \$207 per month.

(b) If the child or young adult qualifies as Level 2 (intermediate needs), the payment is \$413 per month.

(c) If the child or young adult qualifies as Level 3 (advanced needs), the payment is \$620 per month.

(d) If the child or young adult qualified as Level 4 (exceptional needs), the payment is \$620 per month and additional personal care services authorized by the Department.

(2) Payment for personal care services is effective on the first day of the month in which an approved personal care services plan was signed or the first day the child or young adult was placed in the home, whichever is later.

(3) Personal care authorizations in effect prior to July 1, 2009 remain in effect through August 31, 2009 without the required annual review, unless the child or young adult is no longer placed with the authorized foster parent or relative caregiver.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 19-1999, f. 9-15-99, cert. ef. 9-20-99; SOSCF 6-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 20-2006(Temp), f. & cert. ef. 10-13-06 thru 4-10-07; CWP 5-2007, f. 3-30-07, cert. ef. 4-1-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 9-2009, f. & cert. ef. 8-12-09

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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 17-2009(Temp)

Filed with Sec. of State: 7-29-2009

Certified to be Effective: 8-1-09 thru 1-28-10

Notice Publication Date:

Rules Amended: 461-115-0050

Subject: OAR 461-115-0050 about when an application for program benefits must be filed is being amended in response to House Bill

2116 (2009) to state that the Department may redetermine the eligibility of a child under 19 years of age for Extended Medical Assistance (EXT), Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), Oregon Health Plan (OHP), Oregon Supplemental Income Program Medical (OSIPM), Qualified Medicare Beneficiaries (QMB), or Medical Coverage for Children in Substitute or Adoptive Care (SAC) program benefits using the administrative rules in effect on October 1, 2009 and January 1, 2010 when the child applied for and was denied EXT, MAA, MAF, OHP, OSIPM, QMB, or SAC program benefits between July 1, 2009 and December 31, 2009 for a reason other than failing to complete the application. This rule also is being amended, in response to House Bill 2116 (2009), to allow clients in the EXT, MAA, MAF and OHP (except Oregon Health Plan Adults (OHP-OPU) who must use a Department specified application form), programs to change programs using the current application under certain conditions.

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 a completed application, 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 each individual 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, except an *electronic application* (see OAR 461-001-0000) meets the requirements of this paragraph only when submitted to and received by the Department with an electronic signature.

(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* (see OAR 461-110-0370) 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), under 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.

(f) When the Department determines a child less than 19 years of age with a *date of request* from July 1, 2009 through December 31, 2009 is not eligible for EXT, MAA, MAF, OHP, OSIPM, QMB, or SAC program benefits for a reason other than failure to complete the application requirements under OAR 461-115-0020, and the Department chooses to redetermine the child's eligibility for EXT, MAA, MAF, OHP, OSIPM, QMB, and SAC program benefits under the administrative rules in effect on October 1, 2009 and January 1, 2010.

(4) When a client establishes a new *date of request* (see OAR 461-115-0030) prior to the end of the month following the month of case closure, unless the Department determines a new application is required, a new application is not required in the following situations:

(a) In the OSIPM program, when the client's case closed due to failure to make a liability payment required under OAR 461-160-0610.

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(b) In the OSIPM-EPD program, when the client's case closed due to failure to make a participant fee payment required under OAR 461-160-080.

(5) 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.

(6) 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, other than a newborn child, to a *benefit group* 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.

(7) A client whose TANF grant is closing may request ERDC orally or in writing.

(8) Except for an applicant for the FS program and an applicant for the OHP-OPU program who must use the *OHP 7210R Application* (see OAR 461-135-1125), a client may change between programs administered by the Department using the current application if the following conditions are met:

(a) The client makes an oral 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.

Stat. Auth: ORS 409.050, 411.060, 411.070, 411.816, 412.049 & 414.042

Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.816, 412.049 & 414.042

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; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 17-2009(Temp), f. 7-29-09, cert. ef. 8-1-09 thru 1-28-10

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

Adm. Order No.: SSP 18-2009(Temp)

Filed with Sec. of State: 7-29-2009

Certified to be Effective: 8-1-09 thru 1-28-10

Notice Publication Date:

Rules Amended: 461-125-0170

Subject: OAR 461-125-0170 about when deprivation exists based on the unemployment or underemployment of a primary wage earner (PWE) in the Temporary Assistance for Needy Families (TANF) program is being amended to state the definition for the term "most recent employment," affecting the eligibility of two-parent families in which the PWE separated from his or her most recent employment. This rule is also being amended to state that Parents as Scholars (PAS) program participants who undertake a paid work experi-

ence lasting four months or less and then leave that employment to return to school are not subject to the provision excluding clients from TANF program benefits when they leave a job for a reason that would disqualify them from unemployment compensation benefits.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-125-0170

Deprivation Based on Unemployment or Underemployment of the Primary Wage Earner (PWE); TANF

In the TANF program, deprivation based on the unemployment or underemployment of the primary wage earner (PWE) exists if all the following are true:

(1) A child lives with two parents.

(2) The PWE is unemployed or underemployed.

(3) The PWE is not participating in a labor dispute.

(4) The PWE is not separated from his or her *most recent employment* (see OAR 461-135-0070) for any of the following reasons:

(a) Discharged or fired for misconduct, felony, or theft;

(b) Labor dispute; or

(c) Voluntary quit:

(A) In anticipation of discharge;

(B) In anticipation of quit; or

(C) Without good cause.

(5) Section (4) of this rule does not apply to a Parents as Scholars (PAS) program participant who temporarily becomes ineligible for TANF program benefits for four months or less due to income from a paid work experience (see OAR 461-190-0199), except when discharged or fired for misconduct, felony, or theft.

Stat. Auth.: ORS 411.060, 412.006, 412.016 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 412.006, 412.016, 412.049 & HB 2126 (2009)

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 28-1992, f. & cert. ef. 10-1-92; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; SSP 18-2009(Temp), f. 7-29-09, cert. ef. 8-1-09 thru 1-28-10

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

Adm. Order No.: SSP 19-2009(Temp)

Filed with Sec. of State: 7-29-2009

Certified to be Effective: 8-1-09 thru 10-28-09

Notice Publication Date:

Rules Amended: 461-135-0070

Rules Suspended: 461-135-0070(T)

Subject: OAR 461-135-0070 about the specific eligibility requirements in the Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), and Temporary Assistance for Needy Families (TANF) programs is being amended to revise the definition for the term "most recent employment". This rule is also being amended to state when Parents as Scholars (PAS) program participants who undertake a paid work experience lasting four months or less and then leave that employment to return to school are not subject to the provision excluding clients from TANF program benefits when they leave a job for a reason that would disqualify them from unemployment compensation benefits.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-135-0070

Specific Requirements; MAA, MAF, and TANF

(1) To be eligible for the MAA, MAF, or TANF programs, a client must be one of the following:

(a) A *dependent child* (see OAR 461-001-0000). However, dependent children for whom foster care payments are made for more than 30 days are not eligible while the payments are being made for them.

(b) A *caretaker relative* (see OAR 461-001-0000) of an eligible *dependent child*. However, *caretaker relatives* to whom foster care payments are made for more than 30 days are not eligible while the payments are being made for them.

(c) A *caretaker relative* of a *dependent child*, when the *dependent child* is ineligible for MAA, MAF, or TANF because of one of the following reasons:

(A) The child is receiving SSI.

(B) The child is in foster care, but is expected to return home within 30 days.

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(C) The child is ineligible for MAA or MAF because citizenship has not been documented (see OAR 461-115-0705).

(d) An essential person. An essential person is a member of the *household group* (see OAR 461-110-0210) who:

(A) Is not required to be in the filing group;

(B) Provides a service necessary to the health or protection of a member of the *benefit group* (see OAR 461-110-0750) who has a mental or physical disability; and

(C) Is less expensive to include in the *benefit group* than the cost of purchasing this service from another source.

(e) A parent of an unborn, as follows:

(A) For TANF and MAA, any parent whose only child is an unborn child once the mother's pregnancy has reached the calendar month before the month in which the due date falls.

(B) For the TANF and MAA programs, the father of an unborn child, if there is another dependent child in the filing group.

(C) For MAF, a mother whose only child is an unborn once the mother's pregnancy has reached the calendar month immediately before the month in which the due date falls.

(2) A client is eligible for MAA or MAF if the client is:

(a) Eligible for MAA or MAF under OAR 461-135-0010; or

(b) A *minor parent* (see OAR 461-001-0000) ineligible for TANF only because:

(A) The minor refuses to live with a parent or legal guardian as required by OAR 461-135-0080; or

(B) The income of the minor exceeds the income standards because the Department required the minor to return to live with a parent, if the *minor parent* meets the conditions in OAR 461-135-0080(2).

(3) As used in this rule and OAR 461-125-0170, "most recent employment" means the last job held within the previous 12 months from the *date of request* (see 461-115-0030) for TANF program benefits for which the individual worked or was scheduled to work 100 or more hours in the last full calendar month of employment.

(4) The *need group* (see OAR 461-110-0630) is not eligible for TANF program benefits if a *caretaker relative* in the *need group* was separated from his or her *most recent employment* for any of the following reasons:

(a) Discharged or fired for misconduct, felony, or theft;

(b) Labor Dispute; or

(c) Voluntary quit:

(A) In anticipation of discharge;

(B) In anticipation of quit; or

(C) Without good cause.

(5) If the *need group* is not eligible for TANF benefits solely under section (4) of this rule, the *need group* may still be eligible for MAA or MAF.

(6) Section (4) of this rule does not apply to Parents as Scholars (PAS) program participants who temporarily become ineligible for TANF program benefits for four months or less due to income from a paid work experience (see OAR 461-190-0199), except when discharged or fired for misconduct, felony, or theft.

(7) Clients are eligible for MAF even while ineligible for TANF if they are ineligible for TANF only because they are:

(a) Families who would be eligible for the TANF program if they were allowed the following deductions from income:

(A) The earned income deductions authorized by OAR 461-160-0190.

(B) The unearned income support deduction authorized by OAR 461-160-0200.

(b) Self employed families who would be eligible for TANF if the cost of producing the self employment income were subtracted from their gross sales or receipts in accordance with OAR 461-145-0920.

(c) Families that include an ineligible non citizen or the father of an unborn who would be eligible for TANF if the ineligible non citizen's or father's income is counted in accordance with OAR 461-160-0120.

(d) Individuals who would be eligible for TANF if the assets of the following household members were not counted:

(A) An unmarried parent of a dependent child or unborn in the eligibility group.

(B) A child in common of parents in the eligibility group.

(C) The spouse and children of a *caretaker relative* in the *need group* (see OAR 461-110-0630).

(e) The spouse of a *caretaker relative*, but only if the spouse is the parent of a dependent child.

(8) A family is ineligible for TANF if the family meets the requirements of all of the following subsections:

(a) The family lives in Klamath County.

(b) The family meets any of the following conditions:

(A) The family has a single custodial parent who is a member of the Klamath Tribes, or the single custodial parent is not a Klamath Tribes member and at least 50 percent of the dependent children are Klamath Tribes members;

(B) The family has two custodial parents who are members of the Klamath Tribes, or only one of the two custodial parents is a Klamath Tribes member and at least 50 percent of the dependent children are Klamath Tribes members; or

(C) The family has a *caretaker relative* who is not the custodial parent and at least 50 percent of the dependent children are Klamath Tribes members.

(c) The family is eligible for the Klamath Tribes TANF program or would be eligible for the Klamath Tribes TANF program if not for the failure of the family to cooperate with program requirements.

(9) A family is ineligible for TANF if all of the following subsections apply to the family:

(a) A parent, *caretaker relative*, or child is a member of the Siletz Tribe (Confederated Tribes of Siletz Indians of Oregon) and lives in one of the eleven service area counties: Benton, Clackamas, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, or Yamhill counties.

(b) The family includes members who are living in the same household and at least one of the following paragraphs applies:

(A) A two-parent family with one enrolled Siletz tribal member with a shared dependent.

(B) A single-parent family with one enrolled Siletz tribal member.

(C) A non-needy caretaker relative or essential person with one enrolled Siletz tribal member who is a minor.

(D) A pregnant enrolled Siletz tribal member in her eighth month of pregnancy.

(c) The family is eligible for the Siletz Tribes TANF program or would be eligible for the Siletz Tribes TANF program if not for the failure of the family to cooperate with Siletz TANF program requirements.

(10) If a parent or *caretaker relative* covered by section (8) or (9) of this rule fails to follow through with a Department referral to the Klamath or Siletz Tribal TANF program, the entire filing group is ineligible for TANF.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.016 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 412.006, 412.016, 414.047, 412.049 & HB 2126 (2009)

Hist.: AFS 80-1889, f. 12-21-89, cert. ef. 2-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 25-1997(Temp), f. 12-31-97, cert. ef. 1-1-98 thru 4-30-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 26-1998(Temp), f. 12-30-98, cert. ef. 1-1-99 thru 3-31-99; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSI 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09; SSP 19-2009(Temp), f. 7-29-09, cert. ef. 8-1-09 thru 10-28-09

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

Adm. Order No.: SSP 20-2009(Temp)

Filed with Sec. of State: 7-29-2009

Certified to be Effective: 7-29-09 thru 1-25-10

Notice Publication Date:

Rules Amended: 461-145-0330

Subject: OAR 461-145-0330 about how the Department treats proceeds of loans, loan repayments, and interest earned by a lender when determining a client's eligibility is being amended to state that a loan made by a married client receiving long term care services in the Oregon Supplemental Income Program Medical (OSIPM) program that exceeds the resource allowance of the client's spouse is not counted as a resource. This change complies with recent federal legislation (The American Recovery and Reinvestment Act of 2009, Section 5001, Pub. L. 111-5) that provides the Department with enhanced federal matching funds for its Medicaid programs.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-145-0330

Loans and Interest on Loans

(1) This rule covers proceeds of loans, loan repayments, and interest earned by a lender. If the proceeds of a loan are used to purchase an asset, the asset is evaluated under the other rules in this division of rules.

(2) For purposes of this rule:

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(a) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) "Bona fide loan agreement" means an agreement that:

(i) Is enforceable under state law;

(ii) Is in effect at the time the cash proceeds are provided to the borrower; and

(iii) Includes an obligation to repay and a feasible repayment plan.

(B) "Negotiable loan agreement" means a loan agreement in which the instrument ownership and the whole amount of money expressed on its face can be transferred from one person to another (i.e., sold) at prevailing market rates.

(b) In all programs:

(A) "Reverse-annuity mortgage" means a contract with a *financial institution* (see OAR 461-001-0000) under which the *financial institution* provides payments against the equity in the home that must be repaid when the homeowner dies, sells the home, or moves.

(B) The proceeds of a home equity loan or *reverse-annuity mortgage* are considered loans.

(3) For payments that a member of the *financial group* (see OAR 461-110-0530) receives as a borrower to be treated as a loan:

(a) In the FS, GA, GAM, OHP, OSIP, OSIPM, and QMB programs, there must be an oral or written loan agreement, and this agreement must state when repayment of the loan is due to the lender.

(b) In programs other than the FS, GA, GAM, OHP, OSIP, OSIPM, and QMB programs, there must be a written loan agreement, and this agreement must be signed by the borrower and lender, dated before the borrower receives the proceeds of the loan, and state when repayment of the loan is due to the lender.

(4) Payments for a purported loan that do not meet the requirements of section (3) of this rule are counted as unearned income.

(5) When a member of a *financial group* receives cash proceeds as a borrower from a loan that meets the requirements of section (3) of this rule:

(a) In all programs, educational loans are treated according to OAR 461-145-0150.

(b) In the ERDC, EXT, FS, MAA, MAF, OHP, REF, REFM, SAC, and TANF programs, the loan is excluded. If retained after the month of receipt, the loan proceeds are treated in accordance with OAR 461-140-0070.

(c) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) If the loan is a *bona fide loan agreement*, the money provided by the lender is not income but is counted as the borrower's resource if retained in the month following the month of receipt (notwithstanding OAR 461-140-0070).

(B) If the loan is not a *bona fide loan agreement*, the money provided by the lender is counted as income in the month received and is counted as a resource if retained in the month following the month it was received.

(6) Unless the loan is considered a transfer of assets for less than *fair market value* (see section (7) of this rule), when a member of a *financial group* is the lender, effective July 1, 2009 the loan is treated as follows:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) If the loan is both a *negotiable loan agreement* and a *bona fide loan agreement*, the loan is counted as a resource of the lender valued at the outstanding principal balance.

(B) If the loan does not qualify under paragraph (A) of this subsection, the transfer of assets to the borrower may be considered a transfer for less than *fair market value* (see OAR 461-001-0000). If the transfer is not disqualifying, payments against the principal are counted as income to the lender.

(C) Interest income received by the lender is counted as unearned income regardless if the loan is a *bona fide loan agreement*.

(b) In all programs other than the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) The interest payment is counted as unearned income; and

(B) The payment of principal is excluded.

(7) In the GA, GAM, OSIP, OSIPM, and QMB programs, in a transaction occurring on or after July 1, 2006, if a client or a spouse of a client uses funds to purchase a mortgage or to purchase or lend money for a promissory note or loan, the balance of the payments owing to the client or spouse of the client is a transfer of assets for less than *fair market value*, unless all of the following requirements are met:

(a) The total value of the transaction is being repaid to the client or spouse of the client within that individual's actuarial life expectancy as established by the Period Life Table of the Office of the Chief Actuary of the Social Security Administration.

(b) Payments are made in equal amounts over the term of the transaction without any deferrals or balloon payments.

(c) The contract is not cancelled upon the death of the client or the spouse of the client who made the transaction.

Stat. Auth: ORS 411.060, 411.816, 412.014, 412.049 & 414.042

Stats. Implemented: ORS 411.060, 411.816, 412.014, 412.049 & 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; 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 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 20-2009(Temp), f. & cert. ef. 7-29-09 thru 1-25-10

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

Adm. Order No.: SSP 21-2009(Temp)

Filed with Sec. of State: 7-29-2009

Certified to be Effective: 7-29-09 thru 1-25-10

Notice Publication Date:

Rules Amended: 461-145-0380

Subject: OAR 461-145-0380 about how the Department treats pension and retirement plans when determining a client's eligibility is being amended for the Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM), and Qualified Medicare Beneficiary (QMB) programs to state that certain annuities are considered pension and retirement plans, and to remove the requirement (in order for the equity value of the pension or retirement plan to be excluded as a resource) that an individual eligible for periodic or monthly payments under the terms of certain pension and retirement plans must select the payment option that provides for payments commencing on the earliest possible date with payments completed within the individual's actuarial life expectancy. These changes comply with recent federal legislation (The American Recovery and Reinvestment Act of 2009, Section 5001 (Pub. L. 111-5) that provides the Department with enhanced federal matching funds for its Medicaid programs.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-145-0380

Pension and Retirement Plans

(1) Effective July 1, 2009, pension and retirement plans include the following:

(a) Benefits employees receive only when they retire. These benefits can be disbursed in lump-sum or monthly payments.

(b) Benefits that employees are allowed to withdraw when they leave a job before retirement.

(c) The following retirement plans and annuities if purchased by a client with funds from the plans authorized by section 401 of the Internal Revenue Code of 1986:

(A) Traditional Defined-Benefit Plan.

(B) Cash Balance Plan.

(C) Employee Stock Ownership Plan.

(D) Keogh Plan.

(E) Money Purchase Pension Plan.

(F) Profit-Sharing Plan.

(G) Simple 401(k).

(H) 401(k).

(d) Retirement plans and annuities purchased by a client with funds from plans authorized by section 403 of the Internal Revenue Code of 1986 at subsections (a) or (b).

(e) The following retirement plans and annuities if purchased by a client with funds from the plans authorized by section 408 of the Internal Revenue Code of 1986 at subsections (a), (b), (c), (k), (p), or (q), or at section 408A:

(A) Individual Retirement Annuity.

(B) Individual Retirement Account (IRA).

(C) Deemed Individual Retirement Account or Annuity under a qualified employer plan.

(D) Accounts established by employers and certain associations of employees.

(E) Simplified Employee Pension (SEP).

(F) Simple Individual Retirement Account (Simple-IRA).

(G) Roth IRA.

(f) The following retirement plans and annuities offered by governments, nonprofit organizations, or unions:

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- (A) 457(b) Plan.
- (B) 501(c)(18) Plan.
- (C) Federal Thrift Savings Plan under 5 USC 8439.
- (2) An annuity purchased by the spouse (see OAR 461-001-0000) of a client with funds from a retirement plan described in subsection (1)(e) of this rule is not considered a retirement plan and is treated in accordance with 461-145-0020 and 461-145-0022.
- (3) Benefits the client receives from pension and retirement plans are treated as follows:
 - (a) Monthly payments are counted as unearned income.
 - (b) All payments not covered by subsection (a) of this section are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).
 - (4) In the OSIP, OSIPM, and QMB programs:
 - (a) Except for an annuity purchased with funds from a retirement plan described in subsection (1)(e) of this rule:

(A) Effective July 1, 2009, the *equity value* (see OAR 461-001-0000) of a pension or retirement plan is excluded as a resource if the individual is eligible for monthly or periodic payments under the terms of the plan and has applied for those payments.

(B) The *equity value* of all pension and retirement plans not covered by paragraph (A) of this subsection that allow clients to withdraw funds, minus any penalty for withdrawal, is counted as a resource.

(b) The *equity value* of an annuity purchased with funds from a retirement plan described in subsection (1)(e) of this rule is excluded as a resource if it meets the payout requirements of OAR 461-145-0022(10)(c). Otherwise, the *equity value* is counted as a resource.

(5) In the FS program, the value of retirement accounts identified in sections 401(a), 403(a), 403(b), 408, 408(k), 408(p), 408A, 457(b), or 501(c)(18) of the Internal Revenue Code, or in a Federal Thrift Savings Plan account are excluded resources.

(6) In the OHP program, the *equity value* of a pension or retirement plan that allows a client to withdraw funds before retirement is excluded as a resource.

(7) In all programs except the FS, OHP, OSIP, OSIPM, and QMB programs, the *equity value* of a pension and retirement plan that allows a client to withdraw funds before retirement, minus any penalty for early withdrawal, is counted as a resource.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.014, 412.049 & 414.042
Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.014, 412.049 & 414.042
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 21-2009(Temp), f. & cert. ef. 7-29-09 theu 1-25-10

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

Rule Caption: January 1, 2009–December 21, 2010 Health Services Commission's Prioritized List of Health Services with April 1, 2009 modifications and expanded definitions, practice guidelines and condition treatment funded through line 503.

Adm. Order No.: DMAP 26-2009

Filed with Sec. of State: 7-31-2009

Certified to be Effective: 8-5-09

Notice Publication Date: 7-1-2009

Rules Amended: 410-141-0520

Rules Repealed: 410-141-0520(T)

Subject: The Oregon Health Plan (OHP — division 141) — DMAP permanently amended this replacing the temporary 410-141-0520, to:

- Incorporate by reference the Centers for Medicare and Medicaid Services approved biennial January 1, 2009 – December 31, 2010 Oregon Health Services commission's Prioritized List of Health Services, effective retroactively to January 1, 2009.

- Amend the December 31, 2010 Oregon Health Services Commission's Prioritized List of Health Services with interim modifications and technical changes, effective retroactively to April 1, 2009.

- Reinsert the text that the Prioritized list (as referenced above) includes expanded definitions, practice guidelines and condition treatment pairs funded through line 503, effective retroactively to April 1, 2009.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-141-0520

Prioritized List of Health Services

(1) The Prioritized List of Health Services (Prioritized List) is the Oregon Health Services Commission's (HSC) listing of physical health services with “expanded definitions” of Preventive Services and the HSC's practice guidelines, as presented to the Oregon Legislative Assembly. The Prioritized List is generated and maintained by HSC. The HSC maintains the most current list on the HSC website: www.oregon.gov/DHS/healthplan/priorlist/main, or, for a hardcopy contact the Office of Oregon Health Policy and Research. Effective retroactively to January 1, 2009, this rule incorporates by reference the CMS approved January 1, 2009–December 31, 2010 Prioritized List. Effective April 1, 2009, DMAP incorporates by reference the January 1, 2009–December 31, 2010 Prioritized List with technical revisions and interim modifications effective April 1, 2009, that includes expanded definitions, practice guidelines and condition treatment pairs funded through line 503.

(2) Certain Mental Health services are only covered for payment when provided by a Mental Health Organization (MHO), Community Mental Health Program (CMHP) or authorized Fully Capitated Health Plan (FCHP) or Physician Care Organization (PCO). These codes are identified on their own Mental Health (MH) section of the appropriate lines on the Prioritized List of Health Services.

(3) Chemical dependency (CD) services are covered for eligible OHP clients when provided by an FCHP, PCO, or by a provider who has a letter of approval from the Office of Mental Health and Addiction Services and approval to bill Medicaid for CD services.

Stat. Auth.: SB 163 (2007), 2007 OL Ch. 798, ORS 409.010 & 409.050

Stats. Implemented: ORS 414.065, 414.727, 414.050, 414.010, 192.518 - 192.526

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 33-1998, f. & cert. ef. 9-1-98; OMAP 40-1998(Temp), f. & cert. ef. 10-1-98 thru 3-1-99; OMAP 48-1998(Temp), f. & cert. ef. 12-1-98 thru 5-1-99; OMAP 21-1999, f. & cert. ef. 4-1-99; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 9-2000(Temp), f. 4-27-00, cert. ef. 4-27-00 thru 9-26-00; OMAP 13-2000, f. & cert. ef. 9-12-00; OMAP 14-2000(Temp), f. 9-15-00, cert. ef. 10-1-00 thru 3-30-01; OMAP 40-2000, f. 11-17-00, cert. ef. 11-20-00; OMAP 22-2001(Temp), f. 3-30-01, cert. ef. 4-1-01 thru 9-1-01; OMAP 28-2001, f. & cert. ef. 8-10-01; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 18-2002, f. 4-15-02, cert. ef. 5-1-02; OMAP 64-2002, f. & cert. ef. 4-1-02; OMAP 65-2002(Temp), f. & cert. ef. 10-2-02 thru 3-15-03; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 30-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 79-2003(Temp), f. & cert. ef. 10-2-03 thru 3-15-04; OMAP 81-2003(Temp), f. & cert. ef. 10-23-03 thru 3-15-04; OMAP 94-2003, f. 12-31-03 cert. ef. 1-1-04; OMAP 17-2004(Temp), f. 3-15-04 cert. ef. 4-1-04 thru 9-15-04; OMAP 28-2004, f. 4-22-04 cert. ef. 5-1-04; OMAP 48-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 51-2004, f. 9-9-04, cert. ef. 10-1-04; OMAP 68-2004(Temp), f. 9-14-04, cert. ef. 10-1-04 thru 3-15-05; OMAP 83-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 54-2005(Temp), f. & cert. ef. 10-14-05 thru 4-1-06; OMAP 62-2005, f. 11-29-05, cert. ef. 12-1-05; OMAP 71-2005, f. 12-21-05, cert. ef. 1-1-06; OMAP 6-2006, f. 3-22-06, cert. ef. 4-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 14-2007(Temp), f. & cert. ef. 10-1-07 thru 3-28-08; DMAP 28-2007(Temp), f. & cert. ef. 12-20-07 thru 3-28-08; DMAP 8-2008, f. & cert. ef. 3-27-08; DMAP 10-2008(Temp), f. & cert. ef. 4-1-08 thru 9-15-08; DMAP 23-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 31-2008(Temp), f. & cert. ef. 10-1-08 thru 3-29-09; DMAP 40-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 4-2009(Temp), f. & cert. ef. 1-30-09 thru 6-25-09; DMAP 6-2009(Temp), f. 3-26-09, cert. ef. 4-1-09 thru 9-25-09; DMAP 8-2009(Temp), f. & cert. ef. 4-17-09 thru 9-25-09; DMAP 26-2009, f. 7-31-09, cert. ef. 8-5-09

Department of Human Services, Public Health Division Chapter 333

Rule Caption: Reimbursement for Cost of Services Provided for Unclaimed Indigent Bodies.

Adm. Order No.: PH 7-2009(Temp)

Filed with Sec. of State: 7-20-2009

Certified to be Effective: 7-20-09 thru 1-15-10

Notice Publication Date:

Rules Amended: 333-012-0500

Subject: The Department of Human Services, Public Health Division is temporarily amending OAR 133-012-0500 to reflect the statutory requirements of SB 796 (2009 Oregon Laws, Chapter 709). This action will allow the Public Health Division to continue reimbursing licensed funeral service practitioners for the cost of services provided for disposition of unclaimed indigent bodies at a rate not to exceed \$450 per disposition as previously required in ORS 97.170(5), and allow the Division adequate time to convene interested parties to determine an appropriate reimbursement rate for the permanent rule filing. SB 796, Section 8 removed the reimbursement cap from statute and directs establishment of the reimbursement cap to OAR 333-012-0500.

Rules Coordinator: Brittany Sande—(971) 673-1291

ADMINISTRATIVE RULES

333-012-0500

Reimbursement for Cost of Services Provided for Unclaimed Indigent Bodies

(1) Licensed funeral service practitioners, hereafter referred to as claimants, shall submit an itemized statement of expenses for services performed for unclaimed indigent bodies.

(2) The itemized statement shall be accompanied by the claimants' certification that services for which reimbursement is claimed were in accordance with stipulations in ORS 97.170(1), (3), (4) and (6).

(3) Certification will be on the Public Health Division's Form FS 23-154 or similar document which contains all the information requested on Form FS 23-154.

(4) The Public Health Division shall disburse funds to claimants monthly:

(a) Applications received between the tenth day of a month and the ninth day of the following month will constitute the total number of claims eligible for reimbursement in that month;

(b) Reimbursement will be in the amount of the invoice or \$450 whichever is less;

(c) In accordance with ORS 432.312(1) and (2), the total amount of reimbursement cannot exceed the total amount of funds available and on hand at the close of the accounting period each month. Therefore, in any given month when the amount of claimants' itemized statements or \$450 per claim, whichever is less, exceeds the total amount of funds available for disbursement, the total amount of the funds on hand and available for disbursement will be distributed proportionately among all of the claimants that submitted itemized statements during that month.

Stat. Auth.: ORS 97.170 & 432.146

Stats. Implemented: ORS 97.170(1), (3), (4) & (6), 432.312(1) & (2)

Hist.: HD 14-1993(Temp), f. 10-14-93, cert. ef. 10-15-93; HD 2-1994, f. & cert. ef. 1-12-94; PH 7-2009(Temp), f. & cert. ef. 7-20-09 thru 1-15-10

Department of Human Services, Seniors and People with Disabilities Division Chapter 411

Rule Caption: Family Support Services Annual Plan.

Adm. Order No.: SPD 10-2009(Temp)

Filed with Sec. of State: 7-28-2009

Certified to be Effective: 7-28-09 thru 1-23-10

Notice Publication Date:

Rules Amended: 411-305-0080

Subject: To comply with the Community Developmental Disabilities Program (CDDP) service planning requirements in OAR 411-320-0120, the Department of Human Services, Seniors and People with Disabilities Division (SPD) is temporarily amending OAR 411-305-0080 to reflect that a written Annual Plan for family support services must be developed within the first 60 days of entry into case management and family support services instead of within the first 90 days.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-305-0080

Family Support Services Annual Plan

(1) The CDDP must provide or arrange for an annual planning process to assist families in determining needs, planning for supports, establishing outcomes, and reviewing and redesigning support strategies for all children eligible for family support services. The CDDP, the child (as appropriate for age), and the child's family must develop a written Annual Plan as a result of the annual planning process within the first 60 days of entry in case management and family support services and annually thereafter as long as the child is enrolled in case management and family support services. The child's Annual Plan must be conducted on forms provided by SPD and must include but not be limited to:

(a) The eligible child's first and last name and the name of the child's parent if different than the child's name or the name of the child's guardian;

(b) A description of the child's support needs, including the reason the support is necessary, and any referrals to information or community resources that meet the child's support needs as described in OAR 411-305-0025(1);

(c) Beginning and end dates of the plan year as well as when specific activities and supports are to begin and end;

(d) Projected direct assistance fund costs, if any, limited to the current fiscal year, with sufficient detail to support estimates;

(e) The types of supports to be purchased with direct assistance funds, including the type of provider;

(f) The proposed schedule of the child's Annual Plan reviews; and

(g) Signatures of the child's services coordinator, the child's parent or guardian, and the child (as appropriate for age).

(2) The child's Annual Plan and records supporting development of each child's Annual Plan must include evidence that:

(a) Family members, the child (as appropriate for age), and others of the family's choosing have participated in the planning process;

(b) Direct assistance funds are used only to purchase goods or services necessary for a child to be supported in the family home;

(c) The services coordinator has assessed the availability of other means for providing the supports before using direct assistance funds and other public, private, formal, and informal resources available to the child have been applied and new resources have been developed whenever possible;

(d) Identification of risks, including risk of serious neglect, intimidation, and exploitation;

(e) Informed decisions by the child's parent or guardian regarding the nature of supports or other steps taken to ameliorate any identified risks; and

(f) Education and support for the child and the child's family to recognize and report abuse.

(3) The CDDP may not use direct assistance funds to implement any plan proposed and written as a result of assistance with planning provided by someone other than the child's services coordinator until the child's services coordinator determines that the new plan meets the applicable requirements of sections (1) and (2) of this rule. In such cases, the services coordinator's signature on the plan shall indicate acceptance of the plan as the child's Annual Plan.

(4) The CDDP may not commit direct assistance funds through the child's Annual Plan beyond the current fiscal year.

(5) The services coordinator must obtain and attach a Nursing Care Plan to the child's Annual Plan when direct assistance funds are used to purchase services requiring the education and training of a nurse.

(6) The services coordinator must conduct and document reviews of the child's Annual Plan and resources with families as follows:

(a) At least quarterly, review and reconcile receipts and records of purchased supports authorized by the child's Annual Plan and subsequent Annual Plan documents;

(b) At least annually, and as major activities or purchases are completed:

(A) Evaluate progress toward achieving the purposes of the child's Annual Plan;

(B) Record final direct assistance funds costs;

(C) Note effectiveness of purchases based on services coordinator observation as well as family satisfaction; and

(D) Determine whether changing needs or availability of other resources have altered the family's Annual Plan content needs or for use of direct assistance funds to purchase supports.

(7) The originating CDDP must assist family support recipients when the family and eligible child move to a county outside its area of service by:

(a) Coordinating the application for case management services in the new CDDP; and

(b) Arranging orientation for the child and family to family support services provided by the CDDP of the new county of residence, including transferring the child's file and the child's Annual Plan information, informing the family of how to apply for services in the new CDDP, and coordinating official transition date.

Stat. Auth.: ORS 409.050, 410.070 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007, 430.610 - 430.695

Hist.: MHD 5-2003, f. & cert. ef. 7-1-03; MHD 6-2003(Temp), f. & cert. ef. 7-1-03 thru 12-27-03; Renumbered from 309-041-2070, SPD 20-2003, f. 12-22-03, cert. ef. 12-28-03; SPD 4-2009, f. & cert. ef. 6-1-09; SPD 10-2009(Temp), f. & cert. ef. 7-28-09 thru 1-23-10

Rule Caption: Children's Intensive In-Home Services, Behavior Program.

Adm. Order No.: SPD 11-2009

Filed with Sec. of State: 7-31-2009

Certified to be Effective: 8-1-09

Notice Publication Date: 7-1-2009

Rules Adopted: 411-300-0155, 411-300-0205

Rules Amended: 411-300-0100, 411-300-0110, 411-300-0120, 411-300-0130, 411-300-0140, 411-300-0150, 411-300-0170, 411-300-0190, 411-300-0200, 411-300-0210, 411-300-0220

ADMINISTRATIVE RULES

Rules Repealed: 411-300-0160, 411-300-0180

Subject: The Department of Human Services, Seniors and People with Disabilities Division (SPD) is permanently updating the children's intensive in-home services, behavior program rules in OAR chapter 411, division 300 to meet Medicaid waiver requirements, provide clearer definitions, revise eligibility criteria, include a complaint process, update the hearing process, clarify references to service budgets, and provide general housekeeping changes.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-300-0100

Purpose

The rules in OAR chapter 411, division 300 establish the policy of and prescribe the standards and procedures for the provision of children's intensive in-home services (CIIS) for children in the ICF/MR Behavioral Waiver. These rules are established to ensure that CIIS augment and support independence, empowerment, dignity, and development of children through the provision of flexible and efficient services to eligible families. CIIS are exclusively intended to allow children with a developmental disability and intense behaviors to have a permanent and stable familial relationship. CIIS are intended to support, not supplant, families' natural supports and services and provide the support necessary to enable families to meet the needs of caring for a child who meets the eligibility criteria for CIIS.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.350, 427.005, 427.007 & 430.215

Hist.: SDSL 12-2002, f. 12-26-02, cert. ef. 12-28-02; SPD 13-2004, f. & cert. ef. 6-1-04; SPD 11-2009, f. 7-31-09, cert. ef. 8-1-09

411-300-0110

Definitions

(1) "Abuse" means abuse of a child as defined in ORS 419B.005.

(2) "Activities of Daily Living (ADL)" means activities usually performed in the course of a normal day in a child's life such as eating, dressing and grooming, bathing and personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel, and bladder management), and cognition and behavior (play and social development).

(3) "Assistant Director" means the assistant director of the Department of Human Services, Seniors and People with Disabilities Division, or that individual's designee.

(4) "Behavior Consultant" means a contractor with specialized skills who develops a behavior support plan.

(5) "Behavior Criteria (Form DHS-0521)" means the assessment tool used by the Seniors and People with Disabilities Division to evaluate the intensity of the challenges and care needs presented by children applying for, or eligible for, children's intensive in-home services, and to determine the service budget for eligible children.

(6) "Billing Provider" means an organization that enrolls and contracts with the Seniors and People with Disabilities Division to provide services through its employees and bills the Seniors and People with Disabilities Division for the provider's services.

(7) "Child" means an individual under the age of 18, eligible for developmental disability services, and accepted for children's intensive in-home services under the ICF/MR Behavioral Waiver.

(8) "CIIS" means children's intensive in-home services.

(9) "Cost Effective" means that in the opinion of the services coordinator, a specific service or item of equipment meets the child's needs and costs less than, or is comparable to, other service or equipment options considered.

(10) "Daily Activity Logs" mean the records of services provided to the child. The content and form of daily activity logs shall be agreed upon by both the child's parent and the services coordinator and documented in the Plan of Care.

(11) "Developmental Disability (DD)" means a disability that originates in the developmental years, that is likely to continue, and significantly impacts adaptive behavior as diagnosed and measured by a qualified professional. Developmental disabilities include mental retardation, autism, cerebral palsy, epilepsy, or other neurological disabling conditions that require training or support similar to that required by individuals with mental retardation, and the disability:

(a) Originates before the individual reaches the age of 22 years, except that in the case of mental retardation, the conditions must be manifested before the age of 18;

(b) Originates in and directly affects the brain and has continued, or must be expected to continue, indefinitely;

(c) Constitutes a significant impairment in adaptive behavior; and

(d) Is not primarily attributed to a mental or emotional disorder, sensory impairment, substance abuse, personality disorder, learning disability, or Attention Deficit Hyperactivity Disorder.

(12) "DHS" means the Department of Human Services.

(13) "Exit" means termination of a child from children's intensive in-home services.

(14) "Family Home" means a child's primary residence that is not under contract with the Department of Human Services to provide services as a licensed or certified foster home, residential care facility, assisted living facility, nursing facility, or other residential support program site.

(15) "ICF/MR Behavioral Waiver" means the waiver program granted by the federal Centers for Medicare and Medicaid Services that allows Medicaid funds to be spent on children living in the family home who otherwise would have to be served in an intermediate care facility for the mentally retarded if the waiver program was not available.

(16) "In-Home Daily Care (IHDC)" means Medicaid state plan funded essential supportive daily care delivered by a qualified provider that enables a child to remain in, or return to, the family home.

(17) "Parent" means biological parent, adoptive parent, stepparent, or legal guardian.

(18) "Plan of Care" means a written document developed and renewed annually for each eligible child by the services coordinator and the parent that describes the individual needs of the child, the needs and resources of the family that impact the child, and how those individual needs shall be met with family and public resources. The Plan of Care includes the Nursing Care Plan when one exists.

(19) "Positive Behavioral Theory and Practice" means a proactive approach to individual behavior and behavior interventions that:

(a) Emphasizes the development of functional alternative behavior and positive behavior intervention;

(b) Uses the least intervention possible;

(c) Ensures that abuse or demeaning interventions are never used; and

(d) Evaluates the effectiveness of behavior interventions based on objective data.

(20) "Primary Caregiver" means the child's parent, guardian, relative, or other non-paid parental figure that provides the direct care of the child at the times that a paid provider is not available.

(21) "Provider or Performing Provider" means the individual who is qualified to receive payment from the Seniors and People with Disabilities Division for in-home daily care that meets the requirements of OAR 411-300-0170. Providers work directly with children. Providers may be employees of billing providers, employees of the parent, or independent contractors.

(22) "Respite" means short-term care and supervision provided on a periodic or intermittent basis because of the temporary absence of, or need for relief of, the primary caregiver.

(23) "Service Budget" means the annual dollar amount allotted for the care of the child based on the behavior criteria level of care determination. The service budget consists of in-home daily care and waivered services. The monthly service budget is 1/12th of the annual amount if the Plan of Care is developed for less than a full year. The service budget is flexible and may be distributed as necessary to meet the needs of the child as outlined in the Plan of Care.

(24) "Services Coordinator" means an employee of the Seniors and People with Disabilities Division, who ensures a child's eligibility for children's intensive in-home services and provides assessment, case planning, service implementation, and evaluation of the effectiveness of the services.

(25) "Social Benefit" means a service or financial assistance provided to a family solely intended to assist a child to function in society on a level comparable to that of an individual who does not have a developmental disability. Social benefits are pre-authorized by, and provided according to, the description and financial limits written in an eligible child's Plan of Care. Social benefits may not:

(a) Duplicate benefits and services otherwise available to individuals regardless of developmental disability;

(b) Replace normal parental responsibilities for the child's services, education, recreation, and general supervision;

(c) Provide financial assistance with food, clothing, shelter, and laundry needs common to individuals with or without disabilities;

(d) Replace other governmental or community services available to the child or the child's family; or

(e) Exceed the actual cost of supports that must be provided for the child to be supported in the family home.

(26) "SPD" means the Department of Human Services, Seniors and People with Disabilities Division.

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(27) "Supplant" means take the place of.

(28) "Support" means assistance eligible children and their families require, solely because of the effects of developmental disability on the child, to maintain or increase the child's age-appropriate independence, achieve a child's age-appropriate community presence and participation, and to maintain the child in the family home. Support is flexible and subject to change with time and circumstances.

(29) "These Rules" means the rules in OAR chapter 411, division 300.

(30) "Waivered Services" means a menu of disability related services and supplies, exclusive of in-home daily care and the Oregon Health Plan, that are specifically identified by the Medicaid ICF/MR Behavioral Waiver.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: SDSD 12-2002, f. 12-26-02, cert. ef. 12-28-02; SPD 19-2003(Temp), f. & cert. ef. 12-11-03 thru 6-7-04; SPD 13-2004, f. & cert. ef. 6-1-04; SPD 11-2009, f. 7-31-09, cert. ef. 8-1-09

411-300-0120

Eligibility

(1) ELIGIBILITY. In order to be eligible for CIIS, the child must:

- (a) Be under the age of 18;
- (b) Be determined eligible for developmental disability services in accordance with OAR 411-320-0080;
- (c) Be an Oregon resident who meets the citizenship and alien status requirements of OAR 461-120-0110;

(d) Be accepted by SPD by scoring greater than 200 on the behavior criteria within two months of starting services. To remain eligible, a child must maintain a score above 150 as determined during an annual re-eligibility assessment;

(e) Be financially and otherwise eligible to receive Medicaid services;

(f) Reside in the family home; and

(g) Be capable of being safely served in the family home. This includes but is not limited to the parent demonstrating the willingness, skills, and ability to provide the direct care as outlined in the Plan of Care in a cost effective manner as determined by the services coordinator within the limitations of OAR 411-300-0150 and participate in planning, monitoring, and evaluation of the CIIS provided.

(2) INELIGIBILITY. A child is not eligible for CIIS if the child:

(a) Resides in a hospital, school, sub-acute facility, nursing facility, intermediate care facility for the mentally retarded, residential facility, foster home, or other institution.

(b) Does not require waivered services or has sufficient family, government, or community resources available to provide for his or her care.

(c) Is not safely served in the family home as described in section (1)(g) of this rule.

(3) TRANSITION. A child whose score on the behavior criteria remains at 150 or less shall be transitioned out of CIIS within 90 days and at the end of the 90 day transition period shall exit.

(a) When possible and agreed upon by the parent and services coordinator, CIIS shall be incrementally reduced during the 90 day transition period.

(b) A minimum of 30 days prior to exit, the services coordinator must coordinate and attend a transition planning meeting that includes the services coordinator, a representative of the community developmental disability program, the parent, and any other individual at the parent's request.

(4) EXIT. A child shall exit from CIIS if the child no longer meets the eligibility criteria in section (1) of this rule or if the child has been transitioned out per section (3) of this rule.

(5) WAIT LIST. A child eligible for CIIS may be placed on a wait list if the maximum numbers of children on the ICF/MR Behavioral Waiver are already being served.

(a) The date the initial application for service is completed shall determine the order on the wait list. A child who was once served by CIIS, exited CIIS, reapply, and currently meets all other criteria for eligibility, shall be put on the wait list as of the date the child's original application for services was complete.

(b) The date the application is complete is the date that SPD has the required demographic data on the child and a statement of developmental disability eligibility.

(c) Children on the wait list shall be served on a first come, first served basis as space on the ICF/MR Behavioral Waiver allows.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: SDSD 12-2002, f. 12-26-02, cert. ef. 12-28-02; SPD 11-2009, f. 7-31-09, cert. ef. 8-1-09

411-300-0130

Plan of Care

(1) To develop the Plan of Care, the services coordinator must assess the individual service needs of the child in person and must interview the parent other caregivers, or when appropriate, other interested individuals. The assessment must:

(a) Take place in the child's family home with both the child and the primary caregiver present;

(b) Identify the services for which the child is currently eligible;

(c) Identify the services currently being provided; and

(d) Identify all available family, private health insurance, and government or community resources that meet any, some, or all of the child's needs.

(2) The services coordinator must prepare, with the input of the parent and any other individual at the parent's request, a written Plan of Care that identifies:

(a) The service needs of the child and the family;

(b) The most cost effective services for safely and appropriately meeting the child's service needs;

(c) The methods, resources, and strategies that address some or all of those needs;

(d) The number of hours of in-home daily care or behavior consultation authorized for the child; and

(e) Additional services authorized by SPD for the child.

(3) The Plan of Care must include:

(a) The maximum hours of authorized provider services;

(b) The annual and monthly service budget;

(c) The date of the next planned review that, at a minimum, must be completed within 365 days of the last Plan of Care; and

(d) The Nursing Care Plan, when one exists.

(4) The Plan of Care must be reviewed with the parent prior to implementation, signed by both the parent and the services coordinator, and a copy must be provided to the parent.

(5) The Plan of Care shall be translated, as necessary, upon request.

(6) Significant changes in the needs of the child must be reflected in the Plan of Care, as they occur, and a copy must be provided to the parent. Changes in service needs funded by SPD must be documented in a Plan of Care amendment signed by the parent and the services coordinator.

(7) The Plan of Care must be renewed at least every 365 days. Each new plan year begins on the anniversary date of the initial or previous plan date.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: SDSD 12-2002, f. 12-26-02, cert. ef. 12-28-02; SPD 11-2009, f. 7-31-09, cert. ef. 8-1-09

411-300-0140

Rights of the Child

(1) When interventions in the behavior of the child are necessary, they must be done in accordance with positive behavioral theory and practice as defined in OAR 411-300-0110.

(2) The least intrusive intervention to keep the child and others safe must be used.

(3) Abusive or demeaning interventions must never be used.

(4) When physical restraints are required, they must only be used as a last resort and providers must be appropriately trained as per the Behavior Support Plan.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: SDSD 12-2002, f. 12-26-02, cert. ef. 12-28-02; SPD 11-2009, f. 7-31-09, cert. ef. 8-1-09

411-300-0150

Scope and Limitations of Children's Intensive In-Home Services

(1) CIIS are intended to support, not supplant, the natural supports supplied by the primary caregiver. CIIS are not available to replace services provided by the primary caregiver or to replace other governmental or community services. Regardless of other services available, the primary caregiver must provide a minimum of 40 hours per week of in-home daily care.

(2) CIIS shall only be authorized to enable the primary caregiver to meet the needs of caring for the child on the ICF/MR Behavioral Waiver. All services funded by SPD must be based on the actual and customary costs related to best practice standards of care for children with similar disabilities.

ADMINISTRATIVE RULES

(3) CIIS may include a combination of the following waivered and other Medicaid services based upon the needs of the child as determined by the services coordinator and as consistent with the child's Plan of Care:

- (a) Waivered services;
- (b) Behavior consultations;
- (c) Environmental accessibility adaptations;
- (d) Motor vehicle adaptations;
- (e) Goods, services, and supplies; or
- (f) Other Medicaid services including in-home daily care.

(4) BEHAVIOR CONSULTATION. Behavior consultation shall only be authorized to support a primary caregiver in their caregiving role. Behavior consultation shall only be authorized, as needed, to respond to specific problems identified by the primary caregiver or services coordinator. Behavior consultants must:

- (a) Work with the parent to identify:

(A) Areas of a child's family home life that are of most concern for the parent and child;

(B) The formal or informal responses the family or provider has used in those areas; and

(C) The unique characteristics of the family that could influence the responses that would work with the child.

- (b) Assess the child. The assessment must include:

(A) Specific identification of the behaviors or areas of concern;

(B) Identification of the settings or events likely to be associated with, or to trigger, the behavior;

(C) Identification of early warning signs of the behavior;

(D) Identification of the probable reasons that are causing the behavior and the needs of the child that are being met by the behavior, including the possibility that the behavior is:

(i) An effort to communicate;

(ii) The result of a medical condition;

(iii) The result of an environmental cause; or

(iv) The symptom of an emotional or psychiatric disorder.

(E) Evaluation and identification of the impact of disabilities (i.e. autism, blindness, deafness, etc.) that impact the development of strategies and affect the child and the area of concern; and

(F) An assessment of current communication strategies.

(c) Develop a variety of positive strategies that assist the primary caregiver and provider to help the child use acceptable, alternative actions to meet the child's needs in the most cost effective manner. These strategies may include changes in the physical and social environment, developing effective communication, and appropriate responses by a primary caregiver and provider to the early warning signs.

(A) Interventions must be done in accordance with positive behavioral theory and practice as defined in OAR 411-300-0110.

(B) The least intrusive intervention possible must be used.

(C) Abusive or demeaning interventions must never be used.

(D) The strategies must be adapted to the specific disabilities of the child and the style or culture of the family.

(d) Develop emergency and crisis procedures to be used to keep the child, primary caregiver, and provider safe. Physical restraint must only be utilized in accordance with OAR 411-300-0140(4).

(e) Develop a written Behavior Support Plan that includes the following:

(A) Use of clear, concrete language that is understandable to the primary caregiver and provider; and

(B) Describes the assessment, strategies, and procedures to be used.

(f) Teach the provider and primary caregiver the strategies and procedures to be used.

(g) Monitor and revise the Behavior Support Plan as needed.

(5) ENVIRONMENTAL ACCESSIBILITY ADAPTATIONS.

(a) SPD shall authorize environmental accessibility adaptations when:

(A) Necessary to ensure the health, welfare, and safety of the child in the family home or to enable the child to function with greater independence in the family home.

(B) Provided in accordance with applicable state or local building codes by licensed contractors. Any modification that impedes egress shall be approved only if a risk assessment demonstrates no safer solution and a safety plan is signed by the parent.

(C) Determined to be the most cost effective solution.

(b) Environmental accessibility adaptations exclude:

(A) Adaptations or improvements to the family home that are of general utility and are not for direct safety, remedial, or long term benefit to the child.

(B) Adaptations that add to the total square footage of the family home.

(c) For environmental accessibility adaptations that singly or together exceed \$5,000, SPD may protect its interest for the entire amount of the adaptations through liens or other legally available means.

(d) Environmental accessibility adaptations that are provided in a rental structure must be authorized in writing by the owner of the structure prior to initiation of the work. This does not preclude any reasonable accommodations required under the Americans with Disabilities Act.

(6) MOTOR VEHICLE ADAPTATIONS.

(a) SPD shall only authorize motor vehicle adaptations for the primary vehicle used by the child. The motor vehicle adaptations must be cost effective and directly relate to the child's disability.

(b) Motor vehicle adaptations do not include repair of damage caused by the child, general repair, maintenance, or upkeep required by a motor vehicle.

(7) GOODS, SERVICES, AND SUPPLIES. Goods, services, and supplies may include any combination of the following:

(a) Homemaker. Homemaker services consist of general household activities to allow the primary caregiver time to care for the child.

(b) Respite. Respite services are authorized on a limited basis for relief of, or due to the temporary absence of, the primary caregiver. Respite services are not available to allow primary caregivers to attend school or work.

(A) When respite is provided through an overnight camp, respite shall be limited to 10 days per individual plan year.

(B) SPD does not pay for room and board expenses in any situation.

(c) Non-medical transportation. Non-medical transportation is provided in order to enable a child to gain access to community services, activities, and resources as specified in the Plan of Care. Non-medical transportation excludes:

(A) Transportation provided by family members;

(B) Transportation used for behavioral intervention or calming;

(C) Transportation normally provided by schools and by the primary caregiver for children of similar age without disabilities;

(D) Purchase of any family vehicle;

(E) Vehicle maintenance and repair;

(F) Reimbursement for out-of-state travel expenses;

(G) Ambulance services; or

(H) Transportation services that may be obtained through other means such as the State Medicaid Plan or other public or private resources available to the child.

(d) Specialized medical equipment and supplies. Specialized medical equipment and supplies includes but is not limited to communication devices, adaptive clothing, adaptive eating equipment, or adaptive sensory or habilitation devices or supplies. Specialized medical equipment and supplies funded by the Oregon Health Plan are excluded. Increased utility costs caused by the unique needs of the child and the disability may only be approved as long as the parent continues to pay typical utility expenditures.

(e) Chore. Chore services are services needed to maintain the family home as a clean, sanitary, and safe environment. Chore services may be provided only in situations where no one else in the family home, or any other individual, is capable of performing or providing these services. Chore services include heavy household chores such as window washing or carpet cleaning.

(f) Family training. Family training services include services that increase the family's capacity to care for the child. Family training is only available to non-paid family members actively involved in the care of the child.

(A) Conference or workshop registrations.

(i) SPD shall authorize conference or workshop registrations that:

(I) Directly relate to the child's disability; and

(II) Increase the knowledge and skills of the primary caregiver.

(ii) Travel and lodging expenses are excluded.

(iii) Meals not included in the registration cost are excluded.

(B) Counseling services.

(i) To be authorized by SPD, the counseling services must:

(I) Be provided by licensed mental health providers;

(II) Directly relate to the child's disability, the ability of the parent to care for the child, and the related impact on the family or couple;

(III) Be short-term; and

(IV) Have treatment goals prior approved by the services coordinator.

(ii) Counseling services are excluded for:

(I) Therapy that could be obtained through the Oregon Health Plan or other payment mechanisms;

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(II) General marriage counseling;

(III) Therapy to address parents or other family members psychopathology; or

(IV) Counseling that addresses stressors not directly attributed to the child.

(g) Specialized consultation. Specialized consultation services are services provided by a physical therapist, occupational therapist, speech and language pathologist, or other professional. Specialized consultation services must have exhausted the limits identified under the Oregon Health Plan.

(h) Specialized diet. The maximum monthly purchase for specialized diet supplies may not exceed \$100 per month. Specialized diets do not constitute a full nutritional regime.

(A) In order to be authorized:

(i) The foods must be on the approved list developed by SPD;

(ii) The specialized diet must be ordered at least annually by a physician licensed by the Oregon Board of Medical Examiners;

(iii) The specialized diet must be periodically monitored by a dietitian or physician; and

(iv) The specialized diet cannot be reimbursed through the Oregon Health Plan or any other source of public and private funding.

(B) Restaurant and prepared foods, vitamins, and supplements are specifically excluded from a specialized diet.

(i) Translation. If the primary caregiver or the child's primary language is not English, translation service is provided to allow the child or the primary caregiver to communicate with providers of CIIS.

(j) Other goods, services, and supplies. Other goods, services, and supplies are eligible for payment if they are:

(A) Directly related to the child's disability;

(B) Included in an approved Plan of Care;

(C) Needed to maintain the health and safety of the child;

(D) Cost effective;

(E) Not typical for a parent to provide a child of the same age; and

(F) Required to help the parent to continue to meet the needs of caring for the child.

(k) Goods, services, and supplies paid for by SPD must be documented by receipts or invoices. The receipts or invoices must be maintained by SPD for five years. If no receipt or invoice is available, the parent must submit to SPD in writing, a statement that the parent received the goods, services, or supplies, and the date on which they were received.

(l) SPD may protect its interest through any legally allowable means for any good, service, or supply as determined by SPD.

(m) SPD may expend its funds through contract, purchase order, use of credit card, payment directly to the vendor, or any other legal payment mechanism.

(8) IN-HOME DAILY CARE. In-home daily care services may include a combination of assistance with ADLs, nursing services, or other supportive services, as determined by the services coordinator, consistent with the child's Plan of Care. In-home daily care service hours are only authorized to support a parent in their primary caregiving role.

(a) In-home daily care services include:

(A) Basic personal hygiene — Assistance with bathing and grooming;

(B) Toileting, bowel, and bladder care — Assistance in the bathroom, diapering, external cleansing of perineal area, and care of catheters;

(C) Mobility — Transfers, comfort, positioning, and assistance with range of motion exercises;

(D) Nutrition — Special diets, monitoring intake and output, and adaptive feeding;

(E) Skin care — Dressing changes;

(F) Supervision — Providing an environment that is safe and meaningful for the child, interacting with the child to prevent danger to the child and others, and assisting the child with appropriate leisure activities;

(G) Communication — Assisting the child in communicating using any means used by the child;

(H) Neurological — Monitoring of seizures, administering medication, and observing status; and

(I) Other personal care tasks or services.

(b) When any of the services listed in section (8)(a) of this rule are essential to the health and welfare of the child, the provider may provide supportive services that also include:

(A) Housekeeping tasks related to maintaining a healthy and safe environment for the child;

(B) Arranging for necessary medical equipment, supplies, and medications;

(C) Arranging for necessary medical appointments;

(D) Accompanying the child to appointments, outings, and community-based activities; or

(E) Participating in activities with the child to enhance development or learning.

(c) In-home daily care service hours may be spread throughout the time authorized in the billing form or used in large blocks of time as the parent determines.

(d) In-home daily care services must:

(A) Be previously authorized by SPD before services begin;

(B) Be based on the assessed service needs of the child consistent with, and documented in, the Plan of Care as determined by the services coordinator;

(C) Be delivered through the most cost effective method as determined by the services coordinator; and

(D) Include a physician's order when nursing services are to be provided. SPD determines whether payment of nursing services, or the hours of services as ordered by the physician, shall be authorized for payment according to these rules.

(e) SPD does not authorize in-home daily care service hours:

(A) That supplant the services available from family, community, other government or public services, insurance plans, schools, philanthropic organizations, friends, or relatives.

(B) Solely to allow a primary caregiver to work or attend school.

(C) For any services performed without the eligible child present unless specifically detailed in the Plan of Care.

(D) For any services provided not specified on a job description signed by both parent and provider.

(9) All CIIS authorized by SPD must be included in a written Plan of Care in order to be eligible for payment. The Plan of Care must use the most cost effective services for safely and appropriately meeting the child's service needs.

(10) Service budgets increase or decrease in direct relationship to the increasing or decreasing behavior criteria score.

(11) If the primary caregiver's primary language is not English, cost of interpretation or translation services related to CIIS shall not be considered part of the child's service budget.

(12) EXCEPTIONS. All exceptions must be authorized by the CIIS manager. Exceptions are limited to 90 days unless re-authorized. Ninety-day exceptions shall only be authorized in the following circumstances:

(a) The child is at immediate risk of loss of family home without the expenditure;

(b) The expenditure provides supports for the child's emerging or changing care needs or behaviors;

(c) A significant medical condition or event occurs that prevents the primary caregiver from providing care or services as documented by a physician; or

(d) The services coordinator determines, with a behavior consultant, that the child needs two staff present at one time to ensure the safety of the child and others. Prior to approval, the services coordinator must determine that all caregivers, including the child's parents, have been trained in behavior management and that all other feasible recommendations from the behavior consultant and services coordinator have been implemented.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: SDSD 12-2002, f. 12-26-02, cert. ef. 12-28-02; SPD 11-2009, f. 7-31-09, cert. ef. 8-1-09

411-340-0155

Using Children's Intensive In-Home Services Funds for Certain Purchases is Prohibited

CIIS funds must not be used for:

(1) Services, supplies, or supports that are illegal, experimental, or determined unsafe for the general public by recognized child and consumer safety agencies;

(2) Services or activities that are carried out in a manner that constitutes abuse of a child;

(3) Services from individuals who engage in verbal mistreatment and subject a child to the use of derogatory names, phrases, profanity, ridicule, harassment, coercion, or intimidation by threatening injury or withholding of services or supports;

(4) Services that restrict a child's freedom of movement by seclusion in a locked room under any condition;

(5) Purchase of family vehicles;

(6) Purchase of service animals or costs associated with the care of service animals;

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(7) Health and medical costs that the general public normally must pay including but not limited to:

- (a) Medical treatments;
- (b) Health insurance co-payments and deductibles;
- (c) Prescribed or over-the-counter medications;
- (d) Mental health treatments and counseling;
- (e) Dental treatments and appliances;
- (f) Dietary supplements and vitamins; or

(g) Treatment supplies not related to nutrition, incontinence, or infection control.

(8) Ambulance services;

(9) Legal fees including but not limited to the costs of representation in educational negotiations, establishment of trusts, or creation of guardianship;

(10) Vacation costs for transportation, food, shelter, and entertainment that are not strictly required by the child's disability-created need for personal assistance in all home and community settings that would normally be incurred by anyone on vacation, regardless of disability;

(11) Services, training, or supervision that has not been arranged according to applicable state and federal wage and hour regulations;

(12) Unless under certain conditions and limits specified in the Plan of Care, employee wages or contractor payments for services when the child is not present or available to receive services including but not limited to employee paid time off, hourly "no show" charge, and contractor travel and preparation hours;

(13) Services, activities, materials, or equipment that are not necessary, cost effective, or do not meet the definition of support or social benefit as defined in OAR 411-300-0110;

(14) Education and services provided by schools as part of a free and appropriate education for children and young adults under the Individuals with Disabilities Education Act;

(15) Services, activities, materials, or equipment that SPD determines may be reasonably obtained by the family through other available means such as private or public insurance, philanthropic organizations, or other governmental or public services;

(16) Services or activities for which the legislative or executive branch of Oregon government has prohibited use of public funds;

(17) Purchase of services when there is sufficient evidence to believe that the child's parent or guardian, or the service provider chosen by the child's family, has engaged in fraud or misrepresentation, failed to use resources as agreed upon in the Plan of Care, refused to cooperate with record keeping required to document use of CIIS funds, or otherwise knowingly misused public funds associated with CIIS; or

(18) Services that, in the opinion of the child's services coordinator, are characterized by failure to act or neglect that leads to or is in imminent danger of causing physical injury, through negligent omission, treatment, or maltreatment of an individual, including but not limited to the failure to provide an individual with adequate food, clothing, shelter, medical services, supervision, or through condoning or permitting abuse of an individual by any other person. However, no individual may be considered neglected for the sole reason that the individual relies on treatment through prayer alone in lieu of medical treatment.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: SPD 11-2009, f. 7-31-09, cert. ef. 8-1-09

411-300-0170

Standards for Providers and Behavior Consultants

(1) PROVIDER QUALIFICATIONS.

(a) A provider must:

- (A) Be at least 18 years of age;
- (B) Maintain a drug-free work place;

(C) Provide evidence satisfactory to SPD, or its designee, that demonstrates, by background, education, references, skills, and abilities, the provider is capable of safely and adequately providing the services authorized;

(D) Consent to and pass a criminal history check by DHS as described in OAR chapter 407, division 007, and be free of convictions or founded allegations of abuse or neglect by the appropriate agency, including but not limited to DHS. Criminal history rechecks must be performed biannually, or as needed if a report of criminal activity has been received by DHS;

(E) Not be on the current federal Centers for Medicare and Medicaid Services list of excluded or debarred providers (<http://exclusions.oig.hhs.gov/>);

(F) Not be a primary caregiver, parent, step parent, spouse, or legal guardian of the child;

(G) Sign a Medicaid provider agreement and be enrolled as a Medicaid provider prior to delivery of any in-home daily care services; and

(H) Sign a job description prior to delivery of any in-home daily care services.

(B) A provider is not an employee of DHS or the state of Oregon and is not eligible for state benefits and immunities including but not limited to the Public Employees' Retirement System or other state benefit programs.

(c) If the provider or billing provider is an independent contractor during the terms of the contract, the provider or billing provider must maintain in force at the providers own expense professional liability insurance with a combined single limit of not less than \$1,000,000 for each claim, incident, or occurrence. Professional liability insurance is to cover damages caused by error, omission, or negligent acts related to the professional services.

(A) The provider or billing provider must provide written evidence of insurance coverage to SPD prior to beginning work and at any time upon request by SPD.

(B) There must be no cancellation of insurance coverage without 30 days written notice to SPD.

(d) If the provider is an employee of the parent, the provider must submit to SPD, documentation of immigration status required by federal statute. SPD maintains documentation of immigration status required by federal statute, as a service to the parent who is the employer.

(e) If the provider is an employee of the parent, both the parent and provider must sign a job description. This job description must be provided to the services coordinator prior to the delivery of any services by the employee.

(f) A billing provider that wishes to enroll with SPD must maintain and submit evidence upon initial application and upon request by SPD of the following:

(A) Current criminal history checks on each employee who provides services in a family home that shows the employee has no disqualifying criminal convictions;

(B) Professional liability insurance that meets the requirements of section (1)(c) of this rule; and

(C) Any licensure required of the agency by the state of Oregon or federal law or regulation.

(g) A provider must immediately notify the parent and the services coordinator of injury, illness, accidents, or any unusual circumstances that may have a serious effect on the health, safety, physical, emotional well being, or level of service required by the child for whom CIIS are being provided.

(h) Providers described in ORS Chapter 418 are required to report suspected child abuse to their local DHS office or to the police in the manner described in ORS Chapter 418.

(2) BEHAVIOR CONSULTANTS. Behavior consultants providing specialized consultations must:

(a) Have education, skills, and abilities necessary to provide behavior consultation services as outlined in OAR 411-300-0150(4);

(b) Have current certification demonstrating completion of training in Oregon Intervention Systems; and

(c) Submit a resume or the equivalent to SPD indicating at least one of the following:

(A) A bachelor's degree in special education, psychology, speech and communication, occupational therapy, recreation, art or music therapy, or a behavioral science or related field and at least one year of experience with people with disabilities who present difficult or dangerous behaviors; or

(B) Three years experience with people with disabilities who present difficult or dangerous behaviors and at least one year of that experience must include providing the services of a behavior consultant as outlined in OAR 411-300-0150(4).

(d) Additional education or experience may be required to safely and adequately provide the services described in OAR 411-300-0150(4).

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: SDSD 12-2002, f. 12-26-02, cert. ef. 12-28-02; SPD 13-2004, f. & cert. ef. 6-1-04; SPD 11-2009, f. 7-31-09, cert. ef. 8-1-09

411-300-0190

Document Needs for Children's Intensive In-Home Services

(1) Accurate time sheets of CIIS, dated and signed by the provider and the parent after the services are provided, must be maintained and submitted to SPD with any request for payment for services.

(2) Requests for payment of CIIS must:

(a) Include the billing form indicating prior authorization for the services;

ADMINISTRATIVE RULES

(b) Be signed by the parent after the services were delivered, verifying that the services were delivered as billed; and

(c) Be signed by the provider or billing provider, acknowledging agreement upon request with the terms and condition of the billing form and attesting that the hours were delivered as billed.

(3) Documentation of CIIS provided, including but not limited to daily activity logs as prescribed by the services coordinator, must be provided to the services coordinator upon request or as outlined in the Plan of Care and maintained in the family home or the place of business of the provider of services. SPD shall not pay for services unrelated to the child's disability as outlined in the Plan of Care.

(4) Daily activity logs must be completed by the provider for each shift worked and the responsibility to complete daily activity logs must be listed in the provider's job description.

(5) SPD shall retain billing forms and timesheets for at least five years from the date of CIIS.

(6) Behavior consultants must submit to SPD the following written in clear, concrete language, understandable to the parent and provider:

(a) An evaluation of the child, the parent's concerns, the environment of the child, current communication strategies used by the child and used by others with the child, and any other disability of the child that would impact the appropriateness of strategies to be used with the child; and

(b) Any behavior plan or instructions left with the parent or provider that describes the suggested strategies to be used with the child.

(7) Billing providers must maintain documentation of provided CIIS for at least seven years from the date of service.

(8) Upon written request from DHS, the Oregon Department of Justice Medicaid Fraud Unit, Centers for Medicare and Medicaid Services, or their authorized representatives, providers or billing providers must furnish requested documentation immediately or within the time frame specified in the written request. Failure to comply with the request may be considered by SPD as reason to deny or recover payments.

(9) Access to records by DHS including but not limited to medical, nursing, behavior, psychiatric, or financial records, and specifically including logs and records by individuals providing care and vendors providing goods and services, does not require authorization or release by the eligible child or parent.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: SDSD 12-2002, f. 12-26-02, cert. ef. 12-28-02; SPD 11-2009, f. 7-31-09, cert. ef. 8-1-09

411-300-0200

Payment for Children's Intensive In-Home Services

(1) Payment shall be made after CIIS are delivered as authorized and required documentation received by the services coordinator.

(2) Service budgets shall be individually negotiated by SPD based on the individual needs of the child.

(3) Authorization must be obtained prior to the delivery of any CIIS for those services to be eligible for payment.

(4) Providers must request payment authorization for CIIS provided during an unforeseeable emergency on the first business day following the emergency service. The services coordinator must determine if the service is eligible for payment.

(5) SPD shall make payment to the employee of the parent on behalf of the parent. SPD shall pay the employer's share of the Federal Insurance Contributions Act tax (FICA) and withhold the employee's share of FICA as a service to the parent as the employer.

(6) The delivery of authorized CIIS must occur so that any individual employee of the parent does not exceed 40 hours per work week. SPD shall not authorize services that require the payment of overtime, without prior written authorization by the CIIS supervisor.

(7) SPD shall not authorize or pay for any hours of CIIS provided by an individual provider beyond 16 hours in any 24-hour period. Exceptions require written authorization by the CIIS supervisor.

(8) Holidays are paid at the same rate as non-holidays.

(9) Travel time to reach the job site is not reimbursable.

(10) Requests for payments must be submitted to SPD within three months of the delivery of CIIS.

(11) Payment by SPD for CIIS is considered full payment for the services rendered under Medicaid. Under no circumstances, may the provider or billing provider demand or receive additional payment for these services from the parent or any other source.

(12) Medicaid funds are the payor of last resort. The provider or billing provider must bill all third party resources until all third party resources are exhausted.

(13) SPD reserves the right to make a claim against any third party payer before or after making payment to the provider of CIIS.

(14) SPD may void without cause prior authorizations that have been issued.

(15) Upon submission of the billing form for payment, the provider must comply with:

(a) All rules in OAR chapter 407 and OAR chapter 411;

(b) 45 CFR Part 84 which implements Title V, Section 504 of the Rehabilitation Act of 1973;

(c) Title II and Title III of the Americans with Disabilities Act of 1991; and

(d) Title VI of the Civil Rights Act of 1964.

(16) All billings must be for CIIS provided within the provider's licensure.

(17) The provider must submit true and accurate information on the billing form. Use of a billing provider does not replace the provider's responsibility for the truth and accuracy of submitted information.

(18) No individual shall submit to SPD:

(a) A false billing form for payment;

(b) A billing form for payment that has been, or is expected to be, paid by another source; or

(c) Any billing form for CIIS that have not been provided.

(19) SPD shall only make payment to the enrolled provider who actually performs the CIIS or the provider's enrolled billing provider. Federal regulations prohibit SPD from making payment to collection agencies.

(20) Payments may be denied if any provisions of these rules are not complied with.

(21) SPD shall recoup all overpayments. The amount to be recovered:

(a) Is the entire amount determined or agreed to by SPD;

(b) Is not limited to the amount determined by criminal or civil proceedings; and

(c) Includes interest to be charged at allowable state rates.

(22) SPD shall deliver to the provider by registered or certified mail, or in person, a request for repayment of the overpayment or notification of recoupment of future payments.

(23) Payment schedules with the interest may be negotiated at the discretion of SPD.

(24) If recoupment is sought from a parent whose child received CIIS, hearing rights in OAR 411-300-0210 apply.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: SDSD 12-2002, f. 12-26-02, cert. ef. 12-28-02; SPD 11-2009, f. 7-31-09, cert. ef. 8-1-09

411-300-0205

Complaints

(1) COMPLAINTS. SPD shall address all complaints in accordance with DHS written policies, procedures, and rules. Copies of the procedures for resolving complaints shall be maintained on file at SPD. At a minimum, these policies and procedures shall address:

(a) Informal resolution. The parent of a child has an opportunity to informally discuss and resolve any complaint regarding action taken by SPD that is contrary to law, rule, or policy and that does not meet the criteria for an abuse investigation. Choosing an informal resolution does not preclude the parent from pursuing resolution through formal complaint processes.

(b) Receipt of complaints. SPD shall maintain a log of all complaints regarding the provision of CIIS received via phone calls, e-mails, or writing.

(A) At a minimum, the complaint log shall include:

(i) The date the complaint was received;

(ii) The name of the individual taking the complaint;

(iii) The nature of the complaint;

(iv) The name of the individual making the complaint, if known; and

(v) The disposition of the complaint.

(B) Child welfare and law enforcement reports of abuse or neglect shall be maintained separately from the central complaint and grievance log.

(c) Response to complaints. SPD staff response to the complaint must be provided within five working days following receipt of the complaint and must include:

(A) An investigation of the facts supporting or disproving the complaint; and

(B) Any agreement to resolve the complaint must be in writing and must be specifically approved by the complainant. SPD shall provide the complainant with a copy of the agreement.

ADMINISTRATIVE RULES

(d) Review. A manager of SPD must review the complaint if the complaint involves SPD staff or services or if the complaint is not, or cannot, be resolved with SPD staff. SPD manager response to the complaint must be made in writing, within 30 days following receipt of the complaint and include a response to the complaint as described in section (1)(c) of this rule.

(e) Third-party review when complaints are not resolved by the SPD manager. Unless the grievant is a Medicaid recipient who has elected to initiate the hearing process according to OAR 411-300-0210, a complaint involving the provision of service or a service provider may be submitted to SPD for an administrative review.

(A) The complainant must submit to SPD a request for an administrative review within 15 days from the date of the decision by the SPD manager.

(B) Upon receipt of a request for an administrative review, the SPD Assistant Director shall appoint an Administrative Review Committee and name the chairperson. The Administrative Review Committee shall be comprised of two representatives of SPD. Committee representatives must not have any direct involvement in the provision of services to the complainant or have a conflict of interest in the specific case being reviewed.

(C) The Administrative Review Committee must review the complaint and the decision by the SPD Manager and make a recommendation to the SPD Assistant Director within 45 days of receipt of the complaint unless the complainant and the Administrative Review Committee mutually agree to an extension.

(D) The SPD Assistant Director shall consider the report and recommendations of the Administrative Review Committee and make a final decision. The decision must be in writing and issued within 10 days of receipt of the recommendation by the Administrative Review Committee. The written decision must contain the rationale for the decision.

(E) The decision of the SPD Assistant Director is final. Any further review is pursuant to the provision of ORS 183.484 for judicial review.

(f) Documentation of complaint. Documentation of each complaint and its resolution must be filed or noted in the complainant's record.

(2) NOTIFICATION. Upon enrollment and annually thereafter, SPD must inform each child's parent orally and in writing, using language, format, and methods of communication appropriate to the parent's needs and abilities, of the following:

(a) SPD complaint policy and procedures, including the right to an administrative review and the method to obtain an administrative review; and

(b) The right of a Medicaid recipient to a hearing pursuant to OAR 411-300-0210 and the procedure to request a hearing.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: SPD 11-2009, f. 7-31-09, cert. ef. 8-1-09

411-300-0210

Denial, Termination, Suspension, Reduction, or Eligibility for Services for Individual Medicaid Recipients

(1) HEARING RIGHTS. Each time SPD takes an action to deny, terminate, suspend, or reduce a child's access to services covered under Medicaid, SPD shall notify the child's parent of the right to a hearing and the method to request a hearing. SPD shall mail the notice by certified mail, or personally serve it to the child's parent 10 days or more prior to the effective date of an action.

(a) SPD shall use, Notice of Hearing Rights, or a comparable SPD-approved form for such notification. This notification requirement does not apply if an action is part of, or fully consistent with, the Plan of Care, or the child's parent has agreed with the action by signature to the Plan of Care. The notice shall be given directly to the parent when the Plan of Care is signed.

(b) The parent may appeal a denial of a request for additional or different services only if the request has been made in writing and submitted to the address on the notice to expedite the process.

(c) A notice required by section (1) of this rule must include:

(A) The action SPD intends to take;

(B) The reasons for the intended action;

(C) The specific Oregon administrative rules that supports, or the change in federal or state law that requires, the action;

(D) The appealing party's right to request a hearing in accordance with OAR chapter 137, Oregon Attorney General's Model Rules, ORS Chapter 183, and 42 CFR Part 431, Subpart E;

(E) A statement that SPD files on the subject of the hearing automatically becoming part of the hearing record upon default for the purpose of making a *prima facie* case;

(F) A statement that the actions specified in the notice shall take effect by default if the DHS representative does not receive a request for hearing from the party within 45 days from the date that SPD mails the notice of action;

(G) In cases of an action based upon a change in law, the circumstances under which a hearing shall be granted; and

(H) An explanation of the circumstances under which CIIS shall be continued if a hearing is requested.

(d) If the parent disagrees with the decision or proposed action of SPD to deny, terminate, suspend, or reduce a child's access to services covered under Medicaid, the parent may request a hearing as provided in ORS Chapter 183. The request for a hearing must be in writing on form DHS 443 and signed by the parent. The signed form (DHS 443) must be received by DHS within 45 days from the date of SPD notice of denial.

(e) The parent may request an expedited hearing if the parent feels that there is immediate, serious threat to the child's life or health should the normal timing of the hearing process be followed.

(f) If the parent requests a hearing before the effective date of the proposed actions and requests that the existing services be continued, DHS shall continue the services.

(A) DHS must continue the services until whichever of the following occurs first:

(i) The current authorization expires;

(ii) The administrative law judge issues a proposed order and DHS issues a final order; or

(iii) The child is no longer eligible for Medicaid benefits.

(B) DHS must notify the child's parent that DHS is continuing the service. The notice must inform the parent that if the hearing is resolved against the child, DHS may recover the cost of any services continued after the effective date of the continuation notice.

(g) DHS may reinstate services if:

(A) DHS takes an action without providing the required notice and the parent requests a hearing;

(B) DHS fails to provide the notice in the time required in this rule and the parent requests a hearing within 10 days of the mailing of the notice of action; or

(C) The post office returns mail directed to the parent but the location of the parent becomes known during the time that the child is still eligible for services.

(h) DHS must promptly correct the action taken up to the limit of the original authorization, retroactive to the date the action was taken, if the hearing decision is favorable to the child or DHS decides in the child's favor before the hearing.

(i) The DHS representative and the parent may have an informal conference, without the presence of the administrative law judge, to discuss any of the matters listed in OAR 137-003-0575. The informal conference may also be used to:

(A) Provide an opportunity for DHS and the parent to settle the matter;

(B) Ensure the child's parent understands the reason for the action that is the subject of the hearing request;

(C) Give the parent an opportunity to review the information that is the basis for that action;

(D) Inform the parent of the rules that serve as the basis for the contested action;

(E) Give the parent and DHS the chance to correct any misunderstanding of the facts;

(F) Determine if the parent wishes to have any witness subpoenas issued; and

(G) Give DHS an opportunity to review its action.

(j) The child's parent may, at any time prior to the hearing date, request an additional conference with the DHS representative. At the DHS representative's discretion, the DHS representative may grant an additional conference if it facilitates the hearing process.

(k) DHS may provide the parent the relief sought at any time before the final order is issued.

(l) A parent may withdraw a hearing request at any time prior to the issuance of a final order. The withdrawal shall be effective on the date DHS or the Office of Administrative Hearings receives it. DHS must issue a final order confirming the withdrawal to the last known address of the child's parent. The child's parent may cancel the withdrawal up to 10 working days following the date the final order is issued.

(2) PROPOSED AND FINAL ORDERS.

(a) In a contested case, the administrative law judge must serve a proposed order on the child and DHS.

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(b) If the administrative law judge issues a proposed order that is adverse to the child, the child's parent may file exceptions to the proposed order to be considered by DHS. The exceptions must be in writing and must be received by DHS no later than 10 days after service of the proposed order. The child's parent may not submit additional evidence after this period unless DHS grants prior approval.

(c) After receiving the exceptions, if any, DHS may adopt the proposed order as the final order or may prepare a new order. Prior to issuing the final order, DHS may issue an amended proposed order.

(3) The performing or billing provider must submit relevant documentation to DHS within five working days at the request of DHS when a hearing has been requested.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: SDSD 12-2002, f. 12-26-02, cert. ef. 12-28-02; SPD 13-2004, f. & cert. ef. 6-1-04; SPD 11-2009, f. 7-31-09, cert. ef. 8-1-09

411-300-0220

Provider Sanctions for Children's Intensive In-Home Services

(1) Sanctions may be imposed on a provider when any of the following conditions is determined by SPD to have occurred:

(a) The provider has been convicted of any crime that would have resulted in an unacceptable criminal history check upon hiring or issuance of a provider number;

(b) The provider has been convicted of unlawfully manufacturing, distributing, prescribing, or dispensing a controlled substance;

(c) The provider's license has been suspended, revoked, otherwise limited, or surrendered;

(d) The provider has failed to safely and adequately provide the CIIS authorized as determined by the parent or the services coordinator;

(e) The provider has had an allegation of abuse or neglect substantiated against them;

(f) The provider has failed to cooperate with any investigation or grant access to or furnish, as requested, records or documentation;

(g) The provider has billed excessive or fraudulent charges or has been convicted of fraud;

(h) The provider has made a false statement concerning conviction of crime or substantiation of abuse;

(i) The provider has falsified required documentation;

(j) The provider has not adhered to the provisions of these rules; or

(k) The provider has been suspended or terminated as a provider by another division within DHS.

(2) SPD may impose the following sanctions on a provider:

(a) Termination from providing CIIS;

(b) Suspension from providing CIIS for a specified length of time or until specified conditions for reinstatement are met and approved by SPD; or

(c) Payments to the provider may be withheld.

(3) If SPD makes a decision to sanction a provider, the provider must be notified by mail of the intent to sanction.

(a) The provider may appeal a sanction by requesting an administrative review by the SPD Assistant Director.

(b) For an appeal to be valid, written notice of the appeal must be received by SPD within 45 days of the date the sanction notice was mailed to the provider.

(c) The provider must appeal a sanction separately from any appeal of audit findings and overpayments.

(4) At the discretion of SPD, providers who have previously been terminated or suspended by any division within DHS may not be re-enrolled as providers of Medicaid services.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: SDSD 12-2002, f. 12-26-02, cert. ef. 12-28-02; SPD 13-2004, f. & cert. ef. 6-1-04; SPD 11-2009, f. 7-31-09, cert. ef. 8-1-09

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Department of Oregon State Police
Chapter 257

Rule Caption: Clarifies which tow business are subject to non-preference towing and how hearings are recorded.

Adm. Order No.: OSP 1-2009(Temp)

Filed with Sec. of State: 8-6-2009

Certified to be Effective: 8-6-09 thru 1-31-10

Notice Publication Date:

Rules Amended: 257-050-0020, 257-050-0040, 257-050-0050, 257-050-0060, 257-050-0070, 257-050-0090, 257-050-0095, 257-050-0100, 257-050-0110, 257-050-0115, 257-050-0125, 257-050-0130,

257-050-0140, 257-050-0145, 257-050-0150, 257-050-0155, 257-050-0157, 257-050-0170, 257-050-0180, 257-050-0200

Subject: The amendments to OAR division 050 delete the references to "approved tow business," "authorized tow business," and "registered tow business" and replaces those words with the defined term of "qualified tow business." The amendments further delete the word "applicant" and replaces it with "authorized agent of representative" of a tow business in reference to applications for a letter of appointment to the non-preference tow rotational list from the Department. The amendments create clearer distinctions between "tow business" in general and "qualified tow business" in particular and clarifies that "qualified tow businesses," upon receiving a letter of appointment from the Department, are required to comply with the Department's administrative rules governing the non-preference tow rotational list and are subject to suspension and revocation for failing to do so. The amendments further delete the requirement that "tow businesses" (when their registered agents or representatives apply for a letter of appointment), or "qualified tow businesses" (when complying with the administrative rule requirements), must be licensed as a "separate legal entity" and replaces it with the requirement that such businesses must be separately registered with the Secretary of State Corporation Division. Finally, the amendments delete the requirement that oral proceedings in Department suspension or revocation hearings must be recorded on tape. The amendment allows the Department to record suspension or revocation hearings by any means, including digital recording.

Rules Coordinator: Cort Dokken—(503) 934-0228

257-050-0020

Policy and Purpose

It is the policy and purpose of the Oregon State Police that:

(1) To further the Oregon State Police's interest in the prompt and orderly removal of disabled or abandoned vehicles from the highways of the State of Oregon, and to meet the towing needs of the Department, the Department has established a non-preference tow program as defined in Oregon Administrative Rules (OAR) 257-050-0020 to 257-050-0200. The program, in part, consists of a non-preference tow rotational list comprised of qualified tow businesses. The non-preference tow rotational list is computer generated and does not favor any one qualified tow business. The non-preference tow rotational list is not a guarantee of business to the towing industry by the Department. Qualified tow businesses participating in the non-preference tow rotational list understand that they may be called upon to conduct vehicle tows at the operational need of the Oregon State Police, as may be determined by the requesting State Police Officer or Department member.

(2) Because the non-preference tow rotational list is designed to meet the towing needs of the Department, tow businesses do not need to be on the list to conduct business with the general public in the State of Oregon.

(3) The Oregon State Police do not charge any fees to the owner or driver of a vehicle towed under its non-preference tow program. Therefore, the Department does not require any qualified tow business participating in the non-preference tow rotational list to charge any fees to the owner or driver of a vehicle towed under the Department's non-preference tow program. Accordingly, the Department shall not establish, recommend, or in any way dictate the cost of a non-preference tow conducted by a qualified tow business under the Department's non-preference tow program. It is also the policy of the Department that qualified tow businesses that participate in the Department's non-preference tow rotational program shall not represent to any person or business that a particular fee has been or will be charged by the Oregon State Police.

(4) Qualified tow businesses called upon by the Oregon State Police to conduct non-preference tows must reflect the highest standards of professionalism. Qualified tow businesses that, through their conduct or actions, abuse the non-preference tow system or the integrity, trust or security of the Oregon State Police shall be removed from the non-preference tow rotational list through the suspension and/ or revocation processes.

Stat. Auth.: ORS 181.440

Stats. Implemented: 181.440

Hist.: OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

ADMINISTRATIVE RULES

257-050-0040

Authority

(1) These Administrative Rules are promulgated pursuant to ORS 181.440, which permits the Superintendent of the Oregon State Police to make rules governing the eligibility of tow businesses to be placed and remain on any list of qualified tow businesses used by the Department when it requests towing services on behalf of any person.

(2) All qualified tow businesses providing service to the public and the Department through calls received from the Oregon State Police shall conduct their operation in accordance with all applicable federal, state, and local laws, rules, or their equivalent.

(3) In the event the Oregon State Police enters into an agreement with any other state agency, allowing that state agency the use of the non-preference tow rotational list, then these rules shall apply to tow requests made by that state agency.

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

257-050-0050

Definitions

(1) "Abandoned Auto" or "Abandoned Vehicle" — A vehicle that has been parked or left standing upon any public way for a period in excess of 24 hours without authorization by statute or local ordinance.

(2) "Area Commander" or "Station Commander" — The local commanding officer of an area established by the Oregon State Police.

(3) "Tow business" — Any person, enterprise, corporation or partnership that engages in the impounding, transporting, recovery or storage of towed or abandoned vehicles or in the disposal of abandoned vehicles.

(4) "Business Records" — Those records maintained by a qualified tow business that relate to the non-preference tows and which include, but are not limited to, tow bills, letters of appointment, and inspection sheets.

(5) "Certified" or "Certification" — The successful completion by an employee of a tow business of a written test administered by a nationally recognized towing affiliated body/organization relating to the level of towing the employee operates.

(6) "Convicted" — An adjudication of guilt upon a verdict or finding entered in a criminal proceeding in a court of competent jurisdiction.

(7) "Denial" — Action taken by the Department in refusing to issue a letter of appointment to a tow business.

(8) "Department" — The Department of State Police, also referred to as "Oregon State Police," and its employees.

(9) "Employee" — Any person in the service of a tow business under contract of hire, express or implied, oral or written, where the business has the power or right to control and direct the employee in the material details of how the work for the business is to be performed.

(10) "Fencing" — Permanent fencing meeting zoning requirements, with a minimum height of six (6) feet.

(11) "Hazardous Vehicle" — The meaning as given in the Oregon State Highway Division Administrative Rule OAR 734-020-0147.

(12) "Hearings Officer" — A person appointed by an agency or entity contracted by the Department of State Police to conduct contested case hearings.

(13) "Highway" — Every public way, road, street, thoroughfare and place including bridges, viaducts and other structures within the boundaries of the state open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right (ORS 801.305).

(14) "Inspector" — A commissioned officer or other appointed representative of the Oregon State Police who has been designated by the Department to examine tow trucks and qualified tow businesses.

(15) "Letter of Appointment" — A letter issued by the Department that authorizes a tow business to tow abandoned or disabled vehicles on a non-preference rotational basis for the Oregon State Police.

(16) "Non-Preference tow rotational List" or "Non-Preference List" — The list of qualified tow businesses maintained at Oregon State Police Headquarters that is used to dispatch the tow trucks on an equitable basis when no choice or preference to a tow business is stated by the vehicle owner, driver, or other person responsible for the vehicle.

(17) "On Road Time" — The time it takes a qualified tow business to have a tow truck started and on the road from the time the dispatcher was called by the Department.

(18) "Patrol Services Division" — The administrative body of the Oregon State Police that is located at General Headquarters in Salem, Oregon.

(19) "Place of Business" — A separate building or physical structure that a qualified tow business occupies, either continuously or at regular times, where the qualified tow business' business books and records are kept and the business of towing vehicles is transacted in each assigned tow zone. Multiple or different qualified tow businesses may operate on a single piece of real property, provided that each qualified tow business maintains individual and separate records, storage facilities, and letters of appointment in order to be placed on the Department's non-preference tow rotational list.

(20) "Qualified Tow Business" — A tow business with a current letter of appointment issued by the Department.

(21) "Region Commander" or "District Commander" — The commanding officer of the region as established by the Oregon State Police.

(22) "Recovery Vehicle" — A motor vehicle that is:

(a) A commercially available truck chassis equipped with a commercially manufactured tow body or bed, that is rated and issued a serial number by the manufacturer;

(b) Designed and equipped for, and used in, the towing and/or recovery of vehicles;

(c) Capable of towing a vehicle by means of a tow bar, sling or wheel lift; and

(d) Capable of recovering a vehicle by means of a hoist, winch and towline.

(23) "Response Time" — The reasonable driving time it takes a tow truck to respond to the dispatched location once the tow truck is on the road.

(24) "Revocation" and "revoked" — The withdrawal of a letter of appointment and the removal from the Oregon State Police's non-preference towing program for a period of not less than 10 years, which becomes effective from the date of the Notice of Revocation from the Oregon State Police.

(25) "Suspension" and "suspend" — The removal from the Oregon State Police non-preference towing program for a period of not more than 10 years.

(26) "Tow Vehicle" — A motor vehicle that is:

(a) Altered or designed and equipped for, and used in, the business of towing vehicles; and

(b) Used to tow vehicles by means of a crane hoist, tow bar, towline or dolly, or otherwise used to render assistance to other vehicles (ORS 801.530).

(27) "Tow Zone" — The geographical area designated by the area commander for the removal of vehicles.

(28) "Vehicle Storage Area" — The approved yard or enclosed building where a qualified tow business keeps or stores towed vehicles.

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 5-1992, f. & cert. ef. 12-16-92; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 1-1999(Temp), f. & cert. ef. 9-10-99 thru 3-7-00; OSP 1-2000, f. & cert. ef. 3-15-00; OSP 2-2000(Temp), f. & cert. ef. 7-14-00 thru 1-9-01; Administrative correction 6-12-01; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

257-050-0060

Application for Appointment

(1) An application for letter of appointment to provide towing services for the Department shall be filed by the authorized agent or representative of a tow business with the Patrol Services Division on a form prescribed by the Department. In case of a tow business that is a partnership, each partner will apply on the form prescribed by the Department. In the case of a tow business that is a corporation, the Department may require that each of the present, and any subsequent officers, managers, and stockholders holding 10% or more of the total issued and outstanding stock of the applicant corporation complete an application form.

(2) The application form will be assigned a document number by the Patrol Services Division which shall be its yearly identification number for all matters relating to appointments, granted or denied, and any other correspondence thereafter.

(3) The filing of an application for a letter of appointment to provide towing to the Department from a non-preference list does not in itself authorize a tow business to provide towing services pursuant to these regulations until a letter of appointment has been granted by the Department. The Department shall not call a towing business for non-preference towing unless a current/valid yearly appointment letter has been issued in connection with such tow business by the Department. Nothing herein shall prohibit the Department from calling a towing business upon a specific request of the person responsible for the vehicle or his agent. An appointment letter will not be granted until all application sections of the application form

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have been completed by the authorized agent or representative of a tow business.

(4) During implementation of the Administrative Rules, the present non-preference tow list system will be in effect until such time that the Administrative Rules are in place at the Patrol Services Division of the Department.

Stat. Auth.: ORS 181.440
Stats. Implemented: ORS 181.440
Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

257-050-0070

Application Requirements

(1) Application for placement on the non-preference tow rotational list shall be made on the forms furnished by the Department and shall be accompanied by an inspection report. The inspection report shall be furnished by the Department, and shall be completed by the authorized agent or representative of a tow business. The application form shall establish or provide all of the following:

(a) The tow business has an established place of business at the address shown.

(b) The tow business' place of business has an office area that is accessible to the public without entering the storage area and that the storage area complies with these Administrative Rules and all local zoning rules and regulations.

(c) Each tow business is separately registered with the Secretary of State Corporate Division, with a separate place of business and a separate storage area. Only one tow business may be operated at any one place of business.

(d) The authorized agent or representative of the tow business has inspected and certifies, under penalty of perjury, suspension, revocation and/or criminal prosecution that all of the information supplied in the application form and inspection form is true and accurate and that the tow business' place of business and all tow truck equipment meet the minimum requirements established by these Administrative Rules.

(e) The tow business has proof of the following current, minimum insurance coverage. (Proof of required current insurance coverage shall be submitted with applications and inspection forms.)

(A) \$750,000, or the minimum required by the Federal Motor Carrier Regulations, or the Oregon Department of Transportation (ODOT), which ever is greater when towing under authority of Federal Motor Carrier Regulations or ODOT, for liability, for bodily injury or property damage per occurrence;

(B) Garage keeper's legal liability (for care, custody and control) per occurrence in the amount of:

- (i) Class A — \$50,000;
- (ii) Class B — \$150,000;
- (iii) Class C — \$200,000
- (iv) Class D:

NOTE: Class "D" equipment is not considered to be recovery tow vehicles.

(I) Class D-A or Other Equipment under this classification — \$50,000;

(II) Class D-B or Other Equipment under this classification — \$75,000;

(III) Class D-C or Other Equipment under this classification — \$200,000.

(C) Insurance to protect against vehicle damage including, but not limited to fire and theft, from the time a vehicle comes into custody and control of the tow business and is hooked onto, throughout the recovery, and until that vehicle is reclaimed or sold.

(D) Insurance for cargo transported in the amount of:

- (i) Class A — \$50,000;
- (ii) Class B — \$100,000;
- (iii) Class C — \$200,000;
- (iv) Class D-A — or Other Equipment under this classification — \$50,000;

(v) Class D-B — or Other Equipment under this classification — \$100,000;

(vi) Class D-C — or Other Equipment under this classification — \$200,000.

(f) Nothing in this section will relieve a tow business or qualified tow business from maintaining insurance in the amounts and providing coverage of the type for motor carriers in ORS Chapter 825 if the amounts exceed, or coverage is different from, that required by this section.

(g) A certificate of insurance from the insurance carrier to the Department that includes the type and amounts of coverage and provides

for notification of cancellation of the tow business's insurance is mandatory.

(h) The information for the letter of appointment may be included in the inspection form that is completed by the authorized agent or representative of the tow business.

(i) The tow business or tow business owner has a minimum of three (3) years of documented experience in the towing industry, either as a tow business or a tow business owner or tow vehicle driver for a tow business.

(j) The tow business has a dedicated recovery vehicle assigned to the tow zone applied for and capable of handling the classifications of tows requested in the application. A tow business may list a class B recovery vehicle to cover both class A and class B tows and a tow business may list a class C recovery vehicle to cover both class B and/or class A tows. If a larger recovery vehicle is listed by a tow business, that vehicle may only be listed for one tow zone for the smaller recovery tow classes it is used for, even if the larger tow vehicle tow zone overlaps with the other tow classification zones. Recovery Tow vehicles may only be listed for one tow zone. All tow vehicles approved must comply with these Administrative Rules for the classification of tow applied for. Only equipment approved through the letter of appointment to be used for the non-preference tow program for a specific tow zone can be used in that tow zone.

NOTE: A written waiver may be granted by the Oregon State Police based on local non-preference towing operational needs.

(k) The names of all drivers authorized by a tow business to drive in the tow zone for which the tow business applied, and all employees of a tow business who will have contact with the towed/assisted vehicle(s) and/or the driver/owner of the towed/assisted vehicle(s) or other representative(s) of the towed/assisted vehicle(s) owner(s). The use of non-listed and/or unreported drivers by a qualified tow business shall not be permitted.

(2) Within 30 days of the receipt of a request for an application for a letter of appointment, the Patrol Services Division of the Oregon State Police shall send an application packet, and include a current copy of these Administrative Rules and all forms related to the self certification, inspection and certification of equipment, and other related information required by these Administrative Rules.

(3) The address the tow business lists on its application shall be the place of business where the tow business keeps its business records. The application also shall list all locations of vehicle storage areas and places for redemption of vehicles. If there is a change in address of the tow business, the authorized agent or representative of the tow business shall immediately notify the Patrol Services Division, and in no event will notification take longer than ten (10) days.

(4) All tow trucks shall display the tow business's name, city, and telephone number. This information shall be painted or permanently affixed to both sides of the vehicle and the lettering shall be at least 2 inches in height with 1/2 inch stroke and in a color that is in contrast with the tow truck's color.

(5) Any tow business in violation of this Administrative Rule may be denied a letter of appointment and shall be notified of the denial in writing. The Department may also deny a renewal application for any qualified tow business with an existing letter of appointment that is in violation of this Administrative Rule and may have its existing letter of appointment immediately suspended, prior to any hearing and shall be notified of the suspension in writing. A suspension under this rule will be in effect until the violation is corrected and inspected. Other sanctions, up to revocation and/or criminal prosecution, may be applied to a qualified tow business upon finding by the Department that the qualified tow business is in violation of this Administrative Rule.

Stat. Auth.: ORS 181.440
Stats. Implemented: ORS 181.440
Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 5-1992, f. & cert. ef. 12-16-92; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

257-050-0090

Inspections

The authorized agent or representative of the tow business shall self-certify on its application under penalty of False Swearing related to Regulation of Vehicles related to Businesses (ORS 822.605), penalty of Perjury (162.065), suspension or revocation from the non-preference tow rotational list that its tow business, employees and vehicles meet the minimum requirements as set forth in these Administrative Rules. This self-certification shall verify that the tow business' request for a letter of appointment complies with all applicable local laws and regulations as prescribed for the geographical area where the tow business will be established. If local zoning regulations are applicable, the authorized agent or representa-

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tive of the tow business must include with the application a copy of the certification of approval from the local planning department, zoning commission or other authorized unit of local government, to the Department. A zoning certification will become part of the permanent record maintained for each qualified tow business by the Department.

Stat. Auth.: ORS 181.440
Stats. Implemented: ORS 181.440
Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 5-1992, f. & cert. ef. 12-16-92; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

257-050-0095

Letter of Appointment

The letter of appointment shall be completed by the Department establishing that the tow business has met the requirements for a letter of appointment. The designated tow zone(s), class of tow vehicle(s), specific vehicles authorized to operate in each zone, and any waivers will be listed in the letter.

Stat. Auth.: ORS 181.440
Stats. Implemented: ORS 181.440
Hist.: OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

257-050-0100

Issuance of Letter of Appointment

(1) No tow business shall be called upon to perform a non-preference towing service at the request of the Department unless such tow business has a valid letter of appointment from the Department, as described herein. A letter of appointment will not be issued by the Department unless the Department is satisfied that all qualifications set out in these Administrative Rules either have been met by the tow business or that a waiver of one or more qualifications has been granted by the Department.

(2) A letter of appointment will be valid only in the zone or zones assigned by the area commander and will identify specific vehicles of a qualified tow business authorized to operate in each zone. Applications for additional letters of appointment in other zones must be based on a complete and separate place of business capable of independent operation within the additional zone.

(3) A tow business may petition the Department for a waiver of a non-safety related requirement. The waiver shall be sent to the area commander who may make a recommendation regarding the waiver as an operational need. The Department may grant a waiver if, it finds that the towing services available to the Department are inadequate in the area to meet the needs of the public.

(4) In the event a qualified tow business that meets all requirements and qualifications receives a letter of appointment in the same zone as a qualified tow business that has been granted a waiver, the qualified tow business currently operating under a waiver, upon notification, will be advised that it has up to 30 days to come into compliance with these rules before removal from the affected non-preference tow zone. If the qualified tow business operating under a waiver fails to come into compliance within the time specified by the Department, it may have its letter of appointment suspended or revoked by the Department and will not be called for Department initiated tows.

(5) Every letter of appointment shall be issued in the name of a tow business and the holder thereof shall not allow any other person or qualified tow business to use the letter of appointment.

(6) The letter of appointment will be valid only for the place of business named on the application and will not apply to any other place of business.

(7) A letter of appointment shall be valid for one (1) year unless suspended or revoked by the Department.

(8) Each separate place of business will have a letter of appointment.

(9) Before a letter of appointment can be issued by the Department the tow business must have a tow vehicle meeting the minimum standards set forth in these Administrative Rules OAR 257-050-0020 to 257-050-0200.

(10) The letter of appointment shall state the zone the qualified tow business is authorized to operate in. The zones will be determined by the area commander.

(11) All qualified tow businesses shall agree to tow abandoned vehicles in accordance with Chapter 819 of the Oregon Revised Statutes.

Stat. Auth.: ORS 181.440
Stats. Implemented: ORS 181.440
Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 5-1992, f. & cert. ef. 12-16-92; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

257-050-0110

Suspension, Revocation and Voluntary Relinquishment of Letter of Appointment

(1) Upon receiving evidence that a qualified tow business has failed to comply, or no longer complies, with any requirement or provision of these Administrative Rules or that the authorized agent or representative of a tow business has falsified any documentation or certification related to compliance of these Administrative Rules in an application for a letter of appointment, the Department shall suspend or revoke the qualified tow business's letter of appointment. The Department may suspend or revoke the qualified tow business's letter of appointment at any time once the qualified tow business has been given notice in accordance with these Administrative Rules. A qualified tow business whose letter of appointment has been suspended or revoked may request an administrative hearing as outlined in these Administrative Rules.

(2) Upon receiving evidence that a qualified tow business has failed to comply, or no longer complies, with the requirements of these Administrative Rules, the qualified tow business's letter of appointment shall be suspended or revoked by the Department.

(3) The qualified tow business may voluntarily relinquish his/her appointment. The Department will be advised in writing of this voluntary relinquishment. After receiving written notice the Department will cause an inspector to obtain the original letter of appointment and forward the same to the Department.

Stat. Auth.: ORS 181.440
Stats. Implemented: ORS 181.440
Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 5-1992, f. & cert. ef. 12-16-92; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

257-050-0115

Suspension and Revocation

(1) For purpose of 257-050-0115, the following suspension periods apply:

(a) "First suspension" — any first violation of OAR 257-050-0115 shall be for a period of not less than 60 days.

(b) "Second Suspension" — any second violation of OAR 257-050-0115 that is committed within a one (1) year period from the date of any final order under this rule shall be for a period of not less than one (1) year.

(c) "Third Suspension" — any third violation of OAR 257-050-0115 that is committed within a three (3) year period of the date of any final order under this rule shall be a revocation.

(2) The following constitutes grounds for suspension of a qualified tow business:

(a) A qualified tow business that commits a violation, traffic crime or traffic infraction of Oregon Law during the course and operation of the qualified tow business's business shall be suspended.

(b) An employee of a qualified tow business that commits any violation or traffic infraction of Oregon Law while in the performance of his or her duties of employment shall be suspended.

(3) The following constitutes grounds for revocation of a qualified tow business:

(a) A qualified tow business that commits a crime, other than a traffic crime and that is chargeable as a misdemeanor or felony during the course and operation of the qualified tow business's business shall be revoked.

(b) An employee of a qualified tow business that commits a crime chargeable as a misdemeanor or felony while in the performance of his or her duties of employment shall be revoked.

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 1-1999(Temp), f. & cert. ef. 9-10-99 thru 3-7-00; OSP 1-2000, f. & cert. ef. 3-15-00; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

257-050-0125

Reinspection/Certification

(1) Self Certification/re-inspections will be conducted at least once a year by all qualified tow businesses. Unscheduled inspections of the qualified tow business may be conducted without notice by any Oregon State Police inspector to determine the fitness of tow trucks, facilities, and business records. These inspections shall be done during business hours.

(2)(a) In the event of missing or defective tow truck equipment that is not safety related, but that was required for initial approval, the Oregon State Police shall advise the qualified tow business of the defect. If the qualified tow business fails or refuses to repair the defect within 15 days of the notice, the defective truck will be removed from the list of tow vehicles in the qualified tow business's letter of appointment that are authorized for use in the Department's non-preference tow rotation list for the duration of the

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letter of appointment without renewal, until after the last day of authorization of the letter of appointment and the defect is repaired.

(b) In the event of a violation of these Administrative Rules by a qualified tow business relating to the qualified tow business's facilities, records or other conditions, the Oregon State Police shall advise the qualified tow business of the violation. If the qualified tow business fails or refuses to fix the violation within 15 days of the notice, the qualified tow business's letter of appointment will be suspended for its duration without renewal until after the last day of authorization of the letter of appointment and the violation is fixed.

(c) A qualified tow business may avoid suspension under this section by voluntarily removing the involved tow or recovery vehicle from the list of tow vehicles in the qualified tow business's letter of appointment that are authorized for use in the Oregon State Police's non-preference tow list until such repairs or corrections are made or by correcting the violation relating to the qualified tow business's facilities or records. Voluntary removal under this section shall be done by sending a letter to the Oregon State Police General Headquarters, Patrol Services Division, 4th Floor, 255 Capitol Street NE, Salem, Oregon 97310, advising the Oregon State Police of the qualified tow business's voluntary removal of the vehicle from service on non-preference calls for the Oregon State Police. This voluntary removal of defective equipment letter shall be received by the Oregon State Police, Patrol Services Division no later than 15 days after the initial notification of the defect.

(3)(a) In the event of a safety related violation which renders the tow truck a safety hazard upon a public highway, the tow truck shall be immediately removed from the list of tow vehicles in the qualified tow business's letter of appointment that are authorized for use in the Department's non-preference tow rotation list. If the defect is corrected and reinspected within 30 days of the immediate suspension, the tow truck shall be reinstated on the tow business's letter of appointment. If the defect is not corrected and reinspected within 30 days, the suspension will continue without reinstatement until after the last day of the authorization of the letter of appointment and the defect is repaired and reinspected.

(b) In the event of a safety related violation which renders a qualified tow business's facilities unsafe, the qualified tow business shall immediately be suspended for the duration of the letter of appointment from the Department's non-preference tow rotational list, without renewal until after the last day of the authorization of the letter of appointment and the defect is repaired. If the defect is corrected and reinspected within 30 days of the immediate suspension, the qualified tow business's letter of appointment shall be reinstated.

(c) A qualified tow business may avoid immediate suspension under this section by voluntarily removing the tow or recovery vehicle from the list of tow vehicles in the qualified tow business's letter of appointment that are authorized for use in the Oregon State Police's non-preference tow list until such repairs or corrections are made or by correcting the violation relating to the qualified tow business's facilities or records. Voluntary removal under this section shall be done by sending a letter to the Oregon State Police General Headquarters, Patrol Services Division, 4th Floor, 255 Capitol Street NE, Salem, Oregon, 97310, advising of the qualified tow business's voluntary removal of the vehicle from service or the business on non-preference calls for the Oregon State Police. This voluntary removal safety hazard letter shall be received by the Oregon State Police, Patrol Services Division no later than 30 days after the initial notification of the defect.

(4) Upon repair or correction of a defect of a voluntarily removed tow truck or a defect related to a qualified tow business, an Oregon State Police inspector, upon written request from the affected qualified tow business, shall reinspect the equipment/facility which was found to be defective or missing. If the defects have been satisfactorily corrected, the inspector shall reinstate the tow truck to the list of tow vehicles in the qualified tow business's letter of appointment that are authorized for use in the Department's non-preference list and/or shall reinstate a qualified tow business's letter of appointment. In the event an Oregon State Police inspector is not readily available to reinspect, another officer appointed by the inspector's supervisor may reinspect and re-instate the tow truck or qualified tow business. The reinspection shall be completed as soon as possible after a written request from the qualified tow business has been received by the Patrol Services Division, advising that the defect has been repaired. In no event shall a reinspection take longer than ten (10) business days after the written request for inspection has been received by the Patrol Services Division.

(5) Upon revocation, suspension, expiration or voluntary relinquishment of a letter of appointment, a qualified tow business's right to conduct towing services at the request of the Department is terminated, unless the

call for service is a preference tow made by the owner and/or driver of a vehicle.

(6) Upon sale or transfer by the qualified tow business of a truck listed in the qualified tow business's letter of appointment that is authorized for use in the Department's non-preference tow rotation list, the qualified tow business shall advise the department so that the truck may be removed from the non-preference list. This notification must be made immediately and in no event may exceed ten (10) days after the sale or transfer.

(7) Upon the purchase or acquisition of any additional tow truck(s) to be used pursuant to this rule, a qualified tow business shall immediately notify the Department. The qualified tow business shall make a self-certified inspection of the new unit and submit this inspection to the Department, prior to the tow truck being used for non-preference towing.

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

257-050-0130

Appeal

A tow business or qualified tow business aggrieved by the decision of the Hearings Program officer denying, suspending, or revoking a letter of appointment must make any further appeal of such decision to the Oregon Court of Appeals.

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

257-050-0140

Place of Business Requirement and Business Hours

A qualified tow business's hours for the purpose of inspection of business records and towing equipment shall be 8AM-5PM, excluding weekends and holidays:

(1) When a qualified tow business is not open and does not have personnel present at the place of business, the qualified tow business shall post a clearly visible telephone number at its place of business for the purpose of public contact for the release of vehicles or personal property.

(2) The qualified tow business shall maintain personnel who can be contacted 24 hours a day to release impounded vehicles within a 30-minute period of time.

(3) The qualified tow business must post and maintain its letter of appointment at its place of business.

(4)(a) Dispatch service. The qualified tow business shall provide dispatch services 24 hours a day, 365 days a year. Each tow vehicle used by a qualified tow business shall be equipped with a two-way radio (not a citizen's band radio) or cellular phone capable of direct communications with the qualified tow business's dispatch service. Equipment provided shall be subject to approval of the Oregon State Police. Equipment shall be maintained in proper working condition at all times.

(b) Failure to respond to a call:

(A) Refusal or failure of a qualified tow business to respond to calls from the Department for towing services may result in the suspension or revocation of the qualified tow business's letter of appointment;

(B) The qualified tow business shall advise the appropriate Oregon State Police Dispatch Center when the qualified tow business is temporarily unavailable to respond to non-preference tow calls. Unavailability may occur due to conditions which include, but are not limited to, a disabled tow truck or a tow truck under repair, or unforeseen driver shortage due to illness or vacation. The qualified tow business shall advise the Oregon State Police Dispatch Center once the qualified tow business is available to resume its normal operation;

(C) Regardless of the unavailability of any qualified tow business, the non-preference list rotation shall continue as if the qualified tow business was available.

(5) Service call response time. Response times are mandatory. Class A and D-A tow trucks shall be on the road within fifteen minutes. Class B, C, D-B and D-C tow trucks shall be on the road within thirty minutes. At the time of the dispatch, all classes of tow trucks shall provide an estimated time of arrival at the scene. The station commander may waive this requirement due to inclement weather or unusual circumstances that might exist.

(6) For abandoned vehicles not deemed to be a hazard, tow requests will be made during business hours, defined as 8 A.M. to 5 P.M., seven (7) days a week, including holidays. Qualified tow businesses may tow abandoned vehicles at the qualified tow business's convenience during business hours on the date of the tow request. Once a vehicle is removed from the

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roadway and in possession of the qualified tow business, the qualified tow business shall notify the requesting Oregon State Police Office Dispatch Center as soon as possible on the date of the tow request of its possession of the abandoned vehicle. Notification of possession of the abandoned vehicle should be made immediately by the qualified tow business. In no case will notification to the Oregon State Police be made more than two hours after the abandoned vehicle comes into the possession of the qualified tow business.

(7) At the time a response is requested, the Department will provide the location, make, model, year of car license plate and estimated gross vehicle weight (if necessary) to the qualified tow business. Also, the Department will inform the qualified tow business about any condition or circumstances that may require special handling or assistance. The qualified tow business shall transmit the information to the person driving the tow truck.

(8) Qualified Tow business's record requirements: At its place of business of each tow zone, qualified tow businesses shall maintain the following records on each vehicle towed for a period of three years:

- (a) Vehicle description;
- (b) License number;
- (c) Issuing state;
- (d) Make;
- (e) Model;
- (f) Year;
- (g) Vehicle identification number;
- (h) Towing location;
- (i) Location vehicle was towed from;
- (j) Location to where the vehicle was towed;
- (k) Qualified Tow Business, Name, Address and Phone Number;
- (l) Name of tow truck driver;
- (m) Reasons for towing and/or service;
- (n) Time and date of service include storage dates as applicable;
- (o) Class of tow truck or truck number;
- (p) OSP Impound Forms;
- (q) All invoices for abandoned vehicles towed;
- (r) All invoices for all OSP non-preference tows.

(9) All fees for service shall be itemized. A copy of voided invoices shall be filed by invoice number at the qualified tow business's place of business and shall be retained in a file for a period of three years.

(10) All vehicles shall be handled and returned in substantially the same condition that they were in before being towed.

(11) All employees who operate tow truck(s) for a qualified tow business shall have an operator's license with the proper class or type for vehicle combinations. As prescribed by the state issuing the license, Oregon licensees shall comply with all applicable Oregon laws.

(12) Any person who shows proof of ownership or written authorization from the owner of the impounded vehicle may inspect and view the vehicle without charge during normal business hours. This does not apply to a vehicle seized and stored as evidence.

(13) All towing receipts on impounded vehicles, or confiscated vehicles, shall be made available by the qualified tow business to the nearest Department office after the tow has been completed.

(14) The qualified tow business shall notify the Oregon State Police Dispatch Center immediately when any person seeks to redeem any vehicle towed as abandoned or where a police hold has been placed on the vehicle. Release of vehicle under temporary or formal hold shall require written release from the Department. When a person entitled to take possession of the vehicle subject to a hold presents the qualified tow business with an official Oregon State Police release form, the qualified tow business shall release the vehicle to the person named.

(15) When inspection or reinspection of a tow truck is necessary, the area commander shall designate a location and time for the inspection to be conducted. When practical the inspection or reinspection shall be made within ten (10) days following the request by the qualified tow business.

(16) The qualified tow business shall provide either locked outside storage or locked, secure indoor storage, or both, which meets the following requirements:

(a) The qualified tow business's storage facility shall be in conformance with all zoning requirements of all applicable governments. Storage shall be provided, and of sufficient size, for each class of vehicle towed for the Oregon State Police, including semi trucks and motor homes, except as provided in ORS 819.110. Storage shall be located within the contractual geographical service area described as tow zones. The vehicle storage area may be located up to five (5) miles from the qualified tow business's place of business, provided that both facilities are located within the appointed

tow zone. Contact phone numbers and addresses are to be posted at both locations for the place of business and the storage area. When the towed vehicle storage area is not located at the qualified tow business's place of business, employees shall be able to respond from one location to the other within 30 minutes or less.

(b) The storage area will be under the exclusive access and control of the individual qualified tow business. The storage area cannot be shared with other businesses, including non-tow businesses not owned by the owner of a qualified tow business.

(17) The qualified tow business shall provide fencing around the outside storage area. The fencing must meet the following requirements:

(a) Fencing must comply with the requirements established in these Administrative Rules and all local zoning rules and regulations.

(b) Fencing shall be either made of a woven wire composition normally referred to as "cyclone fencing-chain link fencing," or made of a solid material, such as wood or concrete block, inclusive of a permanent natural barrier which would prevent access and unauthorized entry to the storage area. Fencing shall be topped by a minimum of three (3) strands of barbwire. Fencing not meeting the requirements of these regulations as determined by the Oregon State Police will not be accepted. Qualified tow businesses that are unable to comply with these fencing requirements due to local zoning requirements will be addressed on a case by case basis by the Department.

(c) Gates and entryways shall be of a solid frame, and the same minimum height as the other fencing material. All gates and entryways shall be designed to afford locking the gate or entryway securely to prevent unauthorized entry.

NOTE: Qualified tow businesses holding a valid appointment letter for a specific tow zone as of the adoption date of this Administrative Rule, will have one (1) year from their renewal date in the year 2003 to comply with this rule for the tow zone listed in the appointment letter. New tow businesses applying for a letter of appointment for the non-preference tow program shall immediately comply with this Administrative Rule after the adoption date of this rule.

(18) The qualified tow business shall allow the owner of a towed vehicle or anyone authorized in writing by the Oregon State Police, and/or an Oregon State Police Officer or other Department Member, to go to the vehicle and remove items of personal emergency nature, e/g/ eyeglasses, medication, clothing, identification, wallets-purses (and their contents), credit cards, check books, any known money-currency, child safety car and booster seats, except as provided in ORS 819.110 and 819.160.

(19) The qualified tow business shall be responsible for the contents, storage and disposal of all personal items, except items taken by authorized personnel in OAR 257-050-0140(18).

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 5-1992, f. & cert. ef. 12-16-92; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

257-050-0145

Felony Convictions

The Oregon State Police in the interest of public safety shall deny, suspend, or revoke a tow business' application or a qualified tow business' letter of appointment for the Department's non-preference towing program for any of the following reasons:

(1) A tow business, or any owner or employee of a tow business, convicted of any felony charge, or any charge in any state, which in Oregon is considered to be a felony, within the last fifteen (15) years from the date the tow business' application is received by the Oregon State Police. This subsection is subject to the provisions set forth under ORS 166.270.

(2) Any tow business, qualified tow business, or owner or employee of a tow business or qualified tow business convicted of two felony charges, regardless of when those felonies were committed.

(3) Any owner or employee of a tow business or qualified tow business convicted of a felony charge, or any charge from another state which in Oregon is considered to be a felony, where a weapon was used or threatened to be used in the commission of the crime, regardless of the date of the felony charge.

(4) Any owner or employee of a tow business or qualified tow business convicted of any of the sex crimes listed in ORS 181.594(4) or the equivalent conviction of a sex crime from another jurisdiction regardless of the degree of the charge.

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

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257-050-0150

Towing

(1) The Department shall not establish, recommend or in any way dictate the cost of a non-preference tow conducted by a qualified tow business.

(2) A qualified tow business that conducts a non-preference tow under these administrative rules shall not represent to any person or business that a particular fee has been or will be charged by the Oregon State Police.

(3) Qualified tow businesses shall furnish the Patrol Services Division with an itemized list of charges that can be incurred during a non-preference tow including, but not limited to:

- (a) Hookup charge;
- (b) Mileage fee;
- (c) Response fee.

(4) Qualified tow businesses shall not charge for items not declared on the list relating to the towing of a vehicle. This does not include mechanical work, bodywork or other repair work conducted subsequent to the tow.

(5) Complaints of unfair charges against a qualified tow business shall be referred to the Oregon Attorney General's Office.

(6) Qualified Tow businesses shall not transport passengers in any towed or carried vehicle(s).

Stat. Auth.: ORS 181.440
Stats. Implemented: ORS 181.440
Hist.: OSP 1-1989, f. & cert. ef. 1-3-89; OSP 3-1989, f. 10-16-89, cert. ef. 10-15-89; OSP 2-1995, f. & cert. ef. 10-20-95; OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

257-050-0155

Suspension and Revocation (for Violation of a Law Chargeable as a Violation or Crime)

(1) The following suspension or revocation periods apply when a qualified tow business, or any owner or employee of a qualified tow business, has been convicted of a violation of law charged as a Violation or Crime:

(a) "First Suspension" — Any first violation shall be for a period of not less than 60 days.

(b) "Second Suspension" — Any second violation that is committed within a one (1) year period from the date of any final order under this rule shall be for a period of not less than one (1) year.

(c) "Third Suspension" — Any third violation that is committed within a three (3) year period of the date of any final order under this rule shall be a revocation.

(2) The following constitute grounds for suspension of a qualified tow business' letter of appointment:

(a) A qualified tow business that commits a violation or traffic crime of Oregon Law during the course and operation of the qualified tow business' tow business.

(b) An owner or employee of a qualified tow business that commits any violation of Oregon Law while in the performance of his or her duties of employment.

(3) The following constitutes grounds for revocation of a qualified tow business' letter of appointment:

(a) A qualified tow business that commits a crime, other than a traffic crime and that is chargeable as a misdemeanor or felony during the course and operation of the qualified tow business' tow business.

(b) An owner or employee of a qualified tow business that commits a crime chargeable as a misdemeanor or felony while in the performance of his or her duties of employment.

Stat. Auth.: ORS 181.440
Stats. Implemented: ORS 181.440
Hist.: OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

257-050-0157

Suspension or Revocation for Violation (other than a Law Chargeable as a Violation or Crime)

(1) Suspensions or revocations of a letter of appointment, unless otherwise outlined or defined in these rules, shall fall under one of the following four levels:

(a) Immediate suspension — A suspension that takes place immediately, upon written notice from the Oregon State Police, as evidenced by the date of the postmark, removing a tow vehicle, tow equipment or a qualified tow business from the non-preference rotational tow list.

(b) Level one suspension — Any first violation of these Administrative Rules unless otherwise defined in the rule and shall be for a period of not less than sixty (60) days, and not more than one (1) year in length.

(c) Level two suspension — Any second violation of these Administrative Rules that is committed within a one (1) year period from

the date of any final order and shall be for a period of not less than one (1) year and not more than two (2) years in length.

(d) Revocation — Any third violation of these Administrative Rules that is committed within a three (3) year period of the date of any final order and shall result in a revocation of a qualified tow business' letter of appointment.

(2) A suspension shall be in effect until the violation is corrected, or the Department orders reinstatement of a qualified tow business' letter of appointment.

Stat. Auth.: ORS 181.440
Stats. Implemented: ORS 181.440
Hist.: OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

257-050-0170

Hearings

(1) The Oregon Administrative Procedures Act shall govern the conduct of any hearing held pursuant to these regulations. The burden of proof in any hearing before the Hearing Officer shall be on the tow business seeking a letter of appointment, or on the qualified tow business that has had its letter of appointment suspended or revoked by the Oregon State Police.

(2) A request for an administrative hearing must be in writing and be received by the Department no later than fifteen (15) days from the date of notice of denial, suspension and/or revocation as evidenced by the postmark. The Department may also initiate or request an administrative hearing, regarding a denial, suspension and/or revocation of a letter of appointment.

(3) An administrative hearing must be conducted within ninety (90) days from the date the written request is received by the Department or on the first business day thereafter if the 90th day is a weekend or holiday, unless the parties agree to an extension of time.

(4) Any request by a qualified tow business for a continuance or reset of the hearing after the original scheduled date will result in the temporary suspension and/or extension of any temporary suspension of the qualified tow business's letter of appointment until a ruling is issued from the hearing with no liability to the Department. If the Department requests a continuance or reset of a hearing, the qualified tow business shall be left on the tow rotational list until a ruling is issued from the hearing unless a temporary suspension has been levied against the qualified tow business.

(5) Oral proceedings shall be recorded and shall become part of the hearing record.

(6) The Department shall appoint a Hearing Officer to conduct the hearing. The Hearings Officer shall issue a proposed order that shall include written findings of facts based on the evidence and written conclusions of law based on the findings.

(7) Exceptions to proposed orders must be submitted to the Department in writing within ten (10) days of the date the proposed order is issued, or on the first business day thereafter if the 10th day is a weekend or holiday. Written argument submitted with the exceptions will be considered; no opportunity for oral argument will be allowed. The Department shall issue a final order.

Stat. Auth.: ORS 181.440
Stats. Implemented: ORS 181.440
Hist.: OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

257-050-0180

Judicial Review

A tow business or qualified tow business aggrieved by a final order of the Department denying, suspending, or revoking a letter of appointment may seek judicial review of such decision in the Oregon Court of Appeals. The denial, suspension or revocation shall remain in effect during the appeal.

Stat. Auth.: ORS 181.440
Stats. Implemented: ORS 181.440
Hist.: OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

257-050-0200

Mandatory Equipment Standards for Tow Trucks/Safety Related Requirements

(1) All tow vehicles operated by a qualified tow business under a letter of appointment under these rules shall have the following minimum equipment:

(a) Minimum of two (2) lights mounted behind the cab of the tow truck controlled by a dedicated on/off switch. This lighting must be capable of illuminating the area of the tow under darkened, foggy or dangerous conditions;

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(b) An FCC licensed two-way radio, in conformance with Part 93 FCC Regulations, or cellular phone (citizen band radios so not meet this requirement);

(c) Cables or wire ropes as called for in each class. Cable/wire rope lengths shall be measured from the point of attachment on each drum. Cables/wire ropes shall meet the following requirements.

(A) Each cable shall be capable of being fully extended from and fully wound onto its drum;

(B) Cables or wire ropes shall be free from the following defects or conditions:

(i) There shall be no more than six randomly distributed broken wires in one rope lay, or more than three broken wires in one strand in one rope lay;

(ii) There shall be no evidence of any heat damage from any cause;

(iii) There shall be no end attachments that are cracked, deformed, worn or loosened;

(iv) Where a wire rope is attached to a hook with clamps instead of being swaged, a minimum of three clamps shall be used on end attachments. Clamps shall be spaced at least six rope diameters apart and attached with the base or saddle of the clamp against the longer or "live" end of the rope. The "U" bolt will be placed over the short or "dead" end of the rope and will be of the proper size.

(d) Two revolving or intermittent red or amber lamps with 360 degree visibility. The truck may also be equipped with flashing amber lights, which may be used in conjunction with the red lamp(s). Such lighting will not be used when responding to a call, but only at the scene when necessary to warn approaching traffic of impending danger.

(e) A broom and a shovel. The broom shall be at least twelve inches wide and have a handle at least four feet long. The shovel shall be flat scoop type with a minimum width of seven inches and overall length of a least three feet. Tow truck driver shall clean accident/incident scenes of all vehicle glass and debris required by ORS 822.225.

(f) A tow sling, wheel lift, car carrier or other comparable device made of a material designed to protect vehicles.

(g) Motorcycle Tows — A tow sling, wheel lift, car carrier or other comparable device that has the ability to tow motorcycles.

(h) One fire extinguisher, 25 BC rating or equivalent.

(i) One snatch block, or equivalent block, in good working condition for each working line.

(j) Commercially manufactured dollies on all class A recovery vehicles and class B recovery vehicles up to 26,000 GVW. Commercially manufactured dollies are required for all tow class categories when dollies are used and/or defined for use up to 26,000 GVW.

(k) All class A and B tow vehicles that are inclusive of class DA and DB tow vehicles shall carry at least one pinch bar, or an equivalent device. The bar or equivalent device must be 4 feet in length and 3/4 inch in diameter, and the ends may either be tapered or flattened.

(l) Portable lights for unit being towed including, but not limited to, tail lights, stop lights and directional signals.

NOTE: Class D tow trucks roll backs are exempt from this section if not towing a second vehicle.

(m) All tow vehicles must have a minimum of two "wreck ahead" signs to be placed by tow truck drivers as required by ORS 822.220. The signs shall confirm to all specifications as set forth in the Oregon Department of Transportation's publication "Traffic Control on State Highways for Short Term Work Zones" (Form 734-2272) and the "Manual Uniform of Traffic Control Devices."

(n) All tow trucks and equipment used to perform services under these rules shall be maintained in good working order. Failure to maintain equipment shall be cause for suspension and removal of the defective equipment from the non-preference list. If equipment does not meet the Department's criteria for non-preference tows under these Administrative Rules, the Department may suspend and remove the equipment from the non-preference list.

(2) **Class A Tow Trucks (Small):** Tow trucks shall be provided that are capable of towing and recovery operations for passenger cars, pickup trucks, small trailers or equivalent vehicles. All equipment used in conjunction with the tow truck must be compatible with the manufacturer's basic boom rating and must comply with current state laws and Oregon Administrative Rule 735-154-0040. In addition to the equipment required for all trucks used to provide service under this rule, all trucks in this class shall have:

(a) Ten thousand pounds minimum manufacturer's gross vehicle weight rating or equivalent;

(b) Dual tires on the rear axle or duplex type tires, referred to as super single with a load rating that is comparable to dual tire rating;

(c) Six ton minimum boom rating dual or single boom with dual or single winches to control a minimum of one service cable;

(d) A minimum of one hundred (100) feet of 3/8-inch continuous length cable; and

(e) A wheel lift for this class of tow truck.

(3) **Class B Tow Trucks (Medium):** Class B tow trucks shall be capable of towing and recovery operations for medium size trucks, trailers, motor homes or equivalent vehicles. In addition to standard equipment required for all trucks used to provide service under this rule, all trucks in this class shall have:

(a) Seventeen thousand pounds minimum manufacturer's gross vehicle weight rating or equivalent;

(b) Ten ton minimum boom rating dual or single boom with dual or single winches to control a minimum of one service cable;

(c) Class B tow trucks in excess of 26,000 pounds GVW will not be required to carry dollies when used for heavy towing;

(d) A wheel lift for this class of tow truck; and

(e) A minimum of 150 feet of seven-sixteenths inch cable.

(4) **Class C Tow Trucks (Large):** Tow trucks that are capable of towing and recovery operations for large trucks, trailers, motor homes or equivalent vehicles. In addition to the standard equipment required for all trucks used to provide service under this rule, all trucks in this class shall have:

(a) Twenty-seven thousand five hundred pounds minimum manufacturer's gross vehicle weight rating or equivalent;

(b) Twenty-five ton minimum boom rating dual or single boom with dual or single winches to control a minimum of one service cable;

(c) Minimum of 150 feet of cable, five-eighths inch diameter;

(d) Air brakes and an air system capable of supplying air to the towed unit;

(e) Portable dollies are not required;

(f) Tandem rear axle truck chassis (three axle truck);

(g) May include an under-lift for this class of tow truck.

(h) Exception to commercially manufactured tow vehicles (for Class C recovery tow trucks/equipment only). Class C Recovery Tow Equipment that has been approved by the Oregon State Police to be used on the Department's non-preference towing list prior to the adoption of these Administrative Rules, but does not meet the criteria outlined under these Administrative Rules, may continue to be used for the Department's non-preference tows if the following conditions are met:

(A) The equipment must first be inspected and approved by the Oregon State Police;

(B) If a qualified tow business has the only "Class C" tow truck in a zone, then the qualified tow business must replace the equipment after 5 years from the adoption date of these rules. The Oregon State Police reserve the option to extend the time period for the use of Class C Towing Equipment under this exception based on operational need by the Department; and

(C) If it is determined at any time that the equipment does not meet Oregon State Police criteria for towing under these Administrative Rules, then the Oregon State Police can remove the equipment from the non-preference list.

(5) **Class D Tow Trucks (Trucks and equipment in this class are not considered recovery vehicles):**

(a) Tow trucks and other vehicles in this class are to be used for towing and/or hauling purposes only. No recovery can be performed by equipment in this class;

(b) Equipment in this class capable of towing/hauling passenger cars, pickup trucks, trailers, trucks or equivalent vehicles, and debris is based on the size and ratings of the Class D tow unit used. All equipment used in conjunction with the tow truck must comply with current state laws and Oregon Administrative Rule 735-154-0040. In addition to the equipment required for all trucks used to provide service under this rule, all trucks in this class shall have:

(A) Class D-A:

(i) Eleven thousand pounds minimum manufacturer's gross vehicle weight rating or equivalent;

(ii) Dual tires on the rear axle;

(iii) A minimum of fifty feet three-eighths inch continuous length cable;

(iv) May include wheel lift, if chassis GVW is over 14,500 pounds; and

(v) If a Metro unit, dollies and a wheel lift.

(B) Class D-B:

(i) Seventeen thousand pounds minimum manufacturer's gross vehicle weight rating or equivalent;

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- (ii) Dual tires on the rear axle;
- (iii) A minimum of 50 feet of three-eighths inch cable;
- (iv) May include wheel lift; and
- (v) If a Metro unit, dollies and a wheel lift.

(C) Class D-C:

- (i) Twenty-seven thousand five hundred pounds minimum manufacturer's gross vehicle weight rating or equivalent.
- (ii) Minimum of 50 feet of cable, five-eighths inch diameter.
- (iii) Tandem rear axle truck chassis (three axle truck).
- (iv) May include wheel lift; and
- (v) Air brakes and an air system capable of supplying air to the towed unit.

Stat. Auth.: ORS 181.440

Stats. Implemented: ORS 181.440

Hist.: OSP 5-2005, f. & cert. ef. 11-18-05; OSP 1-2006, f. 3-29-06, cert. ef. 3-31-06; OSP 1-2009(Temp), f. & cert. ef. 8-6-09 thru 1-31-10

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Department of Revenue
Chapter 150

Rule Caption: Dry Cleaner assessment; apportionment and transit tax.

Adm. Order No.: REV 2-2009

Filed with Sec. of State: 7-31-2009

Certified to be Effective: 7-31-09

Notice Publication Date: 7-1-2009

Rules Repealed: 150-267.385(5), 150-465.200(1), 150-465.517(2), 150-465.517(3), 150-465.517(5), 150-465.992

Subject: 150-267.385(5) is obsolete and is proposed for repeal.

150-465.200(1); 150-465.517(2); 150-465.517(3); 150-465.517(5) and 150-465.992 are repealed because the Dry Cleaner program is now administered by the Department of Environmental Quality. These rules are no longer applicable.

Rules Coordinator: Debra L. Buchanan—(503) 945-8653

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Rule Caption: Disallowed intercompany transactions; unitary business.

Adm. Order No.: REV 3-2009

Filed with Sec. of State: 7-31-2009

Certified to be Effective: 7-31-09

Notice Publication Date: 11-1-2008

Rules Amended: 150-314.295, 150-317.705(3)(a)

Subject: 150-314.295 Disallowance of Certain Intercompany Transactions Involving Intangible Assets, is amended to clarify the circumstances in which a deduction for intercompany transactions will be disallowed under ORS 314.295.

150-317.705(3)(a), Unitary Business, is amended to adopt provisions of a uniform regulation adopted by the Multistate Tax Commission. That regulation defines the criteria for determining whether corporations constitute a "unitary business" for Oregon tax purposes.

Rules Coordinator: Debra L. Buchanan—(503) 945-8653

150-314.295

Disallowance of Certain Intercompany Transactions Involving Intangible Assets

(1) The provisions of section (3) of this rule apply in situations where:

(a) An intangible asset is owned by one corporation, organization, trade or business (the owner) and used by another (the user) for a royalty or other fee;

(b) Both the owner and the user are "owned by the same interests," as defined in Treas. Reg. §1.469-4T, paragraph (j),

(c) The owner and the user are not included in the same Oregon tax return, and

(d) The separation of ownership of the intangible asset from the user of the intangible asset results in either:

(A) Evasion of tax, or

(B) A computation of Oregon taxable income that is not clearly reflective of Oregon business income.

(2) For purposes of this rule, separation of the ownership and use of an intangible asset is for "evasion of taxes" when such separation has no effect on the operations of the user beyond payment of the royalty or other fee.

(3) The user of the intangible asset must add the royalty or other expense for such use to federal taxable income as an "other addition" on the Oregon tax return. The owner of the intangible asset must subtract the royalty or other income from such use from federal taxable income as an "other subtraction" on the Oregon tax return. The following example is for illustrative purposes only.

Example: Alpha Corporation (Alpha) uses a number of trademarks in its retail sales business. After developing the value of the trademarks over a period of 30 years, Alpha incorporated a subsidiary, Beta, Inc. (Beta) in Bermuda and transferred the trademarks to Beta for shares of newly issued Beta stock. Alpha paid royalties to Beta for use of the trademarks. Beta is not included in Alpha's consolidated federal and Oregon tax returns. After the transfer of the trademarks to Beta, Alpha uses the trademarks as it had before the transfer and the only change in its business operation is the payment of the royalty. The transfer of the trademarks does not change Alpha's business operations as they are readily apparent to or as they affect relations with customers, vendors or other external parties. Alpha requires that Beta manage the trademarks as Alpha had before the transfer. Alpha must add the royalty deduction back to federal taxable income on its Oregon Corporation Excise Tax return. If Beta is subject to Oregon taxation, the royalty income must be subtracted from its federal taxable income.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.295

Hist.: REV 4-2003, f. & cert. ef. 12-31-03; REV 3-2009, f. & cert. ef. 7-31-09

150-317.705(3)(a)

Unitary Business

(1) This rule is based partially on a model regulation adopted by the Multistate Tax Commission to promote uniform treatment of the unitary business principle by the states. Sections (3) through (10) of this rule apply to tax years beginning on or after January 1, 2007. However, the principles outlined in those sections may also be applied to years prior to 2007 to the extent that they reflect case history and the policy of the Department.

(2) The presence of all of the factors described in ORS 317.705(3) will demonstrate that a unitary business exists, but the presence of one or two such factors may also demonstrate the flow of value requisite for a unitary business determination.

(3) The Concept of a Unitary Business. A unitary business is a single economic enterprise that is made up either of separate parts of a single business entity or of a commonly controlled group of business entities that are sufficiently interdependent, integrated and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts. This flow of value to a business entity located in Oregon that comes from being part of a unitary business conducted both within and without Oregon is what provides the constitutional due process "definite link and minimum connection" necessary for Oregon to apportion business income of the unitary business, even if that income arises in part from activities conducted outside of Oregon. The business income of the unitary business is then apportioned to Oregon using the apportionment formula set forth in ORS 314.650. This sharing or exchange of value may also be described as requiring that the operation of one part of the business be dependent upon, or contribute to, the operation of another part of the business. Phrased in the disjunctive, the foregoing means that if the activities of one business either contributes to the activities of another business or are dependent upon the activities of another business, those businesses are part of a unitary business.

(4) Constitutional Requirement for a Unitary Business. The sharing or exchange of value described in section (3) that defines the scope of a unitary business requires more than the mere flow of funds arising out of a passive investment or from the financial strength contributed by a distinct business undertaking that has no operational relationship to the unitary business. In Oregon, the unitary business principle will be applied to the fullest extent allowed by the U.S. Constitution. The unitary business principle will not be applied where the result would not be allowed by the U.S. Constitution.

(5) Separate Trades or Businesses Conducted within a Single Entity. A single entity may have more than one unitary business. In such cases it is necessary to determine the business or apportionable income attributable to each separate unitary business as well as its nonbusiness income, which is specifically allocated. The business income of each unitary business is then apportioned by a formula that takes into consideration the in-state and the out-of-state factors that relate to the respective unitary business whose income is being apportioned.

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(6) Unitary Business Unaffected by Formal Business Organization. A unitary business may exist within a single business entity or among a commonly controlled group of business entities.

(7) Determination of a Unitary Business. A unitary business is characterized by significant flows of value evidenced by factors such as those described in *Mobil Oil Corp. v. Vermont*, 445 U.S. 425 (1980): centralization of management, economies of scale, and functional integration. These factors provide evidence of whether the business activities operate as an integrated whole or exhibit substantial mutual interdependence. Facts suggesting the presence of the factors mentioned above should be analyzed in combination for their cumulative effect and not in isolation. A particular business operation may be suggestive of one or more of the factors mentioned above.

(8) Description and Illustration of Centralization of Management, Economies of Scale, and Functional Integration.

(a) Centralization of Management. Centralization of management exists when directors, officers, and/or other management employees jointly participate in the management decisions that affect the respective business activities and that may also operate to the benefit of the entire economic enterprise. Centralization of management can exist whether the centralization is effected from a parent entity to a subsidiary entity, from a subsidiary entity to a parent entity, from one subsidiary entity to another, from one division within a single business entity to another division within a business entity, or from any combination of the foregoing. Centralization of management may exist even when day-to-day management responsibility and accountability has been decentralized, so long as the management has an ongoing operational role with respect to the business activities. An operational role can be effected through mandates, consensus building, or an overall operational strategy of the business, or any other mechanism that establishes joint management.

(A) Facts Providing Evidence of Centralization of Management. Evidence of centralization of management is provided when common officers participate in the decisions relating to the business operations of the different segments. Centralization of management may exist when management shares or applies knowledge and expertise among the parts of the business. Existence of common officers and directors, while relevant to a showing of centralization of management, does not alone provide evidence of centralization of management. Common officers are more likely to provide evidence of centralization of management than are common directors.

(B) Stewardship Distinguished. Centralized efforts to fulfill stewardship oversight are not evidence of centralization of management. Stewardship oversight consists of those activities that any owner would take to review the performance of or safeguard an investment. Stewardship oversight is distinguished from those activities that an owner may take to enhance value by integrating one or more significant operating aspects of one business activity with the other business activities of the owner. For example, implementing reporting requirements or mere approval of capital expenditures may evidence only stewardship oversight.

(b) Economies of Scale. Economies of scale refers to a relation among and between business activities resulting in a significant decrease in the average per unit cost of operational or administrative functions due to the increase in operational size. Economies of scale may exist from the inherent cost savings that arise from the presence of functional integration or centralization of management. The following are examples of business operations that can support the finding of economies of scale. The order of the list does not establish a hierarchy of importance.

(A) Centralized Purchasing. Centralized purchasing designed to achieve savings due to the volume of purchases, the timing of purchases, or the interchangeability of purchased items among the parts of the business engaging in the purchasing provides evidence of economies of scale.

(B) Centralized Administrative Functions. The performance of traditional corporate administrative functions, such as legal services, payroll services, pension and other employee benefit administration, in common among the parts of the business may result in some degree of economies of scale. A business entity that secures savings in the performance of corporate administrative services due to its affiliation with other business entities that it would not otherwise reasonably be able to secure on its own because of its size, financial resources, or available market, provides evidence of economies of scale.

(c) Functional integration: Functional integration refers to transfers between, or pooling among, business activities that significantly affect the operation of the business activities. Functional integration includes, but is not limited to, transfers or pooling with respect to the unitary business's products or services, technical information, marketing information, distribution systems, purchasing, and intangibles such as patents, trademarks,

service marks, copyrights, trade secrets, know-how, formulas, and processes. There is no specific type of functional integration that must be present. The following is a list of examples of business operations that can support the finding of functional integration. The order of the list does not establish a hierarchy of importance.

(A) Sales, exchanges, or transfers (collectively "sales") of products, services, and/or intangibles between business activities provide evidence of functional integration. The significance of the intercompany sales to the finding of functional integration will be affected by the character of what is sold and/or the percentage of total sales or purchases represented by the intercompany sales. For example, sales among business entities that are part of a vertically integrated unitary business are indicative of functional integration. Functional integration is not negated by the use of a readily determinable market price to affect the intercompany sales, because such sales can represent an assured market for the seller or an assured source of supply for the purchaser.

(B) Common Marketing. The sharing of common marketing features among business entities is an indication of functional integration when such marketing results in significant mutual advantage. Common marketing exists when a substantial portion of the business entities' products, services, or intangibles are distributed or sold to a common customer, when the business entities use a common trade name or other common identification, or when the business entities seek to identify themselves to their customers as a member of the same enterprise. The use of a common advertising agency or a commonly owned or controlled in-house advertising office does not by itself establish common marketing that is suggestive of functional integration. Such activity, however, is relevant to determining the existence of economies of scale and/or centralization of management.

(C) Transfer or Pooling of Technical Information or Intellectual Property. Transfers or pooling of technical information or intellectual property, such as patents, copyrights, trademarks and service marks, trade secrets, processes or formulas, know-how, research, or development, provide evidence of functional integration when the matter transferred is significant to the businesses' operations.

(D) Common Distribution System. Use of a common distribution system by the business entities, under which inventory control and accounting, storage, trafficking, and/or transportation are controlled through a common network provides evidence of functional integration.

(E) Common Purchasing. Common purchasing of substantial quantities of products, services, or intangibles from the same source by the business entities, particularly where the purchasing results in significant cost savings or where the products, services or intangibles are not readily available from other sources and are significant to each entity's operations or sales, provides evidence of functional integration.

(F) Common or Intercompany Financing. Significant common or intercompany financing, including the guarantee by or the pledging of the credit of, one or more business entities for the benefit of another business entity or entities provides evidence of functional integration, if the financing activity serves an operational purpose of both borrower and lender. Lending which serves an investment purpose of the lender does not necessarily provide evidence of functional integration. See subsection (8)(a) for discussion of centralization of management.

(9) Indicators of a Unitary Business.

(a) Same Type of Business. Business activities that are in the same general line of business generally constitute a single unitary business, as, for example, a multistate grocery chain.

(b) Steps in a Vertical Process. Business activities that are part of different steps in a vertically structured business almost always constitute a single unitary business. For example, a business engaged in the exploration, development, extraction, and processing of a natural resource and the subsequent sale of a product based upon the extracted natural resource, is engaged in a single unitary business, regardless of the fact that the various steps in the process are operated substantially independently of each other with only general supervision from the business's executive offices.

(c) Strong Centralized Management. Business activities which might otherwise be considered as part of more than one unitary business may constitute one unitary business when there is a strong central management, coupled with the existence of centralized departments for such functions as financing, advertising, research, or purchasing. Strong centralized management exists when a central manager or group of managers makes substantially all of the operational decisions of the business. For example, some businesses conducting diverse lines of business may properly be considered as engaged in only one unitary business when the central executive officers are actively involved in the operations of the various business activities and there are centralized offices which perform for the business activities the

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normal matters which a truly independent business would perform for itself, such as personnel, purchasing, advertising, or financing.

(10) Commonly Controlled Group of Business Entities. Separate corporations can be part of a unitary business only if they are members of a commonly controlled group.

(a) A "commonly controlled group" means any of the following:

(A) A parent corporation and any one or more corporations or chains of corporations, connected through stock ownership (or constructive ownership) with the parent, but only if—

(i) The parent owns stock possessing more than 80 percent of the voting power of at least one corporation, and, if applicable,

(ii) Stock cumulatively possessing more than 80 percent of the voting power of each of the corporations, except the parent, is owned by the parent, one or more corporations described in subparagraph (i), or one or more other corporations that satisfy the conditions of this subparagraph.

(B) Any two or more corporations, if stock possessing more than 80 percent of the voting power of the corporations is owned, or constructively owned, by the same person.

(C) Any two or more corporations that constitute stapled entities.

(i) For purposes of this paragraph, "stapled entities" means any group of two or more corporations if more than 80 percent of the ownership or beneficial ownership of the stock possessing voting power in each corporation consists of stapled interests.

(ii) Two or more interests are stapled interests if, by reason of form of ownership, restrictions on transfer, or other terms or conditions, in connection with the transfer of one of the interests the other interest or interests are also transferred or required to be transferred.

(D) Any two or more corporations, if stock possessing more than 80 percent of the voting power of the corporations is cumulatively owned (without regard to the constructive ownership rules of paragraph (A) of subsection (10)(d)) by, or for the benefit of, members of the same family. Members of the same family are limited to an individual, his or her spouse, parents, brothers or sisters, grandparents, children and grandchildren and their respective spouses.

(b)(A) If, in the application of subsection (a) of this section, a corporation is a member of more than one commonly controlled group of corporations, the corporation shall elect to be treated as a member of only the commonly controlled group (or part thereof) with respect to which it has a unitary business relationship. If the corporation has a unitary business relationship with more than one of those groups, it shall elect to be treated as a member of only one of the commonly controlled groups with respect to which it has a unitary business relationship. This election shall remain in effect until the unitary business relationship between the corporation and the rest of the members of its elected commonly controlled group is discontinued, or unless revoked with the approval of the Department of Revenue.

(B) Membership in a commonly controlled group shall be treated as terminated in any year, or fraction thereof, in which the conditions of subsection (a) of this section are not met, except as follows:

(i) When stock of a corporation is sold, exchanged, or otherwise disposed of, the membership of a corporation in a commonly controlled group shall not be terminated, if the requirements of subsection (a) of this section are again met immediately after the sale, exchange, or disposition.

(ii) The Department of Revenue may treat the commonly controlled group as remaining in place if the conditions of subsection (a) of this section are again met within a period not to exceed two years.

(c) A taxpayer may exclude some or all corporations included in a "commonly controlled group" by reason of paragraph (a)(D) of this section by showing that those members of the group are not controlled directly or indirectly by the same interests, within the meaning of the same phrase in Section 482 of the Internal Revenue Code. For purposes of this subsection, the term "controlled" includes any kind of control, direct or indirect, whether legally enforceable, and however exercisable or exercised.

(d) Except as otherwise provided, stock is "owned" when title to the stock is directly held or if the stock is constructively owned.

(A) An individual constructively owns stock that is owned by any of the following:

(i) His or her spouse.

(ii) Children, including adopted children, of that individual or the individual's spouse, who have not attained the age of 21 years.

(iii) An estate or trust, of which the individual is an executor, trustee, or grantor, to the extent that the estate or trust is for the benefit of that individual's spouse or children.

(B) Stock owned by a corporation, or a member of a controlled group of which the corporation is the parent corporation, is constructively owned

by any shareholder owning stock that represents more than 80 percent of the voting power of the corporation.

(C) In the application of paragraph (a)(D) of this section (dealing with stock possessing voting power held by members of the same family), if more than 80 percent of the stock possessing voting power of a corporation is, in the aggregate, owned by or for the benefit of members of the same family, stock owned by that corporation shall be treated as constructively owned by members of that family in the same ratio as the proportion of their respective ownership of stock possessing voting power in that corporation to all of such stock of that corporation.

(D) Except as otherwise provided, stock owned by a partnership is constructively owned by any partner, other than a limited partner, in proportion to the partner's capital interest in the partnership. For this purpose, a partnership is treated as owning proportionately the stock owned by any other partnership in which it has a tiered interest, other than as a limited partner.

(E) In any case where a member of a commonly controlled group, or shareholders, officers, directors, or employees of a member of a commonly controlled group, is a general partner in a limited partnership, stock held by the limited partnership is constructively owned by a limited partner to the extent of its capital interest in the limited partnership.

(F) In the application of paragraph (a)(D) of this section (dealing with stock possessing voting power held by members of the same family), stock held by a limited partnership is constructively owned by a limited partner to the extent of the limited partner's capital interest in the limited partnership.

(e) For purposes of the definition of a commonly controlled group, each of the following shall apply:

(A) "Corporation" means a subchapter S corporation, any other incorporated entity, or any entity defined or treated as a corporation (including but not limited to a limited liability company).

(B) "Person" means an individual, a trust, an estate, a qualified employee benefit plan, a limited partnership, or a corporation.

(C) "Voting power" means the power of all classes of stock entitled to vote that possess the power to elect the membership of the board of directors of the corporation.

(D) "More than 80 percent of the voting power" means voting power sufficient to elect a majority of the membership of the board of directors of the corporation.

(E) "Stock possessing voting power" includes stock where ownership is retained but the actual voting power is transferred in either of the following manners:

(i) For one year or less.

(ii) By proxy, voting trust, written shareholder agreement, or by similar device, where the transfer is revocable by the transferor.

(F) In the case of an entity treated as a corporation under paragraph (e)(A) of this section (e), "stock possessing voting power" refers to an instrument, contract, or similar document demonstrating an ownership interest in that entity that confers power in the owner to cast a vote in the selection of the management of that entity.

(G) In the general application of this section, if an entity may elect to be treated as a partnership or as a corporation under the laws of this state (or under Section 7701 of the Internal Revenue Code), and elects to be treated as a partnership, that entity shall be treated as a general partnership. If, however, contractual agreements, member agreements, or other restrictions limit the power of some or all of the members to participate in the vote of stock possessing voting power owned by that entity (similar to the restrictions of limited partners in a limited partnership), the Department of Revenue may permit or require that entity to be treated as a limited partnership.

(f) The Department of Revenue may prescribe any regulations as may be necessary or appropriate to carry out the purposes of this section, including, but not limited to, regulations that do the following:

(A) Prescribe terms and conditions relating to the election described by subsection (b), and the revocation thereof.

(B) Disregard transfers of voting power not described by paragraph (E) of subsection (e).

(C) Treat entities not described by paragraph (B) of subsection (e) as a person.

(D) Treat warrants, obligations convertible into stock, options to acquire or sell stock, and similar instruments as stock.

(E) Treat holders of a beneficial interest in, or executor or trustee powers over, stock held by an estate or trust as constructively owned by the holder.

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(F) Prescribe rules relating to the treatment of partnership agreements which authorize a particular partner or partners to exercise voting power of stock held by the partnership.

(G) Treat limited partners as constructive owners of stock possessing voting power held by the limited partnership, in proportion to their interest in the partnership.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 317.705

Hist.: 10-7-85, 12-31-85. Renumbered from 150-317.705 to 150-317.705 (3)(a); RD 10-1986, f. & cert. ef. 12-31-86; RD 15-1987, f. 12-10-87, cert. ef. 12-31-87; REV 11-2006, f. 12-27-06, cert. ef. 1-1-07; REV 10-2007, f. 12-28-07, cert. ef. 1-1-08; REV 3-2009, f. & cert. ef. 7-31-09

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Rule Caption: Estimated tax; interest waiver; elderly rental assistance; reforestation credit. manufactured park closure; Nonresident income allocation.

Adm. Order No.: REV 4-2009

Filed with Sec. of State: 7-31-2009

Certified to be Effective: 7-31-09

Notice Publication Date: 7-1-2009

Rules Adopted: 150-90.650

Rules Amended: 150-310.630(8)(a)-(O), 150-315.104(1), 150-315.104(10), 150-316.127-(A), 150-316.587(5)(d), 150-316.587(8)-(B)

Rules Repealed: 150-315.104(9)

Subject: 150-90.650 is adopted pursuant to ORS 90.650(3), which requires the Department of Revenue to provide by rule a sample form for owners of closing manufactured dwelling parks to include on a closure notice to tenants.

150-316.127-(A) is amended to further clarify how nonresidents may allocate income when services are performed within and without Oregon, including when services are performed for only a part of a day in this state.

150-316.587(5)(d) is amended to delete a phrase that is obsolete as the department will refund interest paid on underpayment of estimated tax if the taxpayer qualifies for an exception to paying that interest.

150-316.587(8)-(B) is amended to update examples.

150-310.630(8)(a)-(O) relates to the Elderly Rental Assistance program. The rule is amended to update the name of an agency and to update terms for better readability and understanding.

150-315.104(1) relates to the qualified reforestation tax credit. The rule is amended to delete obsolete language relating to dates.

150-315.104(10), which relates to the qualified reforestation tax credit, is amended to correct the reference to a Department of Forestry rule from OAR 629-23-410 to OAR 629-023-0420. The rule is also amended to correct a date.

150-315.104(9) is obsolete and repealed.

Rules Coordinator: Debra L. Buchanan—(503) 945-8653

150-90.650

Notice of Tax Provisions to Tenants of Closing Manufactured Dwelling Park

(1) A landlord must provide notice regarding the tax credit available to tenants of a closing manufactured dwelling park.

(2) The notice to tenants of a closing park must include:

(a) The qualifications for the personal income tax credit

(b) Information on how to apply for the personal income tax credit, and

(c) Instructions regarding how to appeal the property tax assessment.

Sample: TAX CREDIT: If you own and live in a mobile (manufactured) home in a park that is closing, and leave that park because you received a closure notice, you may qualify for a \$5,000 refundable tax credit on your Oregon personal income tax return.

To qualify, you must:

* Own and live in the manufactured home as your main residence;

* Rent space in the closing park;

* Receive notice that the park is closing while you own and live in the manufactured home; and

* Move out of the park because it's closing.

If you qualify, you must attach a completed Schedule MPC to your Oregon income tax return for the year you leave the park.

Example: You move out of a closing park on October 15, 2009 and you qualify for the credit. You'll claim it on your 2009 Oregon income tax return, due April 15, 2010. If the park converts to a subdivision and you

sell your manufactured home to someone who buys a lot in the subdivision, you won't qualify for this credit. For more information and to download Schedule MPC, visit www.oregon.gov/DOR/PERTAX. PROPERTY TAX APPEAL: If you receive notice that your park is closing, you may appeal the property tax assessment on your manufactured home. To appeal, send a completed Real Property Petition, 150-310-063, to the Board of Property Tax Appeals in the county where the park is located. For more information, see the publication, How to Appeal Your Property Value. The petition and publication are at www.oregon.gov/DOR/PTD. You may also contact the Department of Revenue for information at 1-800-356-4222 or questions.dor@state.or.us.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 305.100, 90.650

Stats. Implemented: ORS 90.650

Hist.: REV 4-2009, f. & cert. ef. 7-31-09

150-310.630(8)(a)-(O)

Welfare Payments — Excludable Amounts

(1) Welfare payments for medical care, drugs, and medical supplies are excludable from household income if the recipient doesn't receive such payments directly.

(2) Welfare payments for in-home services authorized and approved by the Department of Human Services or any of its divisions are excludable from household income. "In-home services" include but are not limited to home care services, nursing tasks, housekeeper services, meal preparation, assistance with shopping and transportation, and personal care services.

(3) Welfare payments for direct or indirect reimbursement of expenses paid or incurred for participation in work or training programs are excludable from household income. These payments include but are not limited to reimbursements for tuition, books, supplies, and transportation.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 310.630

Hist.: 10-7-85, 12-31-85. Renumbered from 150-310.630(8)-(B) to 150-310.630(8)(a)-(O); 12-31-86, 12-31-89. Renumbered from 150-310.630(8)(a)-(O) to 150-310.630(7)(a)-(O); RD 5-1997, f. 12-12-97, cert. ef. 12-31-97; REV 8-2001, f. & cert. ef. 12-31-01, Renumbered from 150-310.630(7)(a)-(O); REV 4-2009, f. & cert. ef. 7-31-09

150-315.104(1)

Qualified Reforestation Costs

(1) For credits first claimed in tax years beginning on or after January 1, 2001, a credit is allowed in an amount equal to 50 percent of reforestation project costs paid or incurred to reforest underproductive Oregon forest lands. Qualified reforestation project costs are determined in accordance with Oregon State Department of Forestry rules, chapter 629, division 023 (e.g., Oregon Administrative Rules 629-023-410 to 629-023-460) and by ORS 315.104. Qualified project costs do not include amounts paid through federal or state cost share, financial assistance or other incentive programs.

(2) Subject to the credit carryover provisions of ORS 305.104(5), one-half of the credit must be taken in the tax year for which the Department of Forestry issues a preliminary certificate certifying that certain conditions exist as stated in ORS 315.104(1). The balance of the credit must be taken in the tax year for which the forest is certified as being established.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 315.104

Hist.: TC 8-1980, f. 11-28-80, cert. ef. 12-31-80; RD 12-1985, f. 12-16-85, cert. ef. 12-31-85; RD 15-1987, f. 12-10-87, cert. ef. 12-31-87; RD 7-1993, f. 12-30-93, cert. ef. 12-31-93; Renumbered from 150-316.094(1); REV 8-2001, f. & cert. ef. 12-31-01; REV 4-2009, f. & cert. ef. 7-31-09

150-315.104(10)

Reforestation Credit: Reasons Beyond the Taxpayer's Control

For purposes of reforestation credit, the Department of Revenue adopts the definition of "reasons beyond the taxpayer's control" defined in Department of Forestry rule OAR 629-23-420 filed 8-1-08 and certified effective 9-1-08.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 315.104

Hist.: RD 11-1988, f. 12-19-88, cert. ef. 12-31-88; RD 7-1993, f. 12-30-93, cert. ef. 12-31-93; Renumbered from 150-316.094(10); REV 4-2009, f. & cert. ef. 7-31-09

150-316.127-(A)

Gross Income of Nonresidents; Personal Services

(1) Personal service.

(a) Except as provided in section (2) of this rule, the gross income of a nonresident (who is not engaged in the conduct of the nonresident's own trade or business, but receives compensation for services as an employee) includes compensation for personal services only to the extent that the services were performed in this state.

(b) Compensation for personal services performed by a nonresident employee wholly outside this state and in no way connected with the management or conduct of a business in this state is excluded from gross

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income. This compensation is excluded even if payment is made from a point within this state or the employer is a resident individual, partnership, or corporation.

(c) Compensation for personal services performed by a nonresident wholly within this state is included in gross income although payment is received at a point outside this state or from a nonresident individual, partnership, or corporation.

(2) Exception: Various federal laws affecting certain nonresidents are explained separately. See OAR 150-316.127-(E) or 150-316.127(10).

(3) Allocation of personal services.

(a) Where compensation is received for personal services that are performed partly within and partly without this state, that part of the income allocable to this state is included in gross income. In general, income is allocable to this state to the extent the employee is physically present in this state at the time the service is performed. Physical presence is determined by the actual physical location of the employee performing the services and not by the location of the employer or the location where compensation is paid. Employees who work in Oregon and at an alternate work site located outside of Oregon may allocate their compensation under the provisions of this rule.

Example 1: Dick, a nonresident, works as a medical transcriptionist for an Oregon employer. During the year, Dick spends about 80 percent of his time working from his home in Washington. Dick spends the remainder of his work time in the Portland office. Only the time Dick spends at the Portland office is considered time worked in Oregon.

(A) The gross income from commissions earned by a nonresident for services performed or sales made, (whose compensation is a specified commission on each sale made or services performed), includes the specific commissions earned on sales made or services performed in this state. Allowable deductions must be computed on the same basis.

(B) If nonresident employees work within and without this state, the portion of total compensation for personal services allocable to Oregon is the total number of actual working days employed within the state divided by the total number of working days both within and without the state.

(C) If nonresident employees work part of a day in Oregon and part of a day outside Oregon, the portion of total compensation for personal services allocable to Oregon is the number of hours worked in Oregon divided by the total number of hours worked within and without the state.

Example 2: Rod is a nonresident of Oregon. He works for ACE Cell Tower, Inc and is paid to work 40 hours each week. Some days he works both in Oregon and Idaho. Rod earned \$64,000 in 2008. Rod's employer requires him to keep a detailed log of his travel. At the end of 2008 he had worked a total of 1,850 hours and his log and information from his employer shows that 962 of those hours were worked in Oregon. His compensation taxable to Oregon is computed as follows:

Hours worked in Oregon — divided by — Total hours worked x Total compensation = Oregon compensation 0.520 (962 hours divided by 1,850 hours) x \$64,000 = \$33,280 Rod's compensation subject to Oregon tax is \$33,280.

(D) If the employees are paid on a mileage basis, the gross income from sources within this state includes that portion of the total compensation for personal services which the number of miles traveled in Oregon bears to the total number of miles traveled within and without the state.

(E) If the employees are paid on some other basis, the total compensation for personal services must be apportioned between this state and other states and foreign countries in such a manner as to allocate to Oregon that portion of the total compensation which is reasonably attributable to personal services performed in this state.

(b) The gross income of all other nonresident employees, including corporate officers, includes that portion of the total compensation for services which the total number of actual working days employed within this state bears to the total number of actual working days employed both within and without this state during the taxable period.

Example 3: Jan is a nonresident of Oregon. She works for A Corp. Jan manages offices in Oregon and Washington. A Corp. pays her a salary of \$30,000 for the management of both offices. She worked in Oregon 132 days. She would figure her compensation subject to Oregon tax as follows:

Days worked in Oregon — divided by — Total days worked x Total compensation = Oregon compensation 0.600 (132 days divided by 220 days) x \$30,000 = \$18,000 Jan compensation subject to Oregon tax is \$18,000. An exception to this general rule is made when the compensation is received for performance of services that, by their nature, have an objective or an effect that takes place within this state. In the case of corporate officers and executives who spend only a portion of their time within this state, but whose compensation paid by a corporation operating in Oregon is exclusively for managerial services performed by such officers and executives, the entire amount of compensation so earned is taxable without apportionment.

Example 4: Cade is a nonresident of Oregon. He works for Best Engineering. Cade manages Best Engineering's only office, which is located in Oregon. Best Engineering pays him a salary exclusively for managerial services in the total amount of \$58,000. Even though Cade may perform some administrative duties from his home, the compensation he receives is for managing the Oregon office. The entire \$58,000 is taxable to Oregon.

(c) Total compensation for personal services includes sick leave pay, holiday pay, and vacation pay. Sick leave days, holidays, and vacation days are not considered actual working days either in or out of this state and are to be excluded from the calculation of the portion of total compensation for personal services taxable to this state.

Example 5: Joan is a nonresident of Oregon. She actually worked a total of 220 days during the year and was paid for 40 non-working days (holidays, sick days and vacation days). She worked 110 days in Oregon. Her compensation (including compensation for holidays, sick leave and vacations) was \$26,000. She would figure her compensation subject to Oregon tax as follows:

Days worked in Oregon — divided by — Total days worked x Total compensation = Oregon compensation 0.500 (110 days divided by 220 days) x \$26,000 = \$13,000 Joan's compensation subject to Oregon tax is \$13,000.

(d) Payment in forms other than money. Total compensation for personal services includes amounts paid in a form other than money. To the extent the payments are recognized as compensation income for federal income tax purposes, the payments will be recognized as compensation income for Oregon tax purposes and must be apportioned as provided in section (3) of this rule. Examples include but are not limited to, non-statutory stock options, taxable fringe benefits such as personal use of a business asset, and employer-paid membership fees.

(A) Non-statutory stock options with a readily ascertainable fair market value. Compensation income will be allocated to Oregon in the year an option is required to be reported on the federal return if a nonresident taxpayer performed services in connection with the grant of such option in Oregon during the year in which the option was granted and:

(i) Is required to report under IRC section 83(a) as compensation income the value of a non-statutory stock option granted in connection with the performance of services that has a "readily ascertainable fair market value," as described in Treasury Regulation 1.83-7(b), as of the date the option was granted; or

(ii) Elects under IRC 83(b) to report the value of such an option as of the date the option was granted. If a nonresident taxpayer performed personal services partly within and partly without Oregon in the year in which the option was granted, the taxpayer must use the allocation applied to the taxpayer's other compensation under section (3) of this rule for the tax year in which the option was granted and apply that ratio to the compensation income required to be reported on the federal return. For example, if the taxpayer allocates his income under subsection (3)(a) of this rule and worked 25 percent of his time in Oregon during the year the option was granted, he must include in Oregon income 25 percent of the compensation income related to the option included in federal taxable income. Generally, Oregon will not tax the subsequent gain or loss on the sale of the stock unless the stock has acquired a business situs in Oregon. See OAR 150-316.127-(D).

(B) Non-statutory stock options without a readily ascertainable fair market value that are taxable at exercise, or in a pre-exercise disposition. If a non-statutory stock option granted in connection with performance of services that does not have a readily ascertainable fair market value at the date of the grant is recognized as compensation income for federal tax purposes and the taxpayer worked in Oregon during the year the option was granted, the taxpayer must allocate the compensation related to the option to Oregon in the same year it is taxable for federal purposes. The income that is recognized for federal purposes must be allocated to Oregon if the taxpayer worked in Oregon during the tax year the option was granted. The amount of compensation includable in Oregon source income is computed using the following formula:

Total days worked in Oregon from date of grant to date of federal recognition — divided by — Total days worked everywhere from date of grant to date of federal recognition x Compensation related to option exercise = Amount taxable by Oregon Any further appreciation or depreciation in the value of the stock after the date of exercise represents investment income or loss and is not includable in the Oregon source income of a nonresident unless the stock acquired a business situs in Oregon (see OAR 150-316.127(D)).

(C) Treatment of taxable fringe benefits. Income recognized for federal purposes must be allocated to Oregon if the nonresident worked in Oregon during the tax year the benefit was received. The nonresident must use the same allocation rules applicable to the taxpayer's other compensa-

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tion under section (3) of this rule to the taxable fringe benefits. For example, if the taxpayer allocates his income under subsection (3)(a) of this rule and worked 55 percent of his time in Oregon, 55 percent of the amount of the taxable fringe benefit that is included in federal taxable income is included in Oregon taxable income.

(e) Unemployment compensation. Total compensation includes unemployment compensation benefits to the extent the benefits pertain to the individual's employment in Oregon. If unemployment compensation benefits are received by a nonresident for employment in Oregon and in one or more other states, the unemployment compensation benefits must be apportioned to Oregon using any method that reasonably reflects the services performed in Oregon.

Example 6: Gary, a nonresident, worked in Oregon and Washington for the last 5 years. On January 1, 2008, he was laid off by his employer and received unemployment compensation of \$2,000. Gary may use the Oregon wages as a percentage of total wages reported on his nonresident tax return for the prior year (2007) to determine the percentage of unemployment benefits to be included in Oregon income for 2008. In 2007, Gary earned a total of \$40,000 of which \$26,000 was earned in Oregon. The unemployment compensation taxable to Oregon is \$1,300, computed as follows:

Oregon prior year wages — divided by — Total prior year wages x Total current year unemployment compensation = Oregon unemployment compensation 0.650 (\$26,000 divided by \$40,000) x \$2,000 = \$1,300
Oregon will tax \$1,300 of Gary's unemployment compensation even though he received it in a tax year when he did not work in Oregon because the unemployment compensation is based on Oregon employment. He may not allocate the unemployment based on time worked in Oregon in 2008 because it does not reasonably reflect services performed in Oregon.

(f) Severance pay. Compensation includes severance pay to the extent the pay is attributable to services performed in Oregon. For purposes of this rule, "severance pay" means compensation payable on voluntary termination or involuntary termination of employment based on length of service, a percentage of final salary, a contract between the employer and the employee, or some other method but does not include "retirement income" as defined in ORS 316.127(9). If severance pay is received for employment within and without Oregon, the severance pay is allocated to Oregon using any method that reasonably reflects the services performed in Oregon. Severance pay is taxable to Oregon even though a taxpayer received it in a tax year when the taxpayer did not work in Oregon if the severance pay is based on Oregon employment.

Example 7: JT, a nonresident, worked for Plumbing Inc. for twenty years: eight years in Idaho and twelve years in Oregon. At the end of his 20th year, Plumbing Inc. reorganized and eliminated JT's position. Because of JT's loyalty to the company for his twenty years of service, the company gave JT a lump-sum payment of \$36,000. This lump-sum was based on 3 percent of his final annual salary (\$60,000 x 3% = \$1,800) multiplied by his number of years of service (20). The lump-sum payment was made because of prior services, thus it is allocable to Oregon to the extent the services were performed in Oregon. JT will include \$36,000 in federal taxable income and \$21,600 in Oregon taxable income, computed as follows:

Years worked in Oregon for company — divided by — Total years worked for company x Total compensation = Oregon compensation
0.600 (12 years divided by 20 years) x \$36,000 = \$21,600

Example 8: Shawn, a nonresident, worked in Oregon for XYZ Foods, Inc. for six years before resigning from the company. XYZ Foods, Inc. and Shawn entered into a termination agreement that provided \$25,000 for Shawn to release a specific claim he may have against the company for wrongful termination or other potential claims. The termination agreement also provided \$10,000 to require that Shawn not work for any other food chain within a 100 mile radius of XYZ Foods, Inc. for a period of 36 months. No employment agreement, benefit plan, or any facts or circumstances indicate that Shawn is entitled to a payment for services he performed prior to resigning from the company. The payment that Shawn receives pursuant to the termination agreement is in exchange for the release of the wrongful termination claim and the covenant not to compete and is not allocable to Oregon because it is not based on services performed in Oregon.

Example 9: Assume the same facts in Example 8 except that the termination agreement also provided for a lump-sum payment of one month's salary per year worked (\$30,000) in addition to a \$25,000 payment for release of a wrongful termination claim and \$10,000 payment for the covenant not to compete. No employment agreement, benefit plan, or other agreement indicates that Shawn is entitled to a payment for services he performed prior to resigning from the company. The \$25,000 payment for the release of the wrongful termination claim and the \$10,000 payment for the covenant not to compete are not allocable to Oregon because neither is based on services performed in Oregon. The \$30,000 lump-sum cash payment based on Shawn's salary and years of service associates the payment with the employer-employee relationship. It is

100 percent allocable to Oregon because Shawn worked in Oregon and the facts and circumstances indicate that it is paid because of prior performance of services and no other reason.

[ED. NOTE: Formulas referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.127

Hist.: 1-69; 11-73; 12-19-75; 1-1-77; 12-31-81; 12-31-84. Renumbered from 150-316.127(1) to 150-316.127; 12-31-85; 12-31-87. Renumbered from 150-316.127 to 150-316.127-(A); RD 7-1989, f. 12-18-89, cert. ef. 12-31-89; RD 12-1990, f. 12-20-90, cert. ef. 12-31-90; RD 7-1991, f. 12-30-91, cert. ef. 12-31-91; RD 9-1992, f. 12-29-92, cert. ef. 12-31-92; RD 5-1994, f. 12-15-94, cert. ef. 12-31-94; RD 3-1995, f. 12-29-95, cert. ef. 12-31-95; REV 7-1998, f. 11-13-98, cert. ef. 12-31-98; REV 12-2000, f. 12-29-00, cert. ef. 12-31-00; REV 1-2006, f. & cert. ef. 1-20-06; REV 4-2009, f. & cert. ef. 7-31-09

150-316.587(5)(d)

Estimated Tax: Partnership and S Corporation Income of Part-year Residents and Nonresidents

For purposes of imposing interest on underpayment of estimated tax, an exception exists for part-year and nonresidents receiving income from an S corporation. No interest will be imposed on the underpayment attributable to the shareholders pro rata share of the S corporation income if the income is for the initial year in which S corporation status is elected and the shareholder is a nonresident or for the prior tax year was a part-year resident for Oregon. This exception applies to tax years beginning on or after January 1, 1987.

Example: Frank and Ethel move to Oregon in August, 2006. Frank is a partner in an Oregon partnership. The partnership incorporates in 2007 and elects S corporation status. For 2007, Frank and Ethel file as full-year Oregon residents and report their share of the S corporation income. No interest is imposed on any underpayment attributable to Frank's share of the S corporation income because they meet the exception. They are part-year residents for 2006; 2007 is the initial year of election of S corporation status.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.587

Hist.: 10-7-85, 12-31-85. Renumbered from 150-316.587(4); 12-31-87. Renumbered from 150-316.587(4)(A); RD 7-1989, f. 12-18-89, cert. ef. 12-31-89; RD 7-1991, f. 12-30-91, cert. ef. 12-31-91. Renumbered from 150-316.587(5); REV 6-2008, f. 8-29-08, cert. ef. 8-31-08; REV 4-2009, f. & cert. ef. 7-31-09

150-316.587(8)-(B)

Estimated Tax: Joint Return to Single or Separate Return

For estimated tax payments due for tax years beginning on or after January 1, 1988, in computing the required installment for the current year, the tax liability for the prior year may be used even though the current year is a single or separate return and the prior year's return is a joint return. The prior year's return must be filed timely including extensions and must cover 12 months. The prior year's tax will be allocated in the following manner:

(1) Recompute the prior year's tax liability as if each spouse had filed a single or separate return; and

(2) Multiply the joint tax liability for the prior year by a ratio of each spouse's single or separate liability to the combined single or separate liabilities.

Example: Dan and Jessica filed a joint return for the calendar year 2008 showing taxable income of \$63,000 and a tax after credits of \$4,084. Of the \$63,000 taxable income, \$38,000 was attributable to Dan and \$25,000 was attributable to Jessica. Dan and Jessica will file separate returns in 2009. The tax shown on the return for the preceding taxable year, for determining the required installments for 2009, is determined as follows:

[Formula not included. See ED. NOTE.]

[ED. NOTE: Formulas referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.587

Hist.: RD 11-1988, f. 12-19-88, cert. ef. 12-31-88; REV 4-2009, f. & cert. ef. 7-31-09

Rule Caption: Tax election ballots; supplemental budgets; war veteran's surviving spouse; omitted property; maximum assessed value reduction.

Adm. Order No.: REV 5-2009

Filed with Sec. of State: 7-31-2009

Certified to be Effective: 7-31-09

Notice Publication Date: 7-1-2009

Rules Amended: 150-280.075, 150-294.480, 150-307.250(1)(c), 150-308.146(5)(a), 150-308.156(5)-(C)

Subject: 150-280.075 clarifies the requirements for tax election ballot measure language, so the resulting tax levies conform to law. Ballot Measure 56 (2008) added a new constitutional provision, Article XI, section 11k, which, in effect, removes the "double majority" requirement in all elections in November or May. The other election dates, in March and September still require at least 50 percent voter

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turnout and a majority voting in favor to pass a property tax ballot measure.

150-294.480 clarifies requirements for supplemental budgets. The amendments are needed to a) conform the language of the rule to statute, b) remove a requirement in excess of the requirements of statute, c) remove redundant language, d) explain terms, e) clarify notice contents, and f) revise example.

150-307.250(1)(c) is amended to comply with HB 2007, passed by the 2007 Legislature and effective February 1, 2008. The amendments expand the definitions in rule that contain the term "spouse" to include a registered domestic partner.

150-308.156(5)-(C) describes how the addition of omitted property affects maximum assessed value. The rule contains references to the addition of omitted property for tax years prior to 1997-98, the first year of Measure 50. The references are no longer relevant.

150-308.146(5)(a) provides methodology for reducing MAV for property destroyed or damaged by fire or act of God. It includes provisions for the calculation of the MAV reduction where the destruction or damage occurred after July 1, 1995 and before July 1, 1997. Those provisions are obsolete and are removed.

Rules Coordinator: Debra L. Buchanan—(503) 945-8653

150-280.075

Tax Election Ballot Measure Requirements

(1) All ballot titles are required to contain essentially the same language within the standard format as outlined in ORS 250.035.

(2) The caption is limited to not more than 10 words. The purpose is to identify the type of tax presented for voter approval. The name of the municipal corporation and dollar figures must not be included in the caption.

(3) The question is limited to 20 words that plainly state the purpose of the measure so that an affirmative response to the question corresponds to an affirmative vote on the measure. The question must contain the following:

(a) The name of the municipal corporation. The word "district" may be substituted for the full name of the municipal corporation if the full name appears in the ballot measure summary;

(b) The amount of property tax in dollars and cents, or the tax rate per \$1,000 of assessed value (ORS 280.060);

(c) The purpose of the tax, such as operating, capital project, or establishing a permanent rate limit;

(d) The first fiscal year the tax is to be imposed; and

(e) The length in years that the proposed tax is to be imposed (ORS 280.070(5)).

(4) Directly after the question for a proposed local option tax, the following statement is required under ORS 280.070(4); "This measure may cause property taxes to increase more than three percent." The 20-word limitation does not apply to this statement.

(5) The summary is limited to 175 words and explains the purpose of the tax in plain language. It must not advocate a yes or no vote on the question. The summary must contain the following:

(a) As the first sentence, except for elections held in May or November of any year: "This measure may be passed only at an election with at least a 50 percent voter turnout." This statement is not included in the 175-word limitation;

(b) For a dollar amount local option, the total amount of money to be raised by the measure, and;

(c) For a tax rate local option, an estimate of the amount of taxes to be raised in each year in which the tax will be imposed.

(6) If an estimated tax impact is included in the summary it must also contain the following statement: "The estimated tax cost for this measure is an ESTIMATE ONLY based on the best information available from the county assessor at the time of estimate." This statement is not included in the 175-word limitation.

EXAMPLE ONE-YEAR LOCAL OPTION (RATE) (May or November election):

Caption: One-year Local Option Tax

Question: Should Sample City impose \$.40 per \$1,000 of assessed value for operating purposes for one year beginning 2008-2009? This measure may cause property taxes to increase more than three percent.

Summary: The purpose of this measure is to provide funds for the general operations of Sample City. It will enable the city to maintain operations at their current level. It is estimated that the requested rate will raise \$100,000 in fiscal year 2008-2009.

EXAMPLE MULTIPLE-YEAR LOCAL OPTION (UNIFORM DOLLAR AMOUNT) (March or September election):

Caption: Nine-year Capital Project Local Option Tax

Question: Should the district impose \$20,000 each year for nine years to purchase two vehicles and a maintenance shed beginning 2008-2009? This measure may cause property taxes to increase more than three percent.

Summary: This measure may be passed only at an election with at least a 50 percent voter turnout. The taxes to be raised in nine years total \$180,000, to be imposed in equal amounts of \$20,000 each year. The taxes will be used to purchase two new city vehicles to replace existing vehicles. The tax revenue will also be used to acquire a maintenance shed to house the city's park maintenance equipment. The city currently has no maintenance shed. It is estimated that the proposed tax will result in a rate of approximately \$.10 per \$1,000 of assessed value in the first year. The estimated tax cost for this measure is an ESTIMATE ONLY based on the best information available from the county assessor at the time of estimate.

EXAMPLE MULTIPLE-YEAR LOCAL OPTION (RATE) (March or September election):

Caption: Three-year Operating Local Option Tax

Question: Should Sample County impose \$.76 per \$1,000 of assessed value for operations for three years beginning 2008-2009? This measure may cause property taxes to increase more than three percent.

Summary: This measure may be passed only at an election with at least a 50 percent voter turnout. The additional tax revenue will be used to operate the county at its current levels of service. It is estimated the proposed rate will raise \$152,000 in 2008-2009, \$156,560 in 2009-2010, and \$161,260 in 2010-2011 for a total of \$469,820.

EXAMPLE PERMANENT RATE LIMIT (May or November election):

Caption: Permanent Rate Limitation

Question: Should District be authorized to impose \$3.50 per \$1000 of assessed value as a permanent rate limit beginning 208-209?

Summary: The measure will establish a permanent tax rate limit for the new Sample Service District. In the first year of imposition it is estimated that the proposed rate will raise \$42,000 for the new district. The taxes will be used to pay for the general operations of the district.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 280.060

Hist.: REV 8-1998, f. 11-13-98, cert. ef. 12-31-98; REV 8-2000, f. & cert. ef. 8-3-00; REV 5-2009, f. & cert. ef. 7-31-09

150-294.480

Supplemental Budget Procedures and Distribution

(1) During the fiscal year or budget period, the governing body may find that an unanticipated condition requires adjustments to the budget. If the condition meets the requirements of ORS 294.480, the governing body may prepare a supplemental budget.

(2) A supplemental budget may only authorize additional expenditures during the current fiscal year or budget period. It must not authorize expenditures for a past or future fiscal year or budget period.

(3) A supplemental budget that is being prepared to create or increase an appropriation must be adopted before any expenditures are made in excess of the current annual budget appropriations.

(4) Only one supplemental budget may be prepared as a result of a single situation or condition that meets the requirements of ORS 294.480.

(5) When the estimated expenditures in the supplemental budget differ by less than 10 percent from the expenditures of the adopted annual or biennial budget for each fund being adjusted, the governing body may adopt the supplemental budget at one of its regular meetings. Fund expenditures do not include unappropriated ending fund balance, interfund transfers, or contingency amounts.

(a) Notice of the regular meeting at which the supplemental budget will be adopted must include for each fund being adjusted, the name of the fund, the amount of change in the fund's total expenditures and the fund's revised total resources and requirements.

(b) The resolution adopting and appropriating the supplemental budget may take place at the same regular meeting.

(6) When a new fund is being established or when the estimated expenditures in the supplemental budget differ by 10 percent or more from the expenditures of the adopted annual or biennial budget for any fund being adjusted, the governing body must publish notice and hold a public hearing before adopting the supplemental budget. The notice of the hearing must include for each fund being adjusted: the name of the fund; the new total for each resource line item or expenditure category being changed, added or deleted and the fund's revised total resources and requirements.

Example: This example is of a published summary of a supplemental budget in which a fund's expenditures differ by 10 percent or more. In this example, the supplemental budget transfers \$20,000 from the General Fund Contingency to the General Fund Transfers Out appropriation, and then transfers \$20,000 in resources and appropriation authority from the General Fund to the Utility Fund Materials and Services, increasing that appropriation to a new total of \$40,000. This new total for

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Materials and Services differs by more than 10 percent from the amount originally budgeted. The changes being made in appropriations by the supplemental budget are as follows: [Example not included. See ED. NOTE.]

[Example not included. See ED. NOTE.]

[ED. NOTE: Examples referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 294.480

Hist.: TC 10-1978, f. 12-5-78, cert. ef. 12-31-78; RD 1-1992, f. 5-28-92, cert. ef. 6-1-92; REV 4-1998, f. & cert. ef. 6-30-98; REV 8-2000, f. & cert. ef. 8-2-00; REV 2-2002, f. 6-26-02, cert. ef. 6-30-02; REV 5-2009, f. & cert. ef. 7-31-09

150-307.250(1)(c)

Defining "Surviving Spouse" of a Veteran

(1) "Surviving spouse" of a veteran means:

(a) A man or woman who is legally married to a veteran at the time of the veteran's death; or

(b) A man or woman who is joined in a registered domestic partnership with a veteran at the time of the veteran's death. "Domestic partnership" has the meaning given that term as defined in section 3, chapter 99, Oregon Laws 2007, and the partnership must meet the provisions of sections 1 to 9 of the same 2007 Act, also known as the Oregon Family Fairness Act (OFFA).

(2) "Surviving spouse remaining unmarried of a veteran" means the individual does not enter into a new marriage or registered domestic partnership following the death of the veteran.

(3) The exemption applies only to the period before the date of the first new marriage or registered domestic partnership of the surviving spouse after the death of the veteran.

(4) If a surviving spouse of a veteran enters into a new marriage or registered domestic partnership following the death of the veteran and that marriage or partnership is annulled by a court having jurisdiction to do so, the surviving spouse will be restored to his or her previous status as a surviving spouse remaining unmarried of a veteran.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 307.250

Hist.: RD 1-1995, f. 12-29-95, cert. ef. 12-31-95; REV 8-1998, f. 11-13-98, cert. ef. 12-31-98, Renumbered from 150-307.250(1)(d); REV 5-2009, f. & cert. ef. 7-31-09

150-308.146(5)(a)

Reduction of Maximum Assessed Value (MAV) for Property Destroyed or Damaged by Fire or Act of God

(1) "Fire or act of God" has the same meaning and restrictions as used in ORS 308.425 including the arson restriction of ORS 308.440.

(2) As used in ORS 308.146(5)(a), "reduction in real market value" means that the total real market value (RMV) after adjustment is less than it would otherwise have been, had the damage or destruction by fire or act of God not occurred.

(3) When a portion of property is destroyed or damaged by fire or act of God, use the following procedure to adjust MAV for the year in which the destruction or damage is reflected by a reduction in RMV.

Note: An example is incorporated into the steps with the following assumptions:

2008-09 MAV = \$187,379

2008-09 (1-1-08) total RMV equals \$300,000.

2008-09 assessed value (AV) = \$187,379.

9-1-08 the house is destroyed by fire. The house RMV for 1-1-08 was \$180,000.

There is no market trending in this area.

Step 1: Multiply the prior year AV by 1.03. Compare the result to the prior year MAV to determine the larger amount. The larger amount becomes the current year MAV (unadjusted) as if the account had not changed, i.e., the larger of: Prior year AV x 1.03 or prior year MAV = current year MAV of unchanged account.

Example: Larger of: $\$187,379 \times 1.03 = \$193,000$ or $\$187,379$. Current year MAV = $\$193,000$.

Step 2: Determine the prior year's RMV for the affected portion. The affected portion is that part of the property that was destroyed or damaged by fire or act of God. The RMV of the loss is the RMV of the affected portion.

Example: RMV of affected portion equals $\$180,000$.

Step 3: Subtract the RMV of the affected portion (Step 2) from the prior year total RMV to determine the RMV of the unaffected portion, i.e., the prior year total RMV - RMV of the affected portion = RMV of the unaffected portion.

Example: $\$300,000 - \$180,000 = \$120,000$.

Step 4: Divide the RMV of the unaffected portion (Step 3) by the total prior year RMV to determine the percentage of unaffected property, i.e., the RMV of the unaffected portion / total prior year RMV = percentage of unaffected property.

Example: $\$120,000 / \$300,000 = 40\%$

Step 5: Multiply the unadjusted MAV (Step 1) by the percentage of unaffected property (Step 4) to determine MAV that has been adjusted to reflect the loss from fire or act of God (MAV attributable to the unaffected portion only), i.e., the unadjusted MAV x percentage of unaffected property = MAV adjusted to reflect the loss from fire or act of God.

Example: $\$193,000 \times 40\% = \$77,200$.

(5) As used in section (4), the "year" in which the RMV is reduced due to fire or act of God can be either:

(a) The assessment year.

(b) The tax year if RMV is determined as of July 1 under ORS 308.146(6) or 308.428.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.149

Hist.: REV 8-2000, f. & cert. ef. 8-3-00; REV 5-2009, f. & cert. ef. 7-31-09

150-308.156(5)-(C)

Omitted Property—Allocating Maximum Assessed Value (MAV)

(1) When omitted property is added to the property tax account after January 1 preceding the current assessment year and before January 1 of the current assessment year, only the omitted property portion is considered affected. The existing property is the unaffected portion. The intent is to correct the tax roll for current and prior years as if the omitted property had been a regular part of those tax rolls.

(2) To correct the first year's Assessed Value (AV) when the omitted property is added to the roll :

(a) Multiply the real market value (RMV) of the omitted property for the first year it should have been added to the roll by that year's appropriate changed property ratio (CPR) to determine MAV for the omitted property.

(b) Add the RMV and MAV of the omitted portion to the existing RMV and MAV to get a corrected RMV and MAV for the account.

(c) The lesser of the corrected RMV or MAV is the AV that should have been on the roll had the property been discovered timely.

EXAMPLE 1: Property was built in 2003 and should have been added to the 2004-05 tax roll. The assessor discovers the property in December 2004 and adds it to the 2004-05 tax roll. [Table not included. See ED. NOTE.]

(3) To correct the AV for subsequent years that omitted property should be added to the roll:

(a) Add the omitted property's trended or recalculated RMV to the property's existing RMV to get a corrected RMV for the account.

(b) Multiply the prior year's corrected AV by 1.03 and compare to the prior year's corrected MAV. The greater of the two will be the corrected MAV for the account.

(c) The lesser of the corrected RMV or MAV is the account's AV.

EXAMPLE 2: Property was built in 2003 and should have been added to the 2004-05 tax roll. The assessor discovers the property in December 2008, and adds it to the 2004-05 through 2008-09 tax rolls. RMV trending is 5 percent per year. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.156

Hist.: REV 4-1998, f. & cert. ef. 6-30-98; REV 5-2009, f. & cert. ef. 7-31-09

Rule Caption: ORMAP grants; central assessment; Board of Property Tax appeals; Forest Products Harvest Tax.

Adm. Order No.: REV 6-2009

Filed with Sec. of State: 7-31-2009

Certified to be Effective: 7-31-09

Notice Publication Date: 7-1-2009

Rules Amended: 150-306.132, 150-308.550(2)-(G), 150-309.026(2)-(A), 150-321.005(9)

Subject: 150-306.132 is amended to clarify roles and criteria associated with the ORMAP grant process. The ORMAP Advisory Committee approved general policy in November 2006 to determine whether grant requests met the requirements for ORMAP grant funding and to determine how to prioritize the qualifying grants when available funds are less than the dollars requested by the counties.

150-308.550(2)-(G) is amended to provide an alternative method of allocating property of a centrally assessed communication company whose unit of property crosses state boundaries. The alternative method is needed if a company is unable to provide information for the three variables currently used: original cost; operating revenue; and net operating income.

150-309.026(2)-(A) guides local boards of property tax appeals (BOPTA) in how to apply their jurisdiction to requests submitted by

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petitioners. The rule further clarifies ORS 309.026, which states that BOPTA hears petitions for reduction of real market value (RMV), specially assessed value (SAV), maximum assessed value (MAV), or assessed value (AV). The purpose of the rule is to allow an element of flexibility in how BOPTA can act on submitted petitions. It allows the petitioner to request an increase in one component (land or improvement) of real market value so long as the total value will not be increased. It also allows the board to increase a component on its own volition if the petitioner has not specified how the request for reduction should be applied.

150-321.005(9) is amended to change the order for establishing the identity of the taxpayer responsible for paying the Forest Products Harvest Tax (FPHT). The current rule provides a sequential list of criteria used by the department to determine the person responsible for the harvest tax. The party holding title to timber at the time of harvest pays the tax. The best evidence of title is identified by written agreement. The rule currently lists "The party holding title to timber as evidenced in a written agreement" as the fourth criteria and the proposed amendment would list this as the first criterion to be considered.

Rules Coordinator: Debra L. Buchanan—(503) 945-8653

150-306.132

Oregon Land Information System Fund and the Oregon Map Project

(1) Definitions

(a) "County" is the agency, approved by the County Assessor, requesting funds from the Oregon Map Project (ORMAP).
(b) "Department" means the Oregon Department of Revenue.
(c) "Director" means the director of the Oregon Department of Revenue.

(d) "Fund" means the Oregon Land Information System (OLIS) Fund. The fund provides financial support for ORMAP. The fund is separate from the state's General Fund. The fund's source is an allocated dollar amount received quarterly from each county's collected document-recording fees, as provided by ORS 205.323(3)(a).

(e) "Grant" means a money award from the OLIS Fund.

(f) "Oregon Map Project" (ORMAP) means the program implemented and authorized by the department to establish a statewide base map for facilitating and improving Oregon's property tax mapping system and for providing other Geographic Information System (GIS) benefits, pursuant to ORS 306.132 and 306.135.

(g) "ORMAP Project Coordinator" is the department employee tasked with administering the ORMAP project.

(h) "Oregon Land Information System Advisory Committee" (Advisory Committee) is a team of individuals appointed by the department's director. The committee is comprised of ORMAP stakeholders in private industry, and in federal, state, or local government who have an interest in the success of the program (OAR 150-306.135).

(i) "ORMAP Funding Criteria" (Funding Criteria) are listed in the document used for the administrative review, technical review, and priority scoring for grant applications. The criteria is part of the grant application and on the ORMAP web site (www.ormap.org).

(j) "ORMAP Goals" are the project goals approved by the advisory committee. The goals are identified on the ORMAP web site.

(k) "ORMAP Policies" are administrative policies approved by the advisory committee. The policies are identified on the ORMAP web site.

(l) "ORMAP Technical Group" (Tech Group) is comprised of volunteers who have education or experience in surveying, cadastral cartography, legal descriptions, mapping software, database software, or other GIS technology. The group evaluates and provides recommendations on individual county project grant applications to the department and the advisory committee.

(m) "ORMAP Technical Specifications" (Tech Specs) is a minimum standard used to determine if tax lots and tax maps remapped with ORMAP funds have been completed and meet ORMAP goals.

(n) "ORMAP Tools Group" (Tools Group) is comprised of volunteers who have education or experience in surveying, cadastral cartography, legal descriptions, mapping software, database software, or other GIS technology. This group develops and provides support for map editing tools used in the construction of Oregon assessor's maps.

(o) "Project" means a mapping activity that is eligible for a grant from the fund.

(2) The department administers the fund to fulfill the ORMAP goals. The department adopts priorities for funding specific projects, goals, or geographic areas in support of ORMAP. The grant is intended to assist the counties in the development of a statewide base map system. The department makes the following disbursements from the fund:

(a) Quarterly payments for ORMAP administrative costs to the department. Administrative costs include but are not limited to, personnel, equipment, and other services and supplies required in completing the ORMAP goals.

(b) Tools group funding. The tools group is eligible for funding at 3 percent of the total annual available funds, up to \$25,000 per year.

(c) Grants to the counties. Counties are eligible for grants to support eligible ORMAP projects and for the purchase of approved equipment or software.

(3) Counties applying for a grant to fund an ORMAP project must complete an ORMAP Grant Application, Form No. 150-304-101-9. The application is available upon request to the department or on the ORMAP web site.

(a) Completed project grant applications must be submitted to the department ORMAP Project Coordinator no later than the due date for that funding cycle, which is posted on the ORMAP web site. The department accepts grant applications for the purchase of approved equipment or software at any time.

(b) A county's grant request must adhere to the ORMAP goals, tech specs, and the county's business plan for achieving ORMAP goals.

(c) A county that submits a grant application must either send a representative to the technical review meetings or have a representative available by phone to respond to questions related to the application.

(d) If requested by the department, a county must provide a reduction package by completing the Alternative Funding Request form developed by the department and attached to the grant application. The county must describe the modified deliverable in the event full funding is not possible.

(4) The ORMAP Project Coordinator reviews applications using the current version of the ORMAP policies and the funding criteria's section titled, Administrative Review Criteria.

(a) Administrative review criteria are all pass/fail and include:

(A) The county maintains a current online ORMAP business plan and provides the department with a status map of the county's ORMAP project phases.

(B) The county has no more than two outstanding ORMAP grant contracts.

(C) The county agrees to share data with the department for its internal use.

(D) The county has proposed a project directed at meeting one of the ORMAP goals,

(E) The county has provided the department with the most current calendar year's countywide tax lot shape file, which meets the Cadastral Data Exchange Standard, and

(F) At the department's discretion, the county provides an alternative funding request for the grant application outlining funding reductions of varying percentages defined by the department.

(b) The ORMAP Project Coordinator will notify the county applicant if any of the criteria are not met. The applicant may resubmit an amended grant application prior to the grant cycle deadline.

(c) An application that does not pass all the department's administrative review criteria referenced in subsection (4) of this rule will be denied.

(d) Applications for approved equipment and software may be awarded at the discretion of the department without review by the tech group. A list of approved equipment and software is attached to the grant application form.

(5) A project grant request that passes the department's administrative review process will be submitted to the tech group for review at its first scheduled meeting for that funding cycle. Each grant application will be reviewed using the current version of the funding criteria section titled, Technical Review Criteria.

(a) Technical review criteria are pass/fail and include:

(A) The project demonstrates a successful process,

(B) The project has a completion time frame that does not exceed one year, and

(C) The project has reasonable and measurable deliverables.

(b) If additional information is requested by the tech group, the county must submit a written addendum to the ORMAP Project Coordinator by the date specified.

(c) Any information submitted will be reviewed by the tech group at its second scheduled meeting.

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(6) The department will determine if there are sufficient funds to provide full funding to all grant requests that pass the technical review. The department will provide funding to as many counties as possible as its first priority. If full funding is not available, grant applications will then be scored using the current Priority Scoring section of the funding criteria.

(a) The Priority Scoring criteria will each be assigned points, and include:

(A) The project is identified as a county edge matching project,

(B) The project is part of an ongoing process,

(C) The county currently has a low completion percentage of tax lots that meet the ORMAP Technical Specifications,

(D) The project completes the county's remapping to bring 100% of the county tax lots to technical specifications.

(E) The project shows a multi-county effort to encourage collaboration,

(F) The project shows funding partnerships,

(G) The project demonstrates significantly greater costs if not funded in the current cycle,

(H) The county has had significant contribution of non-department resources in completing ORMAP Goal #6,

(I) The county has signed a statewide data sharing agreement to share its tax lot data, and

(J) The county voluntary withdraws the application from the current funding cycle.

(b) The department will rank each grant application in point total order, with the higher scoring projects receiving preference, using the Priority Scoring methodology.

(c) The tech group will evaluate the department's ranking and make findings and recommendations as to the department's application of that methodology.

(d) The department will take account of each of the tech group's findings and recommendations in the course of recommending approval, denial, or partial funding of the grant based on the Priority Scoring and, if applicable, the quality and quantity of the deliverable in the event of insufficient overall funds.

(7) The department may make changes to the criteria listed in sections 4, 5 and 6 of this rule and notice will be given in the grant application prior to the funding cycle.

(8) The department will provide a written recommendation on grant awards to the advisory committee.

(a) The advisory committee will convene and review the written recommendation of the department and may provide suggestions and input during each funding cycle.

(b) The department will consider any suggestions and input from the advisory committee, and in its discretion, may modify the original written recommendation on grant awards.

(c) The department will notify each grant requestor of its final grant determination and award by letter within two weeks of the meeting of the advisory committee.

(9) The department will consider appeals of grant decisions.

(a) Appeals must be submitted in writing to the department within 30 days from the action that is being appealed.

(b) If an appellant is successful and additional funds are granted, the additional funding will be deducted from the next quarterly fund deposit.

(10) The department and the grant award recipient must execute an intergovernmental service agreement prior to the disbursement from the fund.

(11) The department must review and approve all documentation of completed project deliverables before approving the payment from the fund to grant recipients.

(12) The department may approve modifications to awarded ORMAP contracts. These modifications may be adjustments to the timeline, deliverables, or amount awarded. The modifications are granted at the discretion of the department based on the availability of funds or the circumstances that required the modification of the contract.

(a) To be granted a contract modification, the county assessor must send, by letter or e-mail, to the ORMAP Project Coordinator the completed ORMAP Contract Modification Request form attached to the grant application. The form is available upon request to the department's ORMAP Project Coordinator or on the ORMAP web site.

(b) The department must receive contract modification requests one month prior to the contract expiration date.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 306.132

Hist.: REV 7-2005, f. 12-30-05, cert. ef. 1-1-06; REV 6-2009, f. & cert. ef. 7-31-09

150-308.550(2)-(G)

Allocation of Centrally Assessed Communication Company Property Value

(1) Definitions

(a) "Original Cost" means the cost of tangible property, plant and equipment as reported on the company's financial statements including construction work in progress, property held for future use, land, and leasehold improvements.

(b) "Oregon operating revenue" means gross revenue from customers whose billing address is an Oregon address.

(c) "Oregon customers" means customers whose billing address is in the state of Oregon.

(2) The value of the Oregon portion of a unit of property used by a company operating both within and without this state in the communication business must be allocated to this state by multiplying the value of the unit by a percentage, which is the sum of:

(a) The ratio of the Oregon portion of the unit's original cost to the total unit's original cost, multiplied by 75 percent; plus

(b) The ratio of the Oregon portion of the unit's total gross operating revenue for the prior year to the unit's total gross operating revenue for the prior year, multiplied by 15 percent; plus

(c) The ratio of the total year-end Oregon customers for the prior year to the unit's total year-end customers for the prior year, multiplied by 10 percent.

(3) If a company is not able to provide, or does not provide, the information required to compute the ratio in (2)(a), (b) or (c) of this rule, the department will proportionally increase the percentage of the unit's remaining ratio(s) by the percentage(s) of the ratios not used.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.550

Hist.: RD 6-1994, f. 12-15-94, cert. ef. 12-30-94; REV 6-2009, f. & cert. ef. 7-31-09

150-309.026(2)-(A)

Limitations on Increase in Value by Board of Property Tax Appeals

(1) For purposes of this rule, "property tax account" means the administrative division of property used by the assessor for listing the property on the assessment roll.

(2) The board of property tax appeals (BOPTA) lacks jurisdiction under ORS 309.026 to increase the total real market value (RMV), the total specially assessed value (SAV), the maximum assessed value (MAV), or assessed value (AV) of property because the statute specifies that BOPTA may only hear petitions to reduce the value of property.

(3) When BOPTA receives a petition requesting an increase in the value of property, the board must act on the petition in the following manner:

(a) When BOPTA receives a petition requesting an increase or resulting in an increase in the total RMV, SAV, MAV or AV of property in a property tax account, the board must dismiss the petition for lack of jurisdiction.

(b) When BOPTA receives a petition requesting an increase in the RMV of either the land or improvement component, the board may increase that component provided the change does not result in an increase to the total RMV, SAV, MAV, or AV of the property in the property tax account.

(4) When BOPTA receives a petition requesting a reduction in the value of property, the board must act on the petition in the following manner:

(a) When BOPTA receives a petition requesting a reduction in total RMV that does not specify a reduction in value of either the land or improvement component, the board may increase or decrease either component provided the net result sustains or reduces the total RMV, SAV, MAV or AV of the property in the property tax account.

(b) When BOPTA receives a petition requesting a reduction in either the land or improvement component of the RMV of property and no change to the other component, the board may act only on the component for which the reduction is requested.

(c) When BOPTA receives a petition requesting a reduction in either the land or improvement component of the RMV of property and the petition is silent as to the requested value of the other component, the board must sustain the value of the component for which the petition is silent unless subsection (4) (a) of this rule applies.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 309.026

Hist.: RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; RD 8-1992, f. 12-29-92, cert. ef. 12-31-92; Renumbered from 150-309.026(2)(e); RD 8-1992, f. 12-29-92, cert. ef. 12-31-92; RD 9-1997, f. & cert. ef. 12-31-97; Renumbered from 150-309.026(2), REV 5-2004, f. 7-30-04, cert. ef. 7-31-04; REV 9-2006, f. 12-27-06, cert. ef. 1-1-07; REV 6-2009, f. & cert. ef. 7-31-09

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150-321.005(9)

Establishing Legal Taxpayer for FPHT

(1) It is the policy of the department to use the following sequential criteria to establish the identity of the taxpayer responsible for the Forest Products Harvest Tax (FPHT):

(a) The party holding title to timber as evidenced in a written agreement.

(b) If the element of (a) is not present, the party indicated on the "Notification of Operations" as the timber owner.

(c) If the elements of (a) and (b) are not present, then the party receiving payment for logs delivered to a conversion center.

(d) If the elements of (a), (b), and (c) are not present, then the owner of land from which harvest occurred is the responsible taxpayer.

(2) The following examples of transactions are a guide in determining the responsible taxpayer: [Example not included. See ED. NOTE.]

(3) The department will consider the following elements when it is necessary to interpret a written agreement in order to establish identity of the taxpayer:

(a) Type of agreement — i.e., a contract for the performance of services vs. a contract that transfers the ownership of property.

(b) The intent of the agreement.

(c) Which party enjoys the "benefit of ownership"?

(d) Which party bears the loss in a catastrophic event?

(e) The timing of and manner of payment.

(4) Whenever an agreement is so ambiguous that identity of the taxpayer cannot be reasonably determined, the last party known to hold title to timber or logs will be deemed the taxpayer.

[ED. NOTE: Examples referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 321.005

Hist.: RD 9-1989, f. 12-18-89, cert. ef. 12-31-89; REV 6-2009, f. & cert. ef. 7-31-09

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Department of Transportation Chapter 731

Rule Caption: Selection of projects for a public-private partnership through the Oregon Innovative Partnerships Program.

Adm. Order No.: DOT 2-2009(Temp)

Filed with Sec. of State: 7-29-2009

Certified to be Effective: 7-29-09 thru 1-22-10

Notice Publication Date:

Rules Adopted: 731-070-0245

Rules Amended: 731-070-0240

Subject: The American Recovery and Reinvestment Act (ARRA) of 2009, Public Law 111-5, appropriates funding for the Department of Energy (DOE) to stimulate the economy and to create and retain jobs. The Act gives preference to activities that can be started and completed expeditiously. ARRA and other state and federal funding has been committed to ODOT to develop solar photovoltaic generating resources to power the transportation system and provide jobs.

On June 23, 2009, the Oregon Transportation Commission enrolled the Oregon Solar Highway program into the Oregon Innovative Partnerships Program (OIPP), affirming that the ODOT Solar Highway Projects – Innovative Utility Partnerships have the potential to accelerate cost-effective delivery or promote innovative approaches to carrying out the projects.

However, upon examining applicable Oregon Administrative Rules, ODOT finds the need to clarify agency authority under the Oregon Innovative Partnerships Program through temporary rules to allow solicitation of a single proposal for certain transportation projects enrolled in the Oregon Innovative Partnerships Program through action of the Oregon Transportation Commission.

The temporary rules have particular immediate application to the Solar Highway projects. The nature of utility service areas limits the solicitations only to the utility serving the particular area where a solar highway project site is located. The proposed temporary rules recognize that with approval of the Oregon Transportation Commission it may be appropriate to enter into direct negotiations for a public-private partnership.

Rules Coordinator: Lauri Kunze—(503) 986-3171

731-070-0240

Commission Selection of Projects for Solicitation of Proposals

ODOT may either solicit Proposals or enter into direct negotiations with a legal entity for a public-private partnership approach to planning, acquiring, financing, developing, designing, managing, constructing, reconstructing, replacing, improving, maintaining, repairing, leasing and/or operating a transportation project if the Commission has determined that such an approach has the potential to accelerate cost-effective delivery of the project or promote innovative approaches to carrying out the project.

Stat. Auth.: ORS 184.616, 184.619 & 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 5-2004, f. & cert. ef. 8-26-04; DOT 2-2009(Temp), f. & cert. ef. 7-29-09 thru 1-22-10

731-070-0245

Direct Negotiations

When ODOT chooses to enter into direct negotiations for a public-private partnership approach, it may include a request for a proposal from the entity and may specify requirements for proposal content, as well as criteria and procedures under which the proposal will be evaluated and selected for further negotiations towards a final agreement.

Stat. Auth.: ORS 184.616, 184.619 & 367.824

Stat. Implemented: ORS 367.800 - 367.824

Hist.: DOT 2-2009(Temp), f. & cert. ef. 7-29-09 thru 1-22-10

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Department of Transportation, Highway Division Chapter 734

Rule Caption: Signs identifying cultural and historical features.

Adm. Order No.: HWD 7-2009

Filed with Sec. of State: 7-20-2009

Certified to be Effective: 7-20-09

Notice Publication Date: 5-1-2009

Rules Amended: 734-062-0005, 734-062-0010, 734-062-0015, 734-062-0020, 734-062-0030, 734-062-0035, 734-062-0040

Rules Repealed: 734-062-0025, 734-062-0045

Subject: General updating of rules, most of which have not been updated in over 20 years; deleting former fee rule that was superseded by ORS 377.729 and subsequent fee rule for all outdoor advertising signs in 734-059-0100.

Rules Coordinator: Lauri Kunze—(503) 986-3171

734-062-0005

Applicability and Purpose

(1) The purpose of these regulations is to establish standards for the Department of Transportation to erect official traffic control signs to identify and provide directional information to qualified cultural and historical features.

(2) These regulations are applicable to the Interstate System and freeways. The Department may not consider applications under these rules for signs off the Interstate System or freeways, other than for follow-up signs as required by the Engineer.

Stat. Auth.: ORS 184.616, 184.619, 366

Stats. Implemented: ORS 366.205, 366.450

Hist.: 2HD 5-1983, f. & ef. 1-20-83; HWD 7-2009, f. & cert. ef. 7-20-09

734-062-0010

Definitions

As used in these rules the following definitions apply unless the context clearly indicates otherwise:

(1) "Engineer" means the State Traffic Engineer or the Engineer's designee.

(2) "Qualified Cultural Feature" means a museum determined by the Engineer to be of significant cultural value to the region or state pursuant to OAR 734-062-0035.

(3) "Qualified Historical Feature" means a district or a property currently listed in the National Register of Historic Places or designated nationally significant by the United States Department of the Interior, and determined by the Engineer to be of significant historical value to the region or state pursuant to OAR 734-062-0035.

(4) "Qualified Feature" means a qualified cultural or historical feature under this Division.

(5) "Interstate System" or "interstate highway" means every state highway that is a part of a national system of interstate and defense highways established pursuant to Section 103(b), Title 23, United States Code.

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(6) "Sign" includes sign panels, support structure and break away devices.

(7) "Freeway" means a divided arterial highway with four or more lanes available for through traffic, with full control of access and grade separation at intersections.

(8) "Department" means the Oregon Department of Transportation.

(9) "Owner" means a holder of fee title or lessee.

(10) "Responsible Operator" means a person or entity other than an owner who operates a qualified historical or cultural feature.

(11) "Follow-up sign" means an official sign located on, opposite, or at the terminus of an exit ramp from the Interstate System or an exit ramp at an interchange on a freeway, or additional official signs along the route from the interstate system or freeway to the qualified cultural or historical feature.

Stat. Auth.: ORS 184.616, 184.619, 366

Stats. Implemented: ORS 366.205 & 366.450

Hist.: 2HD 5-1983, f. & ef. 1-20-83; HWD 7-2009, f. & cert. ef. 7-20-09

734-062-0015

Criteria For Location

(1) Signs for qualified features shall conform to all requirements of the Manual on Uniform Traffic Control Devices as adopted by the Oregon Transportation Commission, any of its amended supplements, and all other standards established by the Department of Transportation for official traffic control devices. The Department may approve a maximum of two qualified features, and only one such sign structure per interchange per direction of travel.

(2) Before approving an application for such a sign, the Engineer will review the proposed sign, legend, and placement to determine whether it will comply with these rules. Some factors the Engineer may consider include, but are not limited to: spacing or other factors involving official signs that will be installed as part of an upcoming transportation project, cost versus available funds, environmental concerns, right-of-way width, existing traffic control devices, and other issues that impact whether it is appropriate for the Department to install a sign.

[Publications. Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 366

Stats. Implemented: ORS 366.205 & 366.450

Hist.: 2HD 5-1983, f. & ef. 1-20-83; HWD 7-2009, f. & cert. ef. 7-20-09

734-062-0020

Facilities Requirements for Qualified Cultural and Historical Features

(1) Qualified cultural and historical features that have features within a building or a restricted outdoor area must include:

(a) Restroom facilities and drinking water.

(b) Continuous operation at least six hours per day six days a week.

(c) Licensing where required.

(d) Adequate parking accommodations.

(2) Qualified undeveloped cultural and historical features not located within buildings or a restricted outdoor area must include:

(a) Adequate parking accommodations.

(b) An informational device to provide the public knowledge of the features.

(3) Each qualified cultural and historical feature identified on a sign must give written assurance to the Department that it complies with all applicable laws concerning the provisions of public accommodations without regard to race, religion, color, sex, marital status, sexual orientation, age, disability, or national origin, and shall not be in breach of that assurance.

(4) The Engineer may grant a waiver under OAR 734-062-0040(2) to sections (1) and (2) of this rule.

Stat. Auth.: ORS 366

Stats. Implemented: ORS 366.205 & 366.450

Hist.: 2HD 5-1983, f. & ef. 1-20-83; HWD 7-2009, f. & cert. ef. 7-20-09

734-062-0030

Distance to Qualified Cultural and Historical Feature and Follow-Up Signs

(1) Qualified historical or cultural features must be located within one mile of the interchange measured by vehicle distance from the center point of the exit ramp intersection to the nearest point of the intersection of the driveway of the feature and a public highway. However, any qualified cultural or historical feature set out in this section located within 10 miles of an interchange may apply to the Department for a waiver under the provisions of OAR 734-062-0040.

(2)(a) Where any qualified cultural or historical feature is not visible from any part of the exit ramp the Engineer may require a follow-up sign, bearing the identification together with a directional arrow, and mileage

where needed, at the exit ramp terminus. The Engineer may also require follow-up signs necessary to enable the traveling public to find the feature and for traffic safety.

(b) If the qualified cultural or historical feature is visible from any part of the exit ramp, the Department will not erect a follow-up sign unless the Engineer determines it to be necessary to avoid a traffic hazard or misdirection of the traveling public.

Stat. Auth.: ORS 184.616, 184.619, 366

Stats. Implemented: ORS 366.205 & 366.450

Hist.: 2HD 5-1983, f. & ef. 1-20-83; HWD 7-2009, f. & cert. ef. 7-20-09

734-062-0035

Application and Eligibility

(1) The Department shall prioritize applications for qualified feature signs based on the date of receipt of a properly completed application.

(2) Only the owner or responsible operator of a qualified historical or cultural feature may file an application for a sign. The applicant must use the form specified by the Department.

(3) The Engineer must consult with the Oregon Historical Society, and may consult with county or city historical societies, or any other entity that may have information regarding the historical value of the feature. The Engineer will determine if an applicant has significant historical value so as to qualify for a sign by considering the following:

(a) Whether the proposed historical feature is currently known and recognized within the community and region;

(b) Whether the proposed historical feature is readily accessible to visitors. This may include regular hours of operation and public access to the proposed feature;

(c) The historical authenticity of the feature. This may include such items as the interpretive story presented at the feature, or the extent of historical renovation or preservation of the feature;

(d) Any other relevant criteria.

(4) The Engineer must consult with the Oregon Museums Association, the Oregon Historical Society, and the local historical society in the region where the museum is located, and may consult with any other entity that may have information regarding the cultural value of the feature. The Engineer will determine if an applicant has significant cultural value so as to qualify for a sign by considering the following:

(a) whether the proposed cultural feature is currently known and recognized within the community and region;

(b) whether the proposed cultural feature is readily accessible to visitors. This may include regular hours of operation and public access to the proposed feature;

(c) the authenticity of the feature. This may include such items as the interpretive resources presented at the feature, the extent of the collection.

(5) The owner or responsible operator must request annually that the sign erected under these rules be renewed. The request must affirm that the qualified feature continues to qualify for the sign. A renewal allows the sign to remain for one year from the date of renewal, provided the feature remains in compliance with these rules.

(6) The Department may review a qualified feature for continued eligibility annually before granting a renewal, or at any other time. If the qualified feature fails to meet the qualifications for its sign, or the owner or operator fails to submit a renewal request, the Department may remove the sign or sign legend for that feature.

(7) The Department may remove the sign or the sign legend for the qualified feature if:

(a) the qualified cultural or historical feature fails on a sufficient number of occasions or over a sufficient period of time to meet the requirements of OAR 734-062-0020(1) and (2), so as to justify a finding by the Department that the feature is not in substantial compliance with these regulations.

(b) the qualified cultural or historical feature fails to open for business for more than 21 consecutive days or for more than 30 days cumulatively during any normal operating season unless the Department finds that closure for such period was beyond the control of the owner or responsible operator, or that the closure was justified by extenuating circumstances.

(c) If it fails to comply with OAR 734-062-0020(3), except in isolated instances without the knowledge of the owner, responsible operator, or manager of the feature, or on any occasion unless steps are promptly taken to insure to the fullest extent reasonably possible that such instances will not recur.

(8) If due to fire, accident or similar causes, a qualified cultural or historical feature becomes inoperable for more than seven days, but less than 90 days, the Department may cover or remove the sign legend for that feature, but the feature shall not lose its priority, nor be required to reapply

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prior to the normal time for a renewal application. The Department may grant further extension on good cause shown. However, failure of the owner or responsible operator to proceed with necessary repairs as rapidly as possible shall cause loss of the right to have the feature included on the sign.

(9) Notwithstanding that a qualified historical or cultural feature meets all of the other eligibility requirements of these regulations, the Department may deny the application if the Engineer determines that adequate direction to the feature cannot be given by an allowable follow-up sign. Without limitation, examples include: the route predominantly runs over non-state highway; the route requires more than three follow-up signs.

(10) The Department may not approve or place a qualified feature sign if the feature has already been approved by the Travel Information Council for signing along the same route. If the qualified feature has been approved for a sign under this Chapter, and subsequently obtains a sign through the Travel Information Council along the same route, the Department shall remove the signs it erected or remove or cover the sign legend for that feature.

(11) The Department may make a decision outlined in this chapter without a hearing. If an applicant, owner, or operator of the affected feature disagrees with the Department's final decision, the applicant, owner, or operator may request a Contested Case hearing under ORS chapter 183. The Department may continue to enforce its decision pending the conclusion of the contested case including any appellate court action.

Stat. Auth.: ORS 184.616, 184.619, 366

Stats. Implemented: ORS 366.205 & 366.450

Hist.: 2HD 5-1983, f. & ef. 1-20-83; HWD 7-2009, f. & cert. ef. 7-20-09

734-062-0040

Waiver

(1) Upon request by an applicant the Engineer may authorize a waiver of OAR 734-062-0030(1) upon a showing by applicant that for qualified cultural or historical features located within 10 miles of an interchange but more than one mile from an interchange, the feature is easily located from the interchange and no additional signs other than an authorized follow-up sign would be necessary to direct the traveling public to the feature or that adequate signing will be provided on the public road system to guide the traveling public to the feature.

(2) Upon request by an applicant, the Engineer may authorize a waiver upon a showing by the applicant that the granting of such waiver will benefit the traveling public and not violate the overall intent of these regulations. The Engineer may grant waivers under OAR 734-062-0020(1) and (2); and 734-062-0030(1).

Stat. Auth.: ORS 184.616, 184.619, 366

Stats. Implemented: ORS 366.205 & 366.450

Hist.: 2HD 5-1983, f. & ef. 1-20-83; HWD 7-2009, f. & cert. ef. 7-20-09

Employment Department Chapter 471

Rule Caption: Adopts criminal records checks and fitness determinations as part of the agency's hiring process.

Adm. Order No.: ED 4-2009(Temp)

Filed with Sec. of State: 8-5-2009

Certified to be Effective: 8-5-09 thru 1-31-10

Notice Publication Date:

Rules Adopted: 471-007-0200, 471-007-0210, 471-007-0220, 471-007-0230, 471-007-0240, 471-007-0250, 471-007-0260, 471-007-0270, 471-007-0280, 471-007-0285, 471-007-0290, 471-007-0300, 471-007-0310

Subject: Adopts the criminal records checks and fitness determination process as required part of the the Oregon Employment Department's hiring practices.

Rules Coordinator: Janet Orton—(503) 947-1679

471-007-0200

Statement of Purpose and 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, contractor, subcontractor, vendor or volunteer in a position or assignment covered by OAR 471-007-0220(1)(a)–(d). The fact that the Department approves a subject individual as fit does not guarantee the individual a position as a Department employee.

(2) **Authority.** These rules are authorized under ORS 181.534, 181.537.

Stat. Auth.: ORS 181.534 & 181.537
Stats. Implemented: ORS 181.534(9)
Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10

471-007-0210

Definitions

As used in OAR chapter 471, division 007, unless the context of the rule requires otherwise, the following definitions apply:

(1) "Approved" means that a criminal records check and any required fitness determination have been completed on a subject individual and an authorized designee has determined that the subject individual is fit to be an employee in a position, or contractor, subcontractor, vendor, or volunteer covered by OAR 471-007-0220(1)(a)–(d).

(2) "Authorized Designee" means a Department employee authorized to obtain and/or review criminal offender information and other records about a subject individual through criminal records checks and other means, and to conduct a fitness determination in accordance with these rules.

(3) "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.

(4) "Criminal Offender Information" includes records and related data as to physical description and vital statistics, fingerprints 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 arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release.

(5) "Crime Relevant to a Fitness Determination" means a crime listed or described in OAR 471-007-0250.

(6) "Criminal Records Check and Fitness Determination Rules" or "These Rules" means OAR chapter 471, division 007.

(7) "Criminal Records Check" or "CRC" means one of three processes undertaken to check the criminal history of a subject individual:

(a) A check of 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 (LEDS Criminal Records Check);

(b) A check of Oregon criminal offender information, including through fingerprint identification, conducted by the Oregon Department of State Police at the Department's request (Oregon Criminal Records Check); or

(c) 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 (Nationwide Criminal Records Check).

(8) "Denied" means that a criminal records check and subsequent fitness determination have been completed on a subject individual, and an authorized designee has determined that the subject individual is not fit to be an employee, contractor, subcontractor, vendor or volunteer in a position covered by OAR 471-007-0220(1)(a)–(d).

(9) "Department" means the Oregon Employment Department (OED) or any subdivision thereof.

(10) "False Statement" means that, in association with an activity governed by these rules, a subject individual either:

(a) Provided the Department with materially false information about his or her criminal history, such as, but not limited to, materially false information about his or her identity or conviction record; or

(b) Failed to provide to the Department information material to determining his or her criminal history.

(11) "Fitness Determination" means a determination made by an authorized designee pursuant to the process established 471-007-0240 that a subject individual is or is not fit to be a Department employee in a position covered by OAR 471-007-0220(1)(a)–(d).

(12) "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.

(13) "Subject Individual" means an individual identified in OAR 471-007-0220 as someone from whom the Department may require fingerprints for the purpose of conducting a criminal records check.

Stat. Auth.: ORS 181.534, 181.537, 184.340 & 184.365

Stats. Implemented: ORS 181.534(9)

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10

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471-007-0220

Subject Individual

For purposes of criminal records checks, including fingerprint-based criminal records checks, "Subject Individual" means a person who:

- (1) Is employed by OED;
- (2) Has applied for or been offered employment by OED;
- (3) Is offered temporary employment by OED;

(4) Is a contractor, subcontractor, vendor or volunteer over whom OED has direction and control when providing services to or on behalf of OED, or as a participant in an internship program or an individual who volunteers on a recurring basis.

Stat. Auth.: ORS 181.534 & 181.537

Stats. Implemented: ORS 181.534(9)

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10

471-007-0230

Criminal Records Check Process

- (1) Disclosure of Information by Subject Individual.

(a) Preliminary to a criminal records check, a subject individual, if requested, shall complete and sign the Employment Department Criminal Records Request form and, if requested by the Department, a fingerprint card.

(b) The Department shall 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 guardian. In such case, such parent or guardian must be informed that they are not required to consent. Failure to consent, however, may be construed as a refusal to consent under OAR 471-007-0240(3)(c)(B).

(c) 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 issues hindering the completion of a criminal records check.

(2) When a Criminal Records Check Is Conducted. An authorized designee may conduct or request that the Oregon Department of State Police 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, or by contract or written agreement with the Department.

(3) Which Criminal Records Check(s) Is Conducted. When an authorized designee determines under subsection (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 individual.

(b) Oregon Criminal Records Check. The authorized designee may request that the Oregon Department of State Police conduct an Oregon criminal records check 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 review of any other information deemed relevant to the inquiry; or

(B) The authorized designee requests a nationwide criminal records check.

(c) Nationwide Criminal Records Check. The authorized designee may request that the Oregon Department of State Police 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 fails to disclose a Social Security Number, discloses a Social Security Number that appears to be invalid, or does not have an Oregon driver's license or identification card; or

(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.

Stat. Auth.: ORS 181.534 & 181.537

Stats. Implemented: ORS 181.534(9)

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10

471-007-0240

Fitness Determination

(1) If the Department elects to conduct a criminal records check, an authorized designee shall make a fitness determination about a subject individual based on information provided by the subject individual under OAR 471-007-0230(1), the criminal records check(s) conducted, if any, and any false statements made by the subject individual.

(2) In making a fitness determination about a subject individual, an authorized designee shall consider the factors in subsections (a)–(f) in relation to information provided by the subject individual under OAR 471-007-0230(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 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 subject individual shall meet with the authorized designee if requested and provide additional information within a reasonable period of time, as established by the authorized designee. 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, been convicted of, found guilty except for insanity (or a comparable disposition) of, or has a pending indictment for a crime listed in OAR 471-007-0250;

(b) The nature of any crime(s) identified under subsection (a);

(c) The facts that support the arrest, conviction, finding of guilty except for insanity, 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 subsection (a) 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 fitness determination is being made:

(A) The passage of time since the commission or alleged commission of a crime identified under subsection (a);

(B) The age of the subject individual at the time of the commission or alleged commission of a crime identified under subsection (a);

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

(D) The subsequent commission of another crime listed in OAR 127-007-0250;

(E) Whether a conviction identified under subsection (a) has been set aside or pardoned, and the legal effect of setting aside the conviction or of a pardon; and

(F) A recommendation of an employer.

(3) Possible Outcomes of a Fitness Determination.

(a) Automatic Approval. An authorized designee shall approve as fit a subject individual if the information described in sections (1) and (2) shows none of the following:

(A) Evidence that the subject individual has pled nolo contendere (or no contest) to, been convicted of, or found guilty except for insanity (or comparable disposition) of a crime listed in OAR 471-007-0250;

(B) Evidence that the subject individual has a pending indictment for a crime listed in OAR 471-007-0250;

(C) Evidence that the subject individual has been arrested for any crime listed in OAR 471-007-0250;

(D) Evidence that the subject individual made a false statement; or

(E) Any discrepancies between the criminal offender information and other information obtained from the subject individual.

(b) Evaluative Approval. If a fitness determination under this rule shows evidence of any of the factors identified in paragraphs (3)(a)(A)–(E) of this rule, an authorized designee may approve the subject individual only if, in evaluating the information described in sections (1) and (2), the authorized designee determines:

(A) That the evidence is not credible; or

(B) That the subject individual acting in the position for which the fitness determination is being conducted would not pose a risk of harm to the Department, its client entities, the State, or members of the public.

(c) Denial.

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(A) If a 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 sections (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 deny the subject individual as not fit for the position.

(B) Refusal to Consent. If a subject individual refuses to submit or consent to a criminal records check including fingerprint identification, the authorized designee shall deny the subject individual as not fit without further assessment under the fitness determination process. A subject individual may not appeal any determination made based on a refusal to consent.

(C) If a subject individual is denied as not fit, then the subject individual may not be employed by or provide services to the Department.

(4) Under no circumstances shall a subject individual be denied 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.

(5) Final Order. A completed fitness determination is final unless the affected subject individual appeals by requesting either a contested case hearing as provided by OAR 471-007-0280(2)(a) or an alternative appeals process as provided by 471-007-0280(6).

Stat. Auth.: ORS 181.534 & 181.537

Stats. Implemented: ORS 181.534(9)

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10

471-007-0250

Crimes Relevant to a Fitness Determination

(1) Crimes Relevant to a Fitness Determination:

(a) All felonies;

(b) All Class A misdemeanors;

(c) All Class B misdemeanors;

(d) Any United States Military crime or international crime;

(e) Any crime of attempt, solicitation or conspiracy to commit a crime listed in this subsection (1) pursuant to ORS 161.405, 161.435, or 161.450;

(f) Any crime based on criminal liability for conduct of another person pursuant to ORS 161.555, when the underlying crime is listed in this subsection (1);

(2) Evaluation Based on Oregon and Other 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.

Stat. Auth.: ORS 181.534 & 181.537

Stats. Implemented: ORS 181.534(9)

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10

471-007-0260

Incomplete Fitness Determination.

(1) The Department will close a fitness determination as incomplete when:

(a) Circumstances change so that a person no longer meets the definition of a “subject individual” under OAR 471-007-0220;

(b) The subject individual does not provide materials or information under OAR 471-007-0230(1) 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 471-007-0240(2);

(e) The Department determines that the subject individual is not eligible or not qualified for the position 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 471-007-0280 to challenge the closing of an incomplete fitness determination.

Stat. Auth.: ORS 181.534 & 181.537

Stats. Implemented: ORS 181.534(9)

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10

471-007-0270

Notice to Subject Individual of Fitness Determination

(1) An authorized designee shall provide written notice to a subject individual upon completion of a fitness determination, or upon the closing of a fitness determination due to incompleteness.

(2) The authorized designee shall record on the notice the date on which the fitness determination was either closed as incomplete or completed. This shall include the mailing date.

(3) If the notice pertains to a completed fitness determination, it shall comply with the requirements of OAR 137-003-0505 and ORS 183.415.

Stat. Auth.: ORS 181.534 & 181.537

Stats. Implemented: ORS 181.534(9)

Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10

471-007-0280

Appealing a Fitness Determination

(1) This rule sets forth a contested case hearing process by which a subject individual may appeal a fitness determination made under OAR 471-007-0240 that he or she is fit or not fit to be a department employee, contractor, subcontractor, vendor or volunteer in a position covered by 471-007-0220(1)(a)–(d). Section (8) of this rule identifies an alternative appeal process available only to current OED employees.

(2) The Attorney General’s Model Rules of Procedure, OAR 137-003-0001 through 137-003-0092, apply unless the department refers the contested case hearing to an appropriate Administrative Law Judge. At the sole discretion of the Director, the matter may be referred to the Office of Administrative Hearings to assign an Administrative Law Judge. If the department refers the matter to the Office of Administrative Hearings, 137-003-0501 through 137-003-0700 shall apply.

(3) Process.

(a) To request a contested case hearing under this rule, the subject individual or the subject individual’s legal representative must submit a timely written request to the department’s Office of Human Resources. To be considered timely, the request must be received by the department’s Office of Human Resources within five working days of the postmark of the notice of fitness determination letter.

(b) Upon timely receipt of a request for a hearing pursuant to section (3)(a), the Director shall appoint a hearing officer and schedule a hearing.

(4) The hearings officer will establish the time and place of the hearing. Notice of the hearing shall be served on the department’s Office of Human Resources authorized designee and participants at least five working days in advance of the hearing date.

(5) No Public Attendance. Contested case hearings conducted pursuant to this rule are closed to non-participants.

(6) A fitness determination made under OAR 471-007-0240 becomes final when:

(a) A subject individual fails to file a timely request for hearing; or

(b) A subject individual withdraws a hearing request, notifies the agency or the hearings officer that the subject individual will not appear, or fails to appear for the hearing.

(7) The hearings officer will issue a proposed order within five working days following a hearing. Exceptions, if any, must be received by the department within 10 working days after the service of the proposed order.

(8) After considering exceptions, if any, to the proposed order, the Director shall issue a final order.

(9) A subject individual who is currently employed by the department and who is determined to be unfit pursuant to a final fitness determination may appeal the fitness determination either under the contested case process made available by this rule or through a process available under applicable personnel rules, policies and collective bargaining agreements. A subject individual’s decision to appeal a fitness determination through applicable personnel rules, policies, and collective bargaining agreements 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 pursuant to sections (3) through (8) of this rule.

(10) The only remedy that the department is required to award under this rule, is a determination that the subject individual is fit or not fit. Under no circumstances shall the department be required to place a subject individual in any position, nor shall the department be required to accept services or enter into a contractual agreement with a subject individual.

(11) 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. Challenges to the accuracy or completeness of information identified in this section (11), must be made pursuant to the rules of the agency that provided the information.

(12) Nothing under these rules shall be construed as requiring the department to delay, postpone, or suspend its hiring process or employment decisions pending an appeal of a fitness determination, or criminal offend-

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er information pursuant to the rules of the agency that provided the information, or a request for a new criminal records check and re-evaluation of the original fitness determination.

Stat. Auth.: ORS 181.534, 181.537 & 657.610
Stats. Implemented: ORS 181.534(9) & 181.534
Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10

471-007-0285

Agency Representation

The Director shall designate an authorized representative of the department to participate in hearings conducted pursuant to these rules.

Stat. Auth.: ORS 181.534 & 657.610
Stats. Implemented: ORS 181.534(9) & 181.534
Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10

471-007-0290

Recordkeeping and Confidentiality

(1) An authorized designee shall document a fitness determination, or the closing of a fitness determination due to incompleteness, in writing.

(2) Records Received from the 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) Only the Department's authorized designees 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 shall have access to records received from the Oregon Department of State Police in response to a criminal records check only if the authorized designee has a demonstrated and legitimate need to know the information contained in the records.

(d) Authorized designees 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) If a fingerprint-based criminal records check was conducted with regard to a subject individual, the Department shall 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 subsection (e) requests, the Department shall provide the subject individual with a copy of the individual's own state and federal criminal offender information, unless prohibited by federal law. The Department shall require sufficient identification from the subject individual to determine his or her identity before providing this criminal offender information to him or her. The Department shall require that the subject individual sign a receipt confirming his or her receipt of the criminal offender information.

(3) Other Records.

(a) The Department shall treat all records received or created under these rules that concern the criminal history of a subject individual, other than records covered under section (2) of this rule, including OED Criminal Records Request forms and fingerprint cards, as confidential pursuant to ORS 181.534(15).

(b) Only authorized designees shall have access to the records identified under subsection (a).

(c) An authorized designee shall have access to records identified under subsection (a) only if the authorized designee has a demonstrated and legitimate need to know the information contained in the records.

(d) A subject individual shall have access to records identified under subsection (a) pursuant to and only to the extent required by the terms of the Public Records Law.

Stat. Auth.: ORS 181.534 & 181.537
Stats. Implemented: ORS 181.534(9)
Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10

471-007-0300

Authorized Designees

(1) Appointment.

(a) The Department Director or the Director's designee shall designate positions within the Department as including the responsibilities of an authorized designee.

(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 and Deputy Director may also serve as authorized designees, contingent on being approved under the Department's criminal records check and fitness determination process.

(3) Conflict of Interests. An authorized designee 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 is a family member of the subject individual; or

(b) The authorized designee has a financial or close personal relationship with the subject individual. If an authorized designee is uncertain of whether a relationship with a subject individual qualifies as a financial or close personal relationship under this subsection (b), the authorized designee 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 Status.

(a) When an authorized designee's employment in a designated position ends, his or her status as an authorized designee is automatically terminated.

(b) The Department shall suspend or terminate a Department employee's appointment to a designated position within the Department, and thereby suspend or terminate his or her status as an authorized designee, if the employee fails to comply with OAR 471-007-0200 through 471-007-0290 in conducting criminal records checks and fitness determinations.

(c) An authorized designee 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 471-007-0250. Failure to make the required report is grounds for termination of the individual's appointment to a designated position within the Department, and thereby termination of his or her status as an authorized designee.

(d) The Department will review and update an authorized designee's eligibility for service in a designated position within the Department. As part of a review or update, a new criminal records check and fitness determination may be required:

(A) Every three years; or

(B) At any time the Department has reason to believe that the authorized designee has violated these rules or no longer is eligible to serve in his or her current position within the Department.

(5) A denial under OAR 471-007-0240(3) related to a designated position within the Department is subject to the appeal rights provided under 471-007-0290.

Stat. Auth.: ORS 181.534 & 181.537
Stats. Implemented: ORS 181.534(9)
Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10

471-007-0310

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 may charge the fee to the subject individual on whom criminal offender information is sought, or, if the subject individual is an employee of a Department contractor or vendor and is undergoing a fitness determination in that capacity, the Department may charge the fee to the subject individual's employer.

(3) The Department shall not charge a fee if the subject individual is a Department employee or an applicant for employment with the Department.

Stat. Auth.: ORS 181.534 & 181.537
Stats. Implemented: ORS 181.534(9)
Hist.: ED 4-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10

Land Use Board of Appeals Chapter 661

Rule Caption: Amends Land Use Board of Appeals' administrative rules to implement fee increases in HB 3199.

Adm. Order No.: LUBA 1-2009(Temp)

Filed with Sec. of State: 8-5-2009

Certified to be Effective: 8-5-09 thru 12-31-09

ADMINISTRATIVE RULES

Notice Publication Date:

Rules Amended: 661-010-0015, 661-010-0038, 661-010-0050
Subject: OAR 661-010-0015 is being amended to conform to HB 3199 (2009) which increases the filing fee for a notice of intent to appeal to \$200 from \$175.

OAR 661-010-0038 is being amended to conform to HB 3199 (2009) which imposes a \$100 filing fee for state agency briefs.

OAR 661-010-0050 is being amended to conform to HB 3199 (2009) which imposes a \$100 filing fee for motions to intervene.

Rules Coordinator: William F. Wilson—(503) 378-2986

661-010-0015

Notice of Intent to Appeal

(1) Filing of Notice:

(a) The Notice, together with two copies, and the filing fee and deposit for costs required by section (4) of this rule, shall be filed with the Board on or before the 21st day after the date the decision sought to be reviewed becomes final or within the time provided by ORS 197.830(3) through (5). A notice of intent to appeal plan and land use regulation amendments processed pursuant to 197.610 to 197.625 shall be filed with the Board on or before the 21st day after the date the decision sought to be reviewed is mailed to parties entitled to notice under 197.615. A Notice filed thereafter shall not be deemed timely filed, and the appeal shall be dismissed.

(b) The date of filing a notice of intent to appeal is the date the Notice is received by the Board, or the date the Notice is mailed, provided it is mailed by registered or certified mail, and the party filing the Notice has proof from the post office of such mailing date. If the date of mailing is relied upon as the date of filing, acceptable proof from the post office shall consist of a receipt stamped by the United States Postal Service showing the date mailed and the certified or registered number. If a Notice is received without payment of the fee and deposit required by section (4) of this rule, the petitioner will be given an opportunity to submit the required fee and deposit. If the filing fee and deposit for costs are not paid within the time set by the Board, the Board will dismiss the appeal.

(c) If the Board determines that a Notice identifies more than one final decision as the subject of appeal, the Board shall notify the petitioner. The Board shall dismiss the Notice if the petitioner fails to submit within the date specified by the Board either a written election to appeal only one decision, or a separate Notice and separate filing fee and deposit, as required by section (4) of this rule, for each additional decision.

(2) Service of Notice: The Notice shall be served on the governing body, the governing body's legal counsel, and all persons identified in the Notice as required by subsection (3)(f) of this rule on or before the date the notice of intent to appeal is required to be filed. Service of the Notice as required by this section may be in person or by first class mail. The date of serving such notice shall be the date of mailing.

(3) Contents of Notice: The Notice shall be substantially in the form set forth in Exhibit 1 and shall contain:

(a) A caption which sets forth the name(s) of the person(s) filing the Notice, identifying the person(s) as petitioner(s), and the name of the governing body, identifying the governing body as respondent;

(b) Below the caption the heading "Notice of Intent to Appeal";

(c) The full title of the decision to be reviewed as it appears on the final decision;

(d) The date the decision to be reviewed became final;

(e) A concise description of the decision to be reviewed, or a copy of either the notice of decision or the decision to be reviewed;

(f) The name, address and telephone number of each of the following:

(A) The Petitioner. If the petitioner is not represented by an attorney, the petitioner's name, address and telephone number shall be included. If an attorney represents the petitioner, the attorney's name, address and telephone number shall be substituted for that of the petitioner. If two or more petitioners are unrepresented by an attorney, one petitioner shall be designated as the lead petitioner, but the Notice shall include the names, addresses, and telephone numbers of all such unrepresented petitioners. See OAR 661-010-0075(7)(a);

(B) The governing body and the governing body's legal counsel;

(C) The applicant, if any (and if other than the petitioner). If an applicant was represented by an attorney before the governing body, then the name, address and telephone number of the applicant's attorney shall also be included;

(D) Any other person to whom written notice of the land use decision or limited land use decision was mailed as shown on the governing body's records. The telephone number may be omitted for any such person.

(g) A statement advising all persons, other than the governing body, that in order to participate in the review proceeding a person must file a motion to intervene pursuant to OAR 661-010-0050.

(h) On the last page, a signature by each petitioner, or the attorney representing that petitioner, on whose behalf the Notice is filed.

(i) Proof of service upon all persons required to be named in the Notice. See Exhibit 1.

(4) Filing Fee and Deposit for Costs: The Notice shall be accompanied by a filing fee of \$200 and a deposit for costs in the amount of \$150 payable to the Land Use Board of Appeals. One check, State of Oregon purchase order or money order for \$350 may be submitted. If a check providing the filing fee or deposit for costs or both is returned for insufficient funds and the filing fee and deposit for costs are not paid within the time set by the Board, the Board shall dismiss the appeal. Cash shall not be accepted.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 183.545 & 197.820(4)

Stats. Implemented: ORS 197.620, 197.830(1) & (9)

Hist.: LUBA 1-1979(Temp), f. & ef. 11-1-79; LUBA 2-1980, f. & ef. 4-29-80; LUBA 1-1983, f. & ef. 10-3-83; LUBA 1-1987, f. & ef. 12-30-87; LUBA 1-1992, f. & cert. ef. 1-21-92; LUBA 2-1992, f. & cert. ef. 3-19-92; LUBA 1-1994, f. & cert. ef. 6-22-94; LUBA 1-1998, f. 2-12-98, cert. ef. 3-1-98; LUBA 1-2001, f. 10-15-01, cert. ef. 1-1-02; LUBA 1-2009(Temp), f. & cert. ef. 8-5-09 thru 12-31-09

661-010-0038

State Agency Briefs

A state agency that wishes to file a brief under ORS 197.830(8) shall file the brief together with four copies within the time required for respondent's brief. A state agency brief shall have yellow front and back covers. A state agency brief shall be accompanied by a filing fee of \$100.

Stat. Auth.: ORS 183.545 & 197.820(4)

Stats. Implemented: ORS 197.830(8)

Hist.: LUBA 1-1983, f. & ef. 10-3-83; LUBA 1-1987, f. & ef. 12-30-87; LUBA 1-1994, f. & cert. ef. 6-22-94; LUBA 1-1998, f. 2-12-98, cert. ef. 3-1-98; LUBA 1-2001, f. 10-15-01, cert. ef. 1-1-02; LUBA 1-2009(Temp), f. & cert. ef. 8-5-09 thru 12-31-09

661-010-0050

Intervention

(1) Standing to Intervene: The applicant and any person who appeared before the local government, special district or state agency may intervene in a review proceeding before the Board. Status as an intervenor is recognized when a motion to intervene is filed, but the Board may deny that status at any time.

(2) Motion to Intervene: A motion to intervene shall be filed within 21 days of the date the notice of intent to appeal is filed pursuant to OAR 661-010-0015, or the amended notice of intent to appeal is filed or original notice of intent to appeal is refiled pursuant to OAR 661-010-0021. When two or more intervenors join in a motion to intervene and are unrepresented by an attorney, a lead intervenor shall be designated as the contact person for the purpose of receiving documents from the Board and other parties. The motion to intervene (see Exhibit 3) shall:

(a) List the names, addresses, and telephone numbers of all persons moving to intervene. If an attorney represents the intervenor(s), the attorney's name, address and telephone number shall be substituted for that of the intervenor(s);

(b) State whether the party is intervening on the side of the petitioner or the respondent;

(c) State the facts which show the party is entitled to intervene, supporting the statement with affidavits or other proof;

(d) On the last page, be signed by each intervenor, or the attorney representing that intervenor, on whose behalf the motion to intervene is filed;

(e) Be served upon the Board and all parties.

(3) Intervenor's Brief:

(a) If intervention is sought as a petitioner, the brief shall be filed within the time limit for filing the petition for review, and shall satisfy the requirements for a petition for review in OAR 661-010-0030.

(b) If intervention is sought as a respondent, the brief shall be filed within the time for filing a respondent's brief and shall satisfy the requirements for a respondent's brief in OAR 661-010-0035.

(4) Filing Fee: A motion to intervene shall be accompanied by a filing fee of \$100 payable to the Land Use Board of Appeals. If a motion to intervene is received without payment of the filing fee or a check providing the filing fee is returned for insufficient funds, the intervenor will be given an opportunity to submit the required fee. If the filing fee is not paid within the time set by the Board, the Board shall deny the motion to intervene. Cash shall not be accepted.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 183.545 & 197.820(4)

Stats. Implemented: ORS 197.830(2) & (7)

ADMINISTRATIVE RULES

Hist.: LUBA 1-1979(Temp), f. & ef. 11-1-79; LUBA 2-1980, f. & ef. 4-29-80; LUBA 4-1980, f. & ef. 9-8-80; LUBA 1-1983, f. & ef. 10-3-83; LUBA 1-1987, f. & ef. 12-30-87; LUBA 1-1992, f. & cert. ef. 1-21-92; LUBA 2-1992, f. & cert. ef. 3-19-92; LUBA 1-1994, f. & cert. ef. 6-22-94; LUBA 1-1998, f. 2-12-98, cert. ef. 3-1-98; LUBA 1-2001, f. 10-15-01, cert. ef. 1-1-02; LUBA 1-2009(Temp), f. & cert. ef. 8-5-09 thru 12-31-09

**Oregon Film and Video Office
Chapter 951**

Rule Caption: Reduces the discount of sale of tax credits.

Adm. Order No.: FVO 1-2009(Temp)

Filed with Sec. of State: 7-20-2009

Certified to be Effective: 7-20-09 thru 12-1-09

Notice Publication Date:

Rules Amended: 951-003-0005

Subject: Reduce rate of discount on sale of tax credits from 10% to 5%.

Rules Coordinator: Susan Haley—(503) 229-5832

951-003-0005

Allocation of Certificates

(1)(a) Taxpayers making a contribution to the Oregon Production Investment Fund and wishing to receive a tax credit must submit the contribution, together with an application for tax credit, to the Oregon Film and Video Office, in care of the Oregon Economic and Community Development Department. The contribution need not accompany the application to the extent the taxpayer is only requesting a reservation of tax credits for future issuance with respect to future committed contributions, as provided in these administrative rules.

(b) Contributions may be made by check or wire transfer only.

(2) Availability of tax credits is determined at the time the contributed funds have cleared the contributor's account, not on the date a check or visa payment is written or received by the Oregon Film Office or Oregon Economic and Community Development Department.

(3) The Oregon Film and Video Office shall make tax credit application forms available to taxpayers in hard copy and electronic formats and taxpayers may submit applications and contributions either in hard copy format or electronically through the Oregon Film and Video Office website.

(4) After approval of a taxpayer's application for a tax credit, the Film and Video Office shall issue to the tax payer a tax credit certificate for the tax year during which the qualifying contribution was received.

(a) The Oregon Film and Video Office shall not issue a tax credit certificate to the contributing taxpayer until the Oregon Economic and Community Development Department has verified the amount of contribution.

(5) Any contribution or application shall be 95% of the amount of tax credit issued with respect to that contribution.

(6) The tax credit certificates issued during a single State of Oregon fiscal year may not evidence more than \$5 million of tax credits, in aggregate.

(7) If at the time an application for tax credit is considered, the Oregon Film and Video Office has already issued or reserved tax credits totaling \$5 million for the fiscal year in which the contribution submitted with the application is received, the Oregon Film and Video Office will deny the application.

(8) If at the time an application for tax credit is considered, the Oregon Film and Video office has already issued or reserved tax credits that, when added to the tax credits that would be issued if the application were approved, would total more than \$5 million for the fiscal year in which the contribution submitted with the application is received, the Oregon Film and Video Office may either deny the application in full or approve the application in an amount necessary to bring the total tax credits issued or reserved to \$5 million for the fiscal year in which the contribution is received and deny the remainder of the application.

(9) If the Film and Video Office denies an application for a tax credit in full or in part, it shall notify the taxpayer applicant of the denial in writing within 45 days of the denial.

(10) A taxpayer who receives notice of denial of an application for tax credit may request, in writing and within 90 days after its receipt of the notice of denial, a refund of that portion of its contribution, actually received by the Film and Video Office, with respect to which the Film and Video Office did not issue a tax credit certificate. The Film and Video Office shall issue the refund within 60 days after its receipt of the refund request.

(11) In its application, a taxpayer may, in addition to or in lieu of applying for immediate issuance of a tax credit, request that the Oregon

Film and Video Office reserve tax credits for future issuance based on future contributions committed by the taxpayer. The Oregon Film and Video office may approve, approve in part and deny in part, or deny tax credit reservation requests in its discretion. In determining whether to approve, approve in part and deny in part, or deny a tax credit reservation request, the Film and Video Office will consider the following factors:

(a) The current uncommitted balance in the Oregon Production Investment Fund;

(b) The amount of tax credits then available for issuance for the fiscal year with respect to which the reservation is requested;

(c) The number of pending applications for tax credits;

(d) The anticipated future demand for tax credits for the fiscal year with respect to which the reservation is requested.

(e) The number of tax credits the taxpayer is requesting the Film and Video Office to reserve.

(f) The length of time between the approval of the reservation and the anticipated receipt of the contributions with respect to the reserved tax credits;

(g) Such other factors as the Film and Video office considers appropriate in the particular circumstance in order to further the purposes of the Oregon Production Investment Fund tax credits.

(12) The Film and Video Office shall notify a taxpayer requesting a tax credit reservation of the approval, approval in part and denial in part, or denial of the request within 45 days after the Film and Video Office's receipt of the request. If the reservation request is approved in whole or in part, the Film and Video Office shall reserve tax credits for future issuance consistent with that approval.

(13) A taxpayer with reserved tax credits must submit to the Film and Video Office sufficient contributions to support tax credits reserved for issuance during a particular fiscal year, no later than the date set forth in the Film and Video Office's notice of reservation approval. Contributions must be submitted to the Film and Video Office in care of the Oregon Economic and Community Development Department. If the contributions necessary to support issuance of reserved tax credits are not received by the applicable deadline, the reservation of those tax credits and the reservations of all other tax credits for that taxpayer shall automatically expire and those tax credits shall no longer be considered reserved tax credits and shall become immediately available for issuance to or reservation by other taxpayers in accordance with these administrative rules.

(14) No tax credits or tax credit certificates shall be issued with respect to reserved tax credits until the Film and Video Office receives sufficient contributions to support issuance of tax credits and tax credit certificates with respect to the reserved tax credits. The Film and Video Office shall issue tax credit certificates to the taxpayer with respect to reserved tax credits within 45 days after the Film and Video Office's receipt of verification from the Oregon Economic and Community Development Department of receipt of sufficient contributions to support issuance of the reserved tax credits.

Stat. Auth: ORS 284.335 & 315.514

Stats. Implemented: ORS 315.514

Hist: FVO 4-2004, f. & cert. ef. 11-26-04; FVO 3-2006, f. & cert. ef. 11-17-06; FVO 2-2008, f. & cert. ef. 6-27-08; FVO 1-2009(Temp), f. & cert. ef. 7-20-09 thru 12-1-09

**Oregon Housing and Community Services Department
Chapter 813**

Rule Caption: Amends the definition of Lending Institution to be consistent with the definition in ORS 317.097.

Adm. Order No.: OHCS 2-2009

Filed with Sec. of State: 8-5-2009

Certified to be Effective: 8-5-09

Notice Publication Date: 7-1-2009

Rules Amended: 813-110-0010

Rules Repealed: 813-110-0010(T)

Subject: 813-110-0010(8) The definition for 'Lending Institution' is amended to be consistent with the definition contained in ORS 317.097.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-110-0010

Definitions

All terms are used in OAR chapter 813, division 110, as defined in the Act, as provided in 813-005-0005 and herein. As used in these rules, unless the context indicates otherwise:

ADMINISTRATIVE RULES

(1) "Application" means a request signed by a sponsor for certification of a project.

(2) "Cap" means the maximum amount of tax credits as set by the Legislature in ORS 317.097(6).

(3) "Certification" means the written verification by the department to a lender that a project is a qualified project for which the lending institution may claim a tax credit under the provisions of the Act.

(4) "Department" means the Oregon Housing and Community Services Department.

(5) "Firm Commitment of Financing" means an agreement by a lending institution to make a loan to a specific borrower on a specific property and which will contain all of the terms and conditions that the borrower has to satisfy before said loan can be funded. Payment of a commitment charge by the borrower to the lending institution may be required as a condition precedent to issuance of such an agreement.

(6) "Housing Payments" as used in the Act means rent or purchase price for a sponsored project.

(7) "Consolidated Plan" means the plan approved by the United States Department of Housing and Urban Development (HUD) which describes the needs, resources, priorities and proposed activities to be undertaken with respect to HUD programs.

(8) "Lending Institution" means any insured institution, as defined in ORS 706.008, any mortgage company that maintains an office in this state, or any community development corporation that is organized under the Oregon Nonprofit Corporation Law.

(9) "Letter of Intent" means a proposal for financing by a lending institution subject to the borrower's compliance with certain terms stipulated by the lending institution.

(10) "Manufactured Dwelling Park" has the meaning given that term in ORS 446.003. It is any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured dwelling park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to 92.010 to 92.190.

(11) "Median Income" shall be the area median family income, adjusted for family size, as published from time to time by HUD.

(12) "Nonprofit Corporation" means a corporation that is exempt from income taxes under section 501(c)(3) or (4) of the Internal Revenue Code, as amended and in effect on December 31, 2006.

(13) "Preservation Project" means housing that was previously developed as affordable housing with a contract for rental assistance from the United States Department of Housing and Urban Development or the United States Department of Agriculture and that is being acquired by a sponsoring entity. The contract for project-based rental assistance must cover at least 25 percent of all units in the project.

(14) "Project," except as defined under "manufactured dwelling park" or "preservation project," means one or more units of housing, that has been acquired, constructed, developed, or rehabilitated, including refinanced housing, which will be rented to or owned by households whose incomes are less than 80 percent of area median income. The use of a project for eligible occupants shall be maintained for the term of the credit, in accordance with the Act, unless terminated at the discretion of the department. If there is a foreclosure, deed-in-lieu, or an involuntary transfer where title transfers to the lending institution, that lending institution may dispose of the property at its sole discretion.

(15) "Qualified Borrower" means any borrower that is a sponsoring entity that has a controlling interest in the real property that is financed by the loan. Such a controlling interest includes, but is not limited to, a controlling interest in the general partner of a limited partnership that owns the real property.

(16) "Rents Charged at the Market Interest Rate" means the rents that would be required, if the lender charged the market interest rate, in order to make the project financially feasible.

(17) "Rent Reduction" means the amount rents are reduced from the rents charged at the market interest rate as a result of the Oregon Affordable Housing Tax Credit (OAHTC) subsidy.

(18) "Rent Pass Through" means the amount of rent reduction made available to the tenants because of the reduced interest rate attributable to the OAHTC subsidy.

(19) "Sponsor" and "Sponsoring Entity" is a nonprofit corporation, nonprofit cooperative, state governmental entity, local unit of government as defined in ORS 466.706, housing authority or any other person, provided that the person has agreed to restrictive covenants imposed by a nonprofit corporation, nonprofit cooperative, state governmental entity, local unit of government or housing authority.

(20) "Tenant" means a renter who occupies or will occupy a unit in a project, or a homeowner who is the borrower in an owner-occupied community rehabilitation program.

Stat. Auth.: ORS 317.097 & 456.515 - 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 1-1990(Temp), f. & cert. ef. 1-5-90; HSG 3-1990(Temp), f. & cert. ef. 3-1-90; HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 2-1994(Temp), f. & cert. ef. 3-25-94; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95; OHCS 7-2006, f. & cert. ef. 5-17-06; OHCS 11-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07; OHCS 9-2007, f. & cert. ef. 1-11-07; OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08; OHCS 5-2008, f. & cert. ef. 4-11-08; OHCS 1-2009(Temp), f. & cert. ef. 2-9-09 thru 8-7-09; OHCS 2-2009, f. & cert. ef. 8-5-09

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Oregon Medical Board

Chapter 847

Rule Caption: Deletes references to emergency and non-emergency care; lists airway devices a First Responder may use.

Adm. Order No.: BME 13-2009

Filed with Sec. of State: 7-20-2009

Certified to be Effective: 7-20-09

Notice Publication Date: 6-1-2009

Rules Amended: 847-035-0030

Subject: The proposed rules change deletes references to emergency and non-emergency care in the First Responder and EMT scope of practice so that the scope lists the procedures the First Responder and EMT may perform at each level of certification. The proposed rule also restates more clearly which airway devices a First Responder with a supervising physician may use to "maintain an open airway,"

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-035-0030

Scope of Practice

(1) The Oregon Medical Board has established a scope of practice for emergency and nonemergency care for First Responders and EMTs. First Responders and EMTs may provide emergency and nonemergency care in the course of providing prehospital care as an incident of the operation of ambulance and as incidents of other public or private safety duties, but is not limited to "emergency care" as defined in OAR 847-035-0001(5).

(2) The scope of practice for First Responders and EMTs is not intended as statewide standing orders or protocols. The scope of practice is the maximum functions which may be assigned to a First Responder or EMT by a Board-approved supervising physician.

(3) Supervising physicians may not assign functions exceeding the scope of practice; however, they may limit the functions within the scope at their discretion.

(4) Standing orders for an individual EMT may be requested by the Board or Section and shall be furnished upon request.

(5) No EMT may function without assigned standing orders issued by Board-approved supervising physician.

(6) An Oregon-certified First Responder or EMT, acting through standing orders, shall respect the patient's wishes including life-sustaining treatments. Physician supervised First Responders and EMTs shall request and honor life-sustaining treatment orders executed by a physician, nurse practitioner or physician assistant if available. A patient with life-sustaining treatment orders always requires respect, comfort and hygienic care.

(7) A First Responder may perform the following procedures without having signed standing orders from a supervising physician:

(a) Conduct primary and secondary patient examinations;

(b) Take and record vital signs;

(c) Utilize noninvasive diagnostic devices in accordance with manufacturer's recommendation;

(d) Open and maintain an airway by positioning the patient's head;

(e) Provide external cardiopulmonary resuscitation and obstructed airway care for infants, children, and adults;

(f) Provide care for soft tissue injuries;

(g) Provide care for suspected fractures;

(h) Assist with prehospital childbirth; and

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(i) Complete a clear and accurate prehospital emergency care report form on all patient contacts and provide a copy of that report to the senior EMT with the transporting ambulance.

(8) A First Responder may perform the following additional procedures only when the First Responder is part of an agency which has a Board-approved supervising physician who has issued written standing orders to that First Responder authorizing the following:

- (a) Administration of medical oxygen;
- (b) Maintain an open airway through the use of:
 - (A) A nasopharyngeal airway device;
 - (B) A noncuffed oropharyngeal airway device;
 - (C) A Pharyngeal suctioning device.
- (c) Operate a bag mask ventilation device with reservoir;
- (d) Provision of care for suspected medical emergencies, including administering liquid oral glucose for hypoglycemia; and

(e) Administer epinephrine by automatic injection device for anaphylaxis;

(f) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator, only when the First Responder:

(A) Has successfully completed a Section- approved course of instruction in the use of the automatic or semi-automatic defibrillator; and

(B) Complies with the periodic requalification requirements for automatic or semi-automatic defibrillator as established by the Section.

(9) An Oregon-certified EMT-Basic may perform the following procedures:

(a) Perform all procedures that an Oregon-certified First Responder can perform;

- (b) Ventilate with a non-invasive positive pressure delivery device;
- (c) Insert a cuffed pharyngeal airway device in the practice of airway maintenance. A cuffed pharyngeal airway device is:

(A) A single lumen airway device designed for blind insertion into the esophagus providing airway protection where the cuffed tube prevents gastric contents from entering the pharyngeal space; or

(B) A multi-lumen airway device designed to function either as the single lumen device when placed in the esophagus, or by insertion into the trachea where the distal cuff creates an endotracheal seal around the ventilatory tube preventing aspiration of gastric contents.

(d) Provide external cardiopulmonary resuscitation and obstructed airway care for infants, children, and adults;

(e) Provide care for suspected shock, including the use of the pneumatic anti-shock garment;

- (f) Provide care for suspected medical emergencies, including:

(A) Obtaining a capillary blood specimen for blood glucose monitoring;

(B) Administer epinephrine by subcutaneous injection or automatic injection device for anaphylaxis;

- (C) Administer activated charcoal for poisonings; and

- (D) Administer aspirin for suspected myocardial infarction.

(g) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator;

(h) Transport stable patients with saline locks, heparin locks, foley catheters, or in-dwelling vascular devices;

(i) Perform other emergency tasks as requested if under the direct visual supervision of a physician and then only under the order of that physician;

(j) Complete a clear and accurate prehospital emergency care report form on all patient contacts;

(k) Assist a patient with administration of sublingual nitroglycerine tablets or spray and with metered dose inhalers that have been previously prescribed by that patient's personal physician and that are in the possession of the patient at the time the EMT-Basic is summoned to assist that patient; and

(l) In the event of a release of military chemical warfare agents from the Umatilla Army Depot, the EMT-Basic who is a member or employee of an EMS agency serving the DOD-designated Immediate Response Zone who has completed a Section-approved training program may administer atropine sulfate and pralidoxime chloride from a Section-approved pre-loaded auto-injector device, and perform endotracheal intubation, using protocols promulgated by the Section and adopted by the supervising physician. 100% of EMT-Basic actions taken pursuant to this section shall be reported to the Section via a copy of the prehospital emergency care report and shall be reviewed for appropriateness by Section staff and the Subcommittee on EMT Certification, Education and Discipline.

(m) In the event of a release of organophosphate agents the EMT-Basic, who has completed Section-approved training, may administer

atropine sulfate and pralidoxime chloride by autoinjector, using protocols approved by the Section and adopted by the supervising physician.

(10) An Oregon-certified EMT-Intermediate may perform the following procedures:

(a) Perform all procedures that an Oregon-certified EMT-Basic can perform;

- (b) Initiate and maintain peripheral intravenous (I.V.) lines;

- (c) Initiate and maintain an intraosseous infusion;

- (d) Initiate saline or similar locks;

- (e) Draw peripheral blood specimens;

(f) Administer the following medications under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician:

- (A) Physiologic isotonic crystalloid solution.

- (B) Vasoconstrictors:

- (i) Epinephrine

- (ii) Vasopressin;

- (C) Antiarrhythmics:

- (i) Atropine sulfate,

- (ii) Lidocaine,

- (iii) Amiodarone;

- (D) Antidotes:

- (i) Naloxone hydrochloride;

- (E) Antihypoglycemics:

- (i) Hypertonic glucose,

- (ii) Glucagon;

- (F) Vasodilators:

- (i) Nitroglycerine;

- (G) Nebulized bronchodilators:

- (i) Albuterol,

- (ii) Ipratropium bromide;

- (H) Analgesics for acute pain:

- (i) Morphine,

- (ii) Nalbuphine Hydrochloride,

- (iii) Ketorolac tromethamine,

- (iv) Fentanyl;

- (I) Antihistamine:

- (i) Diphenhydramine;

- (J) Diuretic:

- (i) Furosemide;

- (K) Intraosseous infusion anesthetic;

- (i) Lidocaine;

(g) Administer immunizations in the event of an outbreak or epidemic as declared by the Governor of the state of Oregon, the State Public Health Officer or a county health officer, as part of an emergency immunization program, under the agency's supervising physician's standing order;

(h) Administer routine or emergency immunizations, as part of an EMS Agency's occupational health program, to the EMT's EMS agency personnel, under the supervising physician's standing order.

- (i) Insert an orogastric tube;

(j) Maintain during transport any intravenous medication infusions or other procedures which were initiated in a medical facility, and if clear and understandable written and verbal instructions for such maintenance have been provided by the physician, nurse practitioner or physician assistant at the sending medical facility;

(k) Initiate electrocardiographic monitoring and interpret presenting rhythm;

- (l) Perform cardiac defibrillation with a manual defibrillator.

(11) An Oregon-certified EMT-Paramedic may perform the following procedures:

(a) Perform all procedures that an Oregon-certified EMT-Intermediate can perform;

- (b) Initiate the following airway management techniques:

- (A) Endotracheal intubation;

- (B) Tracheal suctioning techniques;

- (C) Cricothyrotomy; and

(D) Transtracheal jet insufflation which may be used when no other mechanism is available for establishing an airway.

- (c) Initiate a nasogastric tube;

(d) Provide advanced life support in the resuscitation of patients in cardiac arrest;

- (e) Perform emergency cardioversion in the compromised patient;

(f) Attempt external transcutaneous pacing of bradycardia that is causing hemodynamic compromise;

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- (g) Initiate needle thoracentesis for tension pneumothorax in a pre-hospital setting;
- (h) Initiate placement of a femoral intravenous line when a peripheral line cannot be placed;
- (i) Initiate placement of a urinary catheter for trauma patients in a pre-hospital setting who have received diuretics and where the transport time is greater than thirty minutes; and
- (j) Initiate or administer any medications or blood products under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician.

(12) The Board has delegated to the Section the following responsibilities for ensuring that these

rules are adhered to:

- (a) Designing the supervising physician and agent application;
- (b) Approving a supervising physician or agent; and
- (c) Investigating and disciplining any EMT or First Responder who violates their scope of practice.

(d) The Section shall provide copies of any supervising physician or agent applications and any EMT or First Responder disciplinary action reports to the Board upon their request.

(13) The Section shall immediately notify the Board when questions arise regarding the qualifications or responsibilities of the supervising physician or agent of the supervising physician.

Stat. Auth.: ORS 682.245

Stats. Implemented: ORS 682.245

Hist.: ME 2-1983, f. & ef. 7-21-83; ME 3-1984, f. & ef. 1-20-84; ME 12-1984, f. & ef. 8-2-84; ME 7-1985, f. & ef. 8-5-85; ME 12-1987, f. & ef. 4-28-87; ME 27-1987(Temp), f. & ef. 11-5-87; ME 5-1988, f. & cert. ef. 1-29-88; ME 12-1988, f. & cert. ef. 8-5-88; ME 15-1988, f. & cert. ef. 10-20-88; ME 2-1989, f. & cert. ef. 1-25-89; ME 15-1989, f. & cert. ef. 9-5-89, & corrected 9-22-89; ME 6-1991, f. & cert. ef. 7-24-91; ME 10-1993, f. & cert. ef. 7-27-93; ME 3-1995, f. & cert. ef. 2-1-95; ME 1-1996, f. & cert. ef. 2-15-96; ME 3-1996, f. & cert. ef. 7-25-96; BME 6-1998, f. & cert. ef. 4-27-98; BME 13-1998(Temp), f. & cert. ef. 8-6-98 thru 2-2-99; BME 14-1998, f. & cert. ef. 10-26-98; BME 16-1998, f. & cert. ef. 11-24-98; BME 13-1999, f. & cert. ef. 7-23-99; BME 14-2000, f. & cert. ef. 10-30-00; BME 11-2001, f. & cert. ef. 10-30-01; BME 9-2002, f. & cert. ef. 7-17-02; BME 10-2002, f. & cert. ef. 7-22-02; BME 1-2003, f. & cert. ef. 1-27-03; BME 12-2003, f. & cert. ef. 7-15-03; BME 4-2004, f. & cert. ef. 1-27-04; BME 11-2004(Temp), f. & cert. ef. 4-22-04 thru 10-15-04; BME 12-2004(Temp), f. & cert. ef. 6-11-04 thru 12-8-04; BME 21-2004(Temp), f. & cert. ef. 11-15-04 thru 4-15-05; BME 2-2005, f. & cert. ef. 1-27-05; BME 5-2005, f. & cert. ef. 4-21-05; BME 9-2005, f. & cert. ef. 7-20-05; BME 18-2006, f. & cert. ef. 7-25-06; BME 22-2006, f. & cert. ef. 10-23-06; BME 7-2007, f. & cert. ef. 1-24-07; BME 11-2007, f. & cert. ef. 4-26-07; BME 24-2007, f. & cert. ef. 10-24-07; BME 11-2008, f. & cert. ef. 4-24-08; BME 19-2008, f. & cert. ef. 7-21-08; BME 10-2009, f. & cert. ef. 5-1-09; BME 13-2009, f. & cert. ef. 7-20-09

Rule Caption: Graduates from non-accredited programs prior to 1989 require no ACAOM western medicine requirements for licensure.

Adm. Order No.: BME 14-2009

Filed with Sec. of State: 7-20-2009

Certified to be Effective: 7-20-09

Notice Publication Date: 6-1-2009

Rules Amended: 847-070-0016

Subject: The proposed rules change specifies that applicants who graduated from non-accredited acupuncture programs prior to 1989 are not required to have obtained the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) western medicine requirements for licensure.

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-070-0016

Qualifications

An applicant for licensure as an acupuncturist in the State of Oregon must have the following qualifications:

(1) Have graduated from an acupuncture program that satisfies the standards of the Accreditation Commission for Acupuncture and Oriental Medicine (A.C.A.O.M.), or its successor organization, or an equivalent accreditation body that are in effect at the time of the applicant's graduation. An acupuncture program may be established as having satisfied those standards by demonstration of one of the following:

(a) Accreditation, or candidacy for accreditation by ACAOM at the time of graduation from the acupuncture program; or

(b) Approval by a foreign government's Ministry of Education, or Ministry of Health, or equivalent foreign government agency at the time of graduation from the acupuncture program. Each applicant must submit their documents to a foreign credential equivalency service, which is approved by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) for the purpose of establishing equivalency to the ACAOM accreditation standard. Acupuncture programs that wish to

be considered equivalent to an ACAOM accredited program must also meet the curricular requirements of ACAOM in effect at the time of graduation.

(2) Current certification in acupuncture by the National Certification Commission for Acupuncture and Oriental Medicine (N.C.C.A.O.M.). An applicant shall be deemed certified by the N.C.C.A.O.M. in Acupuncture if the applicant has passed the N.C.C.A.O.M. Acupuncture Certification Examinations, or has been certified through the N.C.C.A.O.M. Credentials Documentation Examination. The applicant has no more than four attempts to pass the NCCAOM Acupuncture Certification Examinations. If the applicant does not pass the NCCAOM Certification Examinations within four attempts, the applicant is not eligible for licensure.

(3) An applicant who does not meet the criteria in OAR 847-070-0016(1) and (2) must have the following qualifications:

(a) Five years of licensed clinical acupuncture practice in the United States. This practice must include a minimum of 500 acupuncture patient visits per year. Documentation shall include:

(A) Two affidavits from office partners, clinic supervisors, accountants, or others approved by the Board, who have personal knowledge of the years of practice and number of patient visits per year; and

(B) Notarized copies of samples of appointment books, patient charts and financial records, or other documentation as required by the Board; and

(b) An applicant must have practiced as a licensed acupuncturist in the U.S. during five of the last seven years prior to application for Oregon licensure. Licensed practice includes clinical practice, clinical supervision, teaching, research, and other work as approved by the Board within the field of acupuncture and oriental medicine. Documentation of this practice will be required and is subject to Board approval; and

(c) Successful completion of the A.C.A.O.M. western medicine requirements in effect at the time of graduation from the acupuncture program, unless the applicant graduated from a non-accredited acupuncture program prior to 1989; and

(d) Current certification in acupuncture by the N.C.C.A.O.M. An applicant shall be deemed certified in Acupuncture by the N.C.C.A.O.M. if the applicant has passed the N.C.C.A.O.M. Acupuncture Certification Examinations, or has been certified through the N.C.C.A.O.M. Credentials Documentation Examination. The applicant has no more than four attempts to pass the NCCAOM Acupuncture Certification Examinations. If the applicant does not pass the NCCAOM Certification Examinations within four attempts, the applicant is not eligible for licensure.

(4) An individual whose acupuncture training and diploma were obtained in a foreign country and who cannot document the requirements of subsections (1) through (3) of this rule because the required documentation is now unobtainable, may be considered eligible for licensure if it is established to the satisfaction of the Board that the applicant has equivalent skills and training and can document one year of training or supervised practice under a licensed acupuncturist in the United States; and

(5) In addition to meeting the requirements in (1) and (2), or (3), or (4) of this rule, all applicants for licensure must have the following qualifications:

(a) Licensure in good standing from the state or states of all prior and current health related licensure; and

(b) Have good moral character as those traits would relate to the applicant's ability of properly engaging in the practice of acupuncture; and

(c) Have the ability to communicate in the English language well enough to be understood by patients and physicians. This requirement is met if the applicant passes the N.C.C.A.O.M. written acupuncture examination in English, or if in a foreign language, must also have passed an English language proficiency examination, such as TOEFL (Test of English as a Foreign Language), or TSE (Test of Spoken English). An applicant must obtain a TOEFL score of 500 or more for the written TOEFL exam and 173 or more for the computer based TOEFL exam, or a TSE score of 200 or more prior to July 1995, and a score of 50 or more after July 1995. An applicant who is certified through the N.C.C.A.O.M. Credentials Documentation Examination must also have passed an English proficiency examination.

Stat. Auth.: ORS 677.265, 677.759

Stats. Implemented: ORS 677.265, 677.759, 677.780

Hist.: ME 5-1997, f. & cert. ef. 11-3-97; BME 5-1998, f. & cert. ef. 4-22-98; BME 15-1998, f. & cert. ef. 10-26-98; BME 15-1998, f. & cert. ef. 10-26-98; BME 16-1999, f. & cert. ef. 10-28-99; BME 13-2001, f. & cert. ef. 10-30-01; BME 6-2002, f. & cert. ef. 4-23-02; BME 12-2005, f. & cert. ef. 10-12-05; BME 21-2006, f. & cert. ef. 10-23-06; BME 10-2007, f. & cert. ef. 4-26-07; BME 7-2008(Temp), f. & cert. ef. 4-24-08 thru 10-6-08; BME 21-2008, f. & cert. ef. 7-21-08; BME 14-2009, f. & cert. ef. 7-20-09

ADMINISTRATIVE RULES

Oregon Public Employees Retirement System Chapter 459

Rule Caption: Align the approval and implementation dates for actuarial factors with PERB practice.

Adm. Order No.: PERS 7-2009

Filed with Sec. of State: 7-21-2009

Certified to be Effective: 7-21-09

Notice Publication Date: 5-1-2009

Rules Amended: 459-005-0055, 459-005-0060

Rules Repealed: 459-005-0058

Subject: The modifications to OAR 459-005-0055 align the approval and implementation dates for actuarial factors (AEFs) with PERS Board practice. Starting with the 2006 valuation, the PERS Board shifted the timing of the Experience Study, which is the basis for the new AEF tables, from odd numbered years to even numbered years so the odd-year valuations used to set rates can be conducted in a more timely manner. This allows PERS to provide new rates to employers several months earlier. Because the AEFs are based on the Experience Study, this rule needed to be changed to conform to the shift in the timing of the Experience Study. This rule change conforms to the actuary's new schedule by having future AEFs become effective as of January 1 of the subsequent even numbered year.

This rulemaking also repeals the obsolete rule 459-005-0058 and updates a citation in 459-005-0060 from 459-005-0055(4) to 459-005-0055(3).

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-005-0055

Actuarial Equivalency Factors

(1) Experience Study. The Director shall take steps to assure that the Board's consulting actuary shall present the Experience Study required by ORS 238.605 to the Board by September 1 of each odd numbered year.

(2) Actuarial Equivalency Study. The Director shall take steps to assure, pursuant to ORS 238.630(3)(g), that the Board's consulting actuary shall present an Actuarial Equivalency Study to the Board as soon as practicable, but no later than the December 15 next following the presentation of the Experience Study described in section (1) of this rule. Such Actuarial Equivalency Study shall review the assumptions and the actuarial factors used to:

- (a) Convert account balances to monthly allowances;
- (b) Convert the standard form of benefit (ORS 238.300) to elective options with various survivorship features (ORS 238.305); and
- (c) Reduce service retirement allowances for early retirement (ORS 238.280).

(3) Adoption of actuarial equivalency factors.

(a) The Board shall adopt actuarial equivalency factor tables to be effective January 1 of each even numbered year.

(b) Actuarial equivalency factor tables adopted under this section shall comply with the standards set forth in OAR 459-005-0060.

(4) Calculation of retirement allowance under the Chapter 238 Program.

(a) The provisions of this section apply to any member or alternate payee with an effective date of retirement on or after July 1, 2003, except for a person who is a judge member on June 30, 2003, and who makes an election under ORS 238.565(4).

(b) PERS shall establish years of service, an account balance and final average salary as of June 30, 2003, for each person described in subsection (a) of this section. The years of service, account balance and final average salary shall be determined as provided in section 40 of chapter 67, Oregon Laws 2003 (Enrolled HB 2003).

(c) For each person described in subsection (a) of this section, the Board shall perform the following two calculations:

(A) "Regular" calculation. The Board shall calculate the retirement allowance using:

(i) The years of service, account balance and final average salary as of the effective date of retirement;

(ii) All calculations applicable to the member under ORS 238.300(2);

(iii) The optional form of retirement allowance selected by the member at retirement under ORS 238.300, 238.305, 238.320 or 238.325; and

(iv) The actuarial equivalency factor tables in effect on the effective date of retirement.

(B) "Look-back" calculation. The Board shall calculate the retirement allowance using:

- (i) The years of service, account balance and final average salary described in subsection (b) of this section;
- (ii) All calculations applicable to the member under ORS 238.300(2);
- (iii) The optional form of retirement allowance selected by the member under ORS 238.300, 238.305, 238.320 or 238.325; and
- (iv) The actuarial equivalency factor tables in effect on June 30, 2003.

(d) The retirement allowance shall be the higher of the amounts described in paragraphs (c)(A) and (c)(B) of this section, payable as of the effective date of retirement.

(5) Death benefit payments. Any monthly payments to be made to a beneficiary under ORS 238.390, 238.395 or 238.405 for a member who dies on or after May 9, 2003, shall be calculated using the actuarial equivalency factor tables that are in effect on the date that the first payment is due to the beneficiary.

(6) Judge members. The actuarial equivalency factor tables in effect on June 30, 2003, shall be used to calculate the retirement allowance and surviving spouse pension of a person who is a judge member on June 30, 2003, and who makes an election under ORS 238.565(4), whether that election is made before, on or after June 30, 2003.

Stat. Auth: ORS 238.630 & 238.650

Stats. Implemented: ORS 238.605, 238.607, 238.630

Hist.: PERS 1-1993, f. 4-14-93, cert. ef. 5-1-93; PERS 6-1996, f. 8-13-96, cert. ef. 1-1-99;

PERS 5-2004, f. & cert. ef. 2-18-04; PERS 7-2009, f. & cert. ef. 7-21-09

459-005-0060

Standards for the Adoption of New Actuarial Equivalency Factors

(1) When the Board adopts actuarial equivalency factors pursuant to OAR 459-005-0055(3), the Board must consider:

(a) Changes in mortality to reflect the best actuarial information on mortality available at the time that new actuarial tables are adopted; and

(b) Changes in the assumed rate adopted by the Board for the latest actuarial valuation if they are determined by the Board, in consultation with the PERS actuary, to be statistically significant.

(2) The mortality tables must be combined with respect to gender and membership classification to derive unisex actuarial equivalency factors. The blending of the mortality assumptions shall be performed by the Board's consulting actuary in accordance with generally recognized and accepted actuarial principles and practices.

Stat. Auth: ORS 238.630 & 238.650

Stats. Implemented: ORS 238.607 & 238.630

Hist.: PERS 2-2003, f. & cert. ef. 6-13-03; PERS 7-2009, f. & cert. ef. 7-21-09

Rule Caption: Address disability estimates in the recovery of administrative costs.

Adm. Order No.: PERS 8-2009

Filed with Sec. of State: 7-21-2009

Certified to be Effective: 7-21-09

Notice Publication Date: 5-1-2009

Rules Amended: 459-005-0250

Subject: Currently, this OAR addresses recovering administrative costs for service retirement estimate requests. Generally, a member can receive two free estimates each calendar year, and must pay \$60 for each additional estimate. The rule modifications specifically address disability estimates, waiving any fees for requesting those estimates but specifying that a disability application must be on file at PERS to request a disability estimate.

The modifications clarify the rule's application to members who have submitted a disability retirement application and help streamline the workflow process between the Account Reconciliation Team and Disability Unit. These changes will also help to limit the number of disability retirement estimate requests to only those members who have applied for benefits and make others who are "forum shopping" take the initiative to apply.

Amendments also were made to cite all the statutes related to full-cost purchases.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-005-0250

Recovery of Administrative Costs

(1) Estimates.

(a) Any active or inactive member within two years of eligibility for service retirement may request from PERS an estimate of service retirement benefits (estimate).

(b) Upon request, PERS shall provide a member with a maximum of two estimates in a calendar year at no cost.

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(c) PERS shall charge a fee of \$60 for each estimate that exceeds the limit specified in subsection (b) of this section.

(d) A fee charged under subsection (c) of this section must be paid in full before receipt of the requested estimate(s). Payment must be made by check or money order payable to the Public Employees Retirement System.

(e) The provisions of subsections (a) to (d) of this section do not apply to current judge members during their term of office.

(f) A disability estimate shall be provided to a member if a completed disability application is on file with PERS. A disability estimate is provided at no charge.

(2) Full cost purchases. If a member purchases retirement credit under section 2, chapter 971, Oregon Laws 1999, ORS 238.148, 238.157, 238.162, or 238.175, a fee of \$145 shall be added to the cost of the purchase to cover the administrative costs incurred by PERS in processing the request.

Stat. Auth: ORS 238.650 & 238.610

Stat. Implemented: ORS 238.610

Hist.: PERS 22-2003, f. 12-15-03 cert. ef. 1-1-04; PERS 22-2004, f. & cert. ef. 9-22-04; PERS 8-2009, f. & cert. ef. 7-21-09

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Rule Caption: Clarification of service hours considered for vesting in OPSRP Pension Program and IAP employer account.

Adm. Order No.: PERS 9-2009

Filed with Sec. of State: 7-21-2009

Certified to be Effective: 7-21-09

Notice Publication Date: 5-1-2009

Rules Adopted: 459-075-0060, 459-080-0060

Subject: New rules are needed to address what service can be counted toward the OPSRP Pension Program and IAP Employer Account.

A member must be vested in the OPSRP Pension Program and in the account(s) of the Individual Account Program (IAP) to receive benefits under those programs. ORS 238A.115 and 238A.320 provide a common standard by which a member vests in the pension program and in the IAP Employer Account, if one is provided: by completing 600 hours of service in each of five calendar years. The new rules clarify the application of this standard for each program.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-075-0060

Vesting in the OPSRP Pension Program

For the purpose of determining vesting under ORS 238A.115(1)(a):

(1) Hours of service performed for all participating public employers during a calendar year are included.

(2) Hours of service performed during the six-month period required to establish membership under ORS 238A.100 are included.

(3) For calendar years beginning on or after January 1, 2004, hours of service will be determined based on hours reported to PERS by the member's employer(s) pursuant to OAR 459-070-0100.

(4) An eligible employee first employed by a participating public employer on or after August 29, 2003 and before January 1, 2004 is presumed to have performed less than 600 hours of service in calendar year 2003 unless records provided to PERS establish that the eligible employee performed at least 600 hours of service in the calendar year.

(5) If a member of the PERS Chapter 238 Program is elected or appointed to the Legislative Assembly and elects under ORS 237.650 to participate in the Oregon Public Service Retirement Plan for the member's legislative service, for calendar years beginning before January 1, 2004, the member is presumed to have performed 600 hours of service in any calendar year in which the member was an active member of the system unless records provided to PERS establish that the eligible employee did not perform at least 600 hours of service in the calendar year.

(6) Hours of service attributable to periods of active membership before termination of membership under ORS 238.095 and hours of service excluded under ORS 238A.120 and 238A.145 may not be included.

Stat. Auth.: ORS 238A.450

Stat. Implemented: ORS 238A.010, 238A.115

Hist.: PERS 9-2009, f. & cert. ef. 7-21-09

459-080-0060

Vesting in an IAP Employer Account

(1) For the purpose of determining vesting under ORS 238A.320(3)(a):

(a) Calendar years before the calendar year in which the IAP employer account is established are included.

(b) Hours of service performed for all participating public employers during a calendar year are included.

(c) Hours of service performed during the six-month period required to establish membership under ORS 238A.300 are included.

(d) For calendar years beginning on or after January 1, 2004, hours of service will be determined based on hours reported to PERS by the member's employer(s) pursuant to OAR 459-070-0100.

(e) For calendar years before January 1, 2004, a member is presumed to have performed 600 hours of service in any calendar year in which the member was an active member unless records provided to PERS establish that the eligible employee did not perform at least 600 hours of service in the calendar year.

(f) Hours of service attributable to periods of active membership before termination of membership under ORS 238.095 and hours of service excluded under ORS 238A.320 and 238A.375 may not be included.

(2) If a member has completed at least 600 hours of service in each of five calendar years pursuant to section (1) of this rule before the date the employer account is established, the member becomes vested in the IAP employer account on the date the account is established.

Stat. Auth.: 238A.450

Stats. Implemented: ORS 238A.010, 238A.320

Hist.: PERS 9-2009, f. & cert. ef. 7-21-09

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Rule Caption: Clarify OPSRP Pension Program retiree reemployment limitations and receipt of payments by reemployed IAP members.

Adm. Order No.: PERS 10-2009

Filed with Sec. of State: 7-21-2009

Certified to be Effective: 7-21-09

Notice Publication Date: 5-1-2009

Rules Adopted: 459-075-0300, 459-080-0300

Subject: OAR 459-075-0300: The reemployment limitations of the OPSRP Pension Program are considerably more restrictive than those of the PERS Tier One/Tier Two Program. ORS 238A.245 states that a member who retires and is then employed in a qualifying position must stop receiving pension payments and return to active membership. A retired member employed in a non-qualifying position may continue to receive payments. If that retired member starts in a non-qualifying position but then works 600 or more hours in a calendar year, by law that becomes a qualifying position and the rule sets out those consequences. Also, a retired member may receive a lump sum benefit in lieu of a small pension (cash out). The new rule clarifies the application of the statutory provisions and provides additional guidance to ensure continued compliance with federal tax law.

OAR 459-080-0300: These are no specific statutory provisions in ORS Chapter 238A on reemployment of IAP members receiving benefits payments. Note that, upon retirement, an IAP member can elect to receive their distribution in a lump sum or installments. This rule explains the limitations on IAP members who retire and then return to PERS-covered employment. These limits are based on federal tax law standards on distributing benefits only after a separation or bona fide retirement.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-075-0300

Reemployment of a Retired Member of the OPSRP Pension Program

(1) If a retired member of the OPSRP Pension Program who is receiving monthly pension payments is employed by a participating public employer in a qualifying position:

(a) The member's retirement is canceled effective the first of the month in which the member was employed.

(b) The last pension payment the member is entitled to receive is for the month before the calendar month in which the member was employed. A member who receives benefits to which he or she is not entitled must repay those benefits to PERS.

(c) The member reestablishes active membership effective the date the member was employed.

(2) If a retired member of the OPSRP Pension Program who received a lump sum benefit in lieu of a small pension under ORS 238A.195 is employed by a participating public employer in a qualifying position, the member reestablishes active membership effective the date of employment.

(a) If the member was employed after the date of the payment, the member is not required or permitted to repay the benefit amount.

ADMINISTRATIVE RULES

(b) If the member was employed on or before the date of the payment, the member must repay the gross benefit amount.

(3) A retired member of the OPSRP Pension Program who is employed by a participating public employer in a non-qualifying position may receive pension payments or a lump sum payment under ORS 238A.195 without affecting the member's status as a retired member.

(a) If, by reason of hours of service performed by the retired member, the non-qualifying position becomes qualifying in a calendar year, the position is qualifying effective the later of the first day of the calendar year or the date the member was employed.

(b) If a position becomes qualifying under subsection (a) of this section, the retired member is subject to the provisions of sections (1) and (2) of this rule.

(4) A retired member who reestablishes active membership may, at subsequent retirement, elect any option provided in ORS 238A.180 and 238A.190, subject to the provisions of ORS 238A.195.

(a) The member's subsequent retirement benefit will be calculated based on the member's periods of active membership before and after the member's initial effective retirement date if at the initial retirement:

(A) The member received a monthly pension; or

(B) The member received a lump sum payment under ORS 238A.195 and repaid the benefit amount under subsection (2)(b) of this rule.

(b) The member's subsequent retirement benefit will be calculated based on the member's periods of active membership after the member's initial effective retirement date if:

(A) At initial retirement, the member received a lump sum payment under ORS 238A.195 and was not required to repay the benefit amount under subsection (2)(b) of this rule; or

(B) The member is required to repay the benefit amount under subsection (2)(b) of this rule and, as of the effective retirement date of the member's subsequent retirement, the member has not repaid the benefit amount.

(c) The member's subsequent retirement benefit will be calculated using the actuarial equivalency factors in effect on the effective retirement date of the subsequent retirement.

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.245

Hist.: PERS 10-2009, f. & cert. ef. 7-21-09

459-080-0300

Receipt of Payments by a Reemployed Member of the IAP

(1) A member who received a lump sum distribution under ORS 238A.400 or OAR 459-080-0250 who is employed by a participating public employer in a qualifying position becomes an active member as of the date of employment.

(a) If the member was employed after the date of the payment, the member is not required or permitted to repay the payment.

(b) If the member was employed on or before the date of the payment, the member must repay the gross amount of the payment.

(2) A member receiving installment payments under 238A.400 and OAR 459-080-0250 who is employed by a participating public employer in a qualifying position becomes an active member as of the date of employment.

(a) The last installment payment to which the member is entitled is the last installment payment paid before the date of employment. A member who receives benefits to which he or she is not entitled must repay those benefits to PERS.

(b) The member is not required or permitted to repay installment payments paid before the date of employment.

(3) A member who is employed by a participating public employer in a non-qualifying position may receive a lump sum payment or installment payments.

(a) If, by reason of hours of service performed by the member, the non-qualifying position becomes qualifying in a calendar year, the position is qualifying effective the later of the first day of the calendar year or the date the member was employed.

(b) If a position becomes qualifying under subsection (a) of this section, the member is subject to the provisions of sections (1) and (2) of this rule.

(4) Notwithstanding sections (1) to (3) of this rule, a member of the IAP who is a retired member of the PERS Chapter 238 Program and is employed by a participating public employer may receive payment(s) from the IAP subject to the limitations on employment of retired members of the PERS Chapter 238 Program.

(5) A member of the IAP who reestablishes active membership may, at subsequent retirement, elect any payment option provided in ORS 238A.400, subject to the provisions of OAR 459-080-0250.

Stat. Auth.: 238A.450

Stats. Implemented: ORS 238 & 238A

Hist.: PERS 10-2009, f. & cert. ef. 7-21-09

Oregon State Treasury Chapter 170

Rule Caption: Modification of rules related to the issuance and management of Oregon State and local government bonds.

Adm. Order No.: OST 3-2009

Filed with Sec. of State: 7-21-2009

Certified to be Effective: 7-21-09

Notice Publication Date: 11-1-2008

Rules Amended: 170-061-0015

Subject: Based on the recommendations of the Oregon Law Commission, the 2007 Legislature adopted HB 3265 which modernized and updated a variety of laws related to the issuance and management of both State and local debt in Oregon. These statutory changes were codified in ORS Chapters 286A (for State bonds) and 287A (for all other public bodies' bonds). OAR 170-061-0015 modifies the fees charged for debt management services provided by the agency.

Rules Coordinator: Sally Wood—(503) 378-4990

170-061-0015

Fees Charged by the Debt Management Division

(1) State agencies. The OST shall charge the following fees in connection with the services, duties and activities of the OST related to bonds issued for state agencies by the State Treasurer:

(a) Agency Bond Issues of \$15 million or less. For a single series bond sale of \$15 million or less, a state agency will be charged \$15,000 per sale. For a bond sale of \$15 million or less by a single state agency with multiple series, the state agency will be charged the greater of (i) \$15,000 or (ii) \$6,000 per series. For a bond sale of \$15 million or less by two or more state agencies, each agency will be charged the greater of (i) \$7,500 or (ii) \$6,000 for each series sold for the agency. This subsection does not apply if the bond sale is a private placement conduit sale of \$5 million or less as described below in subsection (c).

(b) Agency Bond Issues of more than \$15 million. For a single series bond sale of more than \$15 million, a state agency will be charged \$20,000. For a bond sale of more than \$15 million by a single state agency with multiple series, the state agency will be charged the greater of (i) \$20,000 or (ii) \$7,000 per series. For a bond sale of more than \$15 million by two or more state agencies, each agency will be charged the greater of (i) \$10,000 or (ii) \$7,000 for each series sold for the state agency. This subsection does not apply if the bond sale is a private placement conduit described below in subsection (c).

(c) Conduit Bond Sales. A state agency will be charged \$5,000 for conduit bond sales of \$5 million or less that are payable solely from monies owed by a party other than the State of Oregon, with no recourse for payment to the State of Oregon, and when the bonds are sold by a private placement, with no publicly disseminated official statement or other offering circular, to one or more sophisticated investors, accredited investors or qualified institutional buyers.

(d) Advance refunding plan application and review. The fee for review and approval of an advance refunding plan is \$3,000 per sale of refunding bonds for sales of \$2 million or less, and \$5,000 per sale of refunding bonds for sales exceeding \$2 million. If the plan is not approved or the refunding not completed the review and approval fee will not be charged. When necessary to review complex proposals, OST may consult recognized experts whose fees will be charged to the agency, whether or not the refunding is approved or completed.

(e) Tax Anticipation Notes. A state agency shall be charged \$30,000 for each sale of tax anticipation notes.

(f) Interest Rate Exchange Agreements. In addition to any other fee, \$25,000 will be charged for the review and approval of a state agency's first executed interest rate exchange agreement for a specific bond program of the agency. After the first agreement, a fee of \$10,000 will be charged for each executed interest rate exchange agreement subsequently entered into by the agency for the same bond program or indenture. These charges do not include costs such as interest rate exchange advisor fees, rating agency charges or printing costs which are payable by the agency or authority for whom the cost is incurred.

ADMINISTRATIVE RULES

(2) Public Bodies. OST shall charge the fees set forth below in connection with the services, duties and activities of the OST related to bonds issued by public bodies in Oregon; expenses incurred in reviewing refunding and defeasance plans may be charged against the bond proceeds or may be paid by the public body from such other funds as may be available:

(a) Advance refunding plan application and review. The application fee for submission of an advance-refunding plan is \$350. The fee for review and approval of an advance refunding plan is \$3,000 per sale of refunding bonds for sales of \$2 million or less, and \$5,000 per sale of refunding bonds for sales exceeding \$2 million. If the plan is not approved or the refunding not completed the review and approval fee will not be charged.

(b) Oregon School Bond Guarantee Program. School Districts that submit an application for participation in the Oregon School Bond Guarantee Program shall submit an application fee of \$200 to OST at the time their application is submitted. School Districts whose bonds are guaranteed by the state shall submit to OST, within 10 business days of closing of any guaranteed bonds, a fee equal to .03% (.0003) of the total principal and interest due on the bonds, assuming the bonds are paid on their scheduled maturity or mandatory redemption dates.

(3) Municipal Debt Advisory Commission. OST shall charge the following fees in connection with the services, duties and activities of the OST as staff to the Municipal Debt Advisory Commission.

(a) Overlapping debt report. Report length, complexity and the time required to produce an overlapping debt report is determined by the number of districts which overlap the district for which the report is generated and the number of such districts which have issued debt. A base fee of \$200 shall be charged for all overlapping debt reports. An additional \$5 shall be charged for each overlapping indebted district up to ten districts; then an additional \$2.50 for each overlapping indebted district up to thirty districts; then an additional \$1 for each overlapping indebted district over thirty districts.

(b) Other fees and charges. Fees for specialized reports and services shall be determined by the number of hours spent producing such specialized report or service times the rate of \$115 per hour.

(4) Private Activity Bonds.

(a) Current Year Allocation. State agencies or public bodies that submit an application for allocation of the state's private activity bond volume limit ("CAP") for the current year to the Private Activity Bond Committee under OAR 170-071-0005 shall submit an application fee of \$200 to OST when their application is submitted. State agencies or public bodies who receive CAP and sell bonds under that allocation shall submit to OST, within 10 business days of closing of any such private activity allocation bonds: (i) for a bond sale of \$10 million or less, a fee equal to \$3,000 or (ii) for a bond sale of more than \$10 million, a fee equal to \$10,000.

(b) Carry Forward Allocation. State agencies or public bodies that submit an application for carry forward CAP allocation under OAR 170-071-0005(10) shall submit an application fee of \$200 to OST when their application is submitted. State agencies or public bodies who receive carry forward CAP shall pay to OST: (i) for a bond sale of \$10 million or less, a fee equal to \$3,000 of which the first \$500 is payable within 10 days of the date of the notice of allocation by OST, and the balance is payable within 30 days of the closing of the first bond sale associated with the allocation or (ii) for a bond sale of more than \$10 million, a fee equal to \$10,000 of which the first \$2,000 is payable within 10 days of the date of the notice of allocation by OST, and the balance payable within 30 days of the closing of the first bond sale associated with the allocation.

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

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 286A.014, 287A.370 & 287A.634

Stats. Implemented: ORS 287A & 286A

Hist.: TD 3-1990, f. & cert. ef. 12-21-90; TD 2-1994, f. & cert. ef. 9-9-94; OST 1-1999, f. & cert. ef. 2-1-99; OST 1-2005, f. & cert. ef. 4-22-05; OST 5-2006, f. & cert. ef. 10-25-06; OST 7-2008, f. & cert. ef. 12-29-08; OST 2-2009, f. & cert. ef. 4-22-09; OST 3-2009, f. & cert. ef. 7-21-09

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**Oregon University System
Chapter 580**

Rule Caption: Modification of 2008-2009 Academic Year Fee Book.

Adm. Order No.: OSSHE 5-2009(Temp)

Filed with Sec. of State: 7-20-2009

Certified to be Effective: 7-20-09 thru 1-8-10

Notice Publication Date:

Rules Amended: 580-040-0040

Subject: Amendment to OAR 580-040-0040 to temporarily update provisions of the 2008-2009 Academic Year Fee Book.

Rules Coordinator: Marcia M. Stuart—(541) 346-5749

580-040-0040

Academic Year Fee Book

The document entitled "Academic Year Fee Book" dated July 10, 2009, is hereby amended by reference as a temporary rule. All prior adoptions of academic year fee documents are hereby repealed except as to rights and obligations previously acquired or incurred there under. The Chancellor or designated staff are permitted to make revisions as needed to comport with any subsequent legislative actions as well as to authorize minor adjustments to the final document, if necessary.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 4-1978, f. & ef. 6-15-78; HEB 5-1979, f. & ef. 7-20-79; HEB 11-1979, f. & ef. 8-22-79; HEB 1-1980, f. & ef. 4-18-80; HEB 7-1980, f. & ef. 6-18-80; HEB 11-1980, f. & ef. 8-20-80; HEB 4-1981(Temp), f. & ef. 6-30-81, ef. 7-1-81; HEB 5-1981, f. & ef. 8-18-81; HEB 15-1981(Temp), f. & ef. 12-18-81; HEB 5-1982, f. & ef. 7-14-82; HEB 4-1983, f. & ef. 7-29-83; HEB 4-1984, f. & ef. 6-20-84; HEB 5-1985, f. & ef. 8-12-85; HEB 12-1986, f. & ef. 7-30-86; HEB 6-1987, f. & ef. 8-4-87; HEB 8-1988, f. & cert. ef. 8-5-88; HEB 10-1988, f. & cert. ef. 11-16-88; HEB 3-1989, f. & cert. ef. 11-27-89; HEB 6-1989, f. & cert. ef. 7-28-89; HEB 7-1990, f. & cert. ef. 6-4-90; HEB 8-1990(Temp), f. & cert. ef. 7-26-90; HEB 12-1990, f. & cert. ef. 10-3-90; HEB 5-1991, f. & cert. ef. 8-15-91; HEB 8-1992, f. & cert. ef. 7-31-92; HEB 2-1993, f. & cert. ef. 2-5-93; HEB 5-1993, f. & cert. ef. 8-11-93; HEB 7-1994, f. & cert. ef. 8-4-94; HEB 3-1995, f. & cert. ef. 8-1-95; HEB 3-1996, f. & cert. ef. 8-8-96; HEB 5-1996, f. & cert. ef. 12-18-96; HEB 3-1997, f. & cert. ef. 7-24-97; OSSHE 4-1998, f. & cert. ef. 7-22-98; OSSHE 5-1998(Temp), f. & cert. ef. 8-21-98 thru 1-31-99; OSSHE 9-1998, f. & cert. ef. 12-23-98; OSSHE 3-1999(Temp), f. & cert. ef. 7-22-99 thru 1-14-00; OSSHE 4-1999, f. & cert. ef. 9-16-99; OSSHE 3-2000, f. & cert. ef. 7-26-00; OSSHE 4-2001, f. & cert. ef. 7-27-01; OSSHE 8-2002, f. & cert. ef. 8-14-02; OSSHE 2-2003, f. & cert. ef. 8-4-03; OSSHE 6-2004, f. & cert. ef. 6-15-04; OSSHE 2-2006, f. & cert. ef. 6-8-06; OSSHE 3-2007, f. & cert. ef. 6-21-07; OSSHE 6-2008(Temp), f. & cert. ef. 3-20-08 thru 9-1-08; OSSHE 8-2008, f. & cert. ef. 6-17-08; OSSHE 2-2009(Temp), f. & cert. ef. 2-20-09 thru 6-30-09; OSSHE 4-2009(Temp), f. & cert. ef. 3-13-09 thru 6-30-09; Administrative correction 7-21-09; OSSHE 5-2009(Temp), f. & cert. ef. 7-20-09 thru 1-8-10

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**Oregon University System,
Eastern Oregon University
Chapter 579**

Rule Caption: Amend Special Student and Course Fees.

Adm. Order No.: EOU 2-2009

Filed with Sec. of State: 8-14-2009

Certified to be Effective: 8-14-09

Notice Publication Date: 6-1-2009

Rules Amended: 579-020-0006

Subject: Amend fees charged to students for special uses of facilities, services or supplies at Eastern Oregon University.

Rules Coordinator: Lara Moore—(541) 962-3368

579-020-0006

Special Student Fees

Eastern Oregon University intends to adopt by reference Special Student Fees for the 2009–10 school year

[ED. NOTE: Fee list referenced is available from the agency.]

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: EOSC 3, f. & ef. 6-23-76; EOSC 8, f. & ef. 6-16-77; EOSC 6-1978, f. & ef. 10-2-78; EOSC 1-1979, f. & ef. 6-27-79; EOSC 1-1981, f. & ef. 1-12-81; EOSC 3-1981, f. & ef. 7-1-81; EOSC 2-1983, f. & ef. 12-16-83; EOSC 2-1984, f. & ef. 10-25-84; EOSC 1-1986, f. & ef. 2-13-86; EOSC 2-1988, f. & cert. ef. 10-28-88; EOSC 2-1989, f. & cert. ef. 7-31-89; EOSC 2-1990, f. & cert. ef. 10-9-90; EOSC 3-1991, f. & cert. ef. 9-20-91; EOSC 5-1990, f. & cert. ef. 12-20-91 (and corrected 1-2-92); EOSC 1-1992, f. & cert. ef. 5-13-92; EOSC 2-1992, f. & cert. ef. 8-24-92; EOSC 4-1993, f. & cert. ef. 8-2-93; EOSC 4-1994, f. & cert. ef. 7-25-94; EOSC 1-1996, f. & cert. ef. 8-15-96; EOSU 1-2001, f. & cert. ef. 9-28-01; EOU 1-2003, f. & cert. ef. 7-31-03; EOU 1-2005, f. & cert. ef. 5-16-05; EOU 1-2006, f. & cert. ef. 4-14-06; EOU 1-2007, f. & cert. ef. 5-14-07; EOU 4-2007(Temp), f. & cert. ef. 8-15-07 thru 1-15-08; Administrative Correction 1-24-08; EOU 1-2008, f. & cert. ef. 3-14-08; EOU 5-2008, f. & cert. ef. 8-15-08; EOU 1-2009, f. & cert. ef. 3-12-09; EOU 2-2009, f. & cert. ef. 8-14-09

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**Oregon University System,
Oregon State University
Chapter 576**

Rule Caption: Faculty Records Rule.

Adm. Order No.: OSU 5-2009

Filed with Sec. of State: 8-12-2009

Certified to be Effective: 8-12-09

Notice Publication Date: 7-1-2009

ADMINISTRATIVE RULES

Rules Adopted: 576-003-0000, 576-003-0005, 576-003-0010, 576-003-0020, 576-003-0040, 576-003-0050, 576-003-0060, 576-003-0070, 576-003-0080, 576-003-0090, 576-003-0100, 576-003-0110, 576-003-0120

Rules Repealed: 576-003-0000(T), 576-003-0005(T), 576-003-0010(T), 576-003-0020(T), 576-003-0040(T), 576-003-0050(T), 576-003-0060(T), 576-003-0070(T), 576-003-0080(T), 576-003-0090(T), 576-003-0100(T), 576-003-0110(T), 576-003-0120(T)

Subject: This Faculty Records Rule ensures the continued confidentiality of faculty personnel records, which is provided for under ORS 351.065. The rule is modeled after the Oregon State Board of Higher Education Faculty Records Rule, which Oregon State University has historically relied upon to protect faculty records for approximately 30 years. Because of ambiguities in the statutory language, Oregon State University, out of an abundance of caution, is adopting its own, independent Faculty Records Rule to ensure continued confidentiality.

Rules Coordinator: Barbara Melton—(541) 737-6262

576-003-0000

Definitions

(1) "Personal Records" means records containing information kept by Oregon State University concerning a faculty member and furnished by the faculty member or by others, including, but not limited to, information as to discipline, counseling, membership activity, other behavioral records, professional preparation and experience, professional performance (e.g., assignment and workload, quality of teaching, research and service to the institution), personnel data relating to such matters as promotions, tenure, leaves, retirement credits and the like and professional activities external to the institution, including, but not necessarily limited to, awards, recognition, research activities and travel.

(2) For purposes of compliance with ORS 351.065, "records of academic achievement" shall mean the record of credits earned toward a degree or in postdoctoral work and/or certificate(s), diploma(s), license(s) and degree(s) received.

Stat. Auth.: ORS 351.065 & 351.070

Stats. Implemented: ORS 351.065

Hist.: OSU 1-2009(Temp), f. & cert. ef. 6-9-09 thru 12-4-09; OSU 5-2009, f. & cert. ef. 8-12-09

576-003-0005

Limitation on Records to Be Maintained

Only records that are demonstrably and substantially relevant to the educational and related purposes of Oregon State University shall be generated and maintained.

Stat. Auth.: ORS 351.065 & 351.070

Stats. Implemented: ORS 351.065

Hist.: OSU 1-2009(Temp), f. & cert. ef. 6-9-09 thru 12-4-09; OSU 5-2009, f. & cert. ef. 8-12-09

576-003-0010

Restrictions on Soliciting or Accepting Confidential Information Relating to Employed Faculty

When evaluating employed faculty members, Oregon State University shall not solicit or accept letters, documents or other materials, given orally or in written form, from individuals or groups who wish their identity kept anonymous or the information they provide kept confidential, except for student evaluations made or received pursuant to OAR 576-003-0070(5).

Stat. Auth.: ORS 351.065 & 351.070

Stats. Implemented: ORS 351.065

Hist.: OSU 1-2009(Temp), f. & cert. ef. 6-9-09 thru 12-4-09; OSU 5-2009, f. & cert. ef. 8-12-09

576-003-0020

Certain Information Not Required to Be Given by Faculty Members

No faculty member shall be required to give, but may voluntarily provide, information as to race, religion, sex, political affiliation or preferences, except such information that may be required by state statute, federal law or valid federal rules, regulations or orders. Where the faculty member is asked for such self-designation for any purpose (including federal requests for information), the request shall state the purpose of the inquiry and shall inform the individual of any right to decline to respond that may be applicable.

Stat. Auth.: ORS 351.065 & 351.070

Stats. Implemented: ORS 351.065

Hist.: OSU 1-2009(Temp), f. & cert. ef. 6-9-09 thru 12-4-09; OSU 5-2009, f. & cert. ef. 8-12-09

576-003-0040

Locations and Custody of Faculty Records

Official faculty personal records shall be kept in locations central to the department that maintains them. Custody shall be assigned to designated personnel specifically charged with maintaining the confidentiality and security of the records in accordance with applicable Oregon State University rules and polices. Oregon State University shall not maintain more than three files relating to the evaluation of a faculty member, except that Oregon State University may maintain one additional confidential file in excess of three existing files that shall contain only material excised from other records as permitted by OAR 576-003-0070. Evaluation files are those referred to in ORS 351.065 as "designated" or "authorized."

Stat. Auth.: ORS 351.065 & 351.070

Stats. Implemented: ORS 351.065

Hist.: OSU 1-2009(Temp), f. & cert. ef. 6-9-09 thru 12-4-09; OSU 5-2009, f. & cert. ef. 8-12-09

576-003-0050

Release of and Access to Faculty Records

(1) Appropriate information about the faculty member may be released on request and without the faculty member's consent. Such information shall be limited to:

(a) Directory information, that is, information generally needed in identifying or locating a named faculty member including such information as is readily found in published documents such as institutional catalogs;

(b) Objective evidence of a faculty member's academic achievement, limited to information as to the number of credits earned toward a degree or in postdoctoral work, and certificate(s), diploma(s), license(s) and degree(s) received;

(c) Salary information and the record of terms or conditions of employment;

(d) Records tabulated from students' classroom survey evaluations, on a finding by the president that privacy rights in an adequate educational environment would not suffer by disclosure.

(2) All information in the faculty member's personal record file, apart from that identified in section (1) of this rule, shall be considered personal and subject to restricted access as set forth in OAR 576-003-0060 through 576-003-0120.

Stat. Auth.: ORS 351.065 & 351.070

Stats. Implemented: ORS 351.065

Hist.: OSU 1-2009(Temp), f. & cert. ef. 6-9-09 thru 12-4-09; OSU 5-2009, f. & cert. ef. 8-12-09

576-003-0060

Confidential Records — Restrictions on Release

(1) Personal records designated as subject to restricted access in accordance with authority granted in ORS 351.065 shall be available only to the faculty member who is the subject of the records as provided for in OAR 576-003-0070 through 576-003-0100 and to Oregon State University personnel, such as faculty, administrators, students and others serving on committees or in other official capacities. Such personnel shall have a demonstrably legitimate need to review the records in order to fulfill their official, professional responsibilities as defined in relevant Oregon State University rules or policies. These records may not be released to any other person or agency without the faculty member's written consent, unless on receipt of a valid subpoena or other court order or process or as required by state statute, federal law or valid federal or state rules, regulations or orders.

(2) Oregon State University shall appear in court through the Department of Justice when appropriate to test the validity of a subpoena or other court order or process relating to release of faculty records when validity is in question.

Stat. Auth.: ORS 351.065 & 351.070

Stats. Implemented: ORS 351.065

Hist.: OSU 1-2009(Temp), f. & cert. ef. 6-9-09 thru 12-4-09; OSU 5-2009, f. & cert. ef. 8-12-09

576-003-0070

Access to Files by Faculty Members

(1) Faculty members shall be allowed full access to their own personal files and personal records kept by Oregon State University, except as provided in sections (2) and (3) of this rule.

(2) Letters and other information submitted in confidence to Oregon State University prior to July 1, 1975, shall be maintained in the evaluation files permitted by OAR 576-003-0040. However, if a faculty member requests access to such letters and other information pertaining to the faculty member, the anonymity of the contributors of letters and other infor-

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mation obtained prior to July 1, 1975, shall be protected. The full text shall be made available to the faculty member except those portions of the text that would serve to identify the contributor, which shall be excised by a faculty committee created pursuant to institutional rules. The excised portions of the documents may be retained in the confidential file permitted by 576-003-0040.

(3) Confidential letters and other information received by Oregon State University after July 1, 1975, prior to the employment of a faculty member, shall be placed in evaluation files relating to the faculty member. If the applicant is not employed, the confidential information submitted concerning the applicant shall remain confidential. If an applicant who is employed requests access to personal files, the anonymity of the contributors of confidential preemployment letters and other preemployment information shall be protected. The full text shall be made available, except that those portions of the text that would serve to identify the contributor shall be excised and may be retained in the confidential file permitted by OAR 576-003-0040.

(4) Any evaluation received by telephone shall be documented in each of the faculty member's evaluation files by means of a written summary of the conversation with the names of the conversants identified.

(5) If Oregon State University solicits or accepts student survey evaluations of the classroom or laboratory performance of a faculty member, the survey evaluations shall be conducted anonymously. Reports tabulated from student evaluations shall be placed in the evaluation files defined in OAR 576-003-0040. Survey instruments from which evaluation data are obtained shall be delivered to the faculty member. No other evaluative material shall be accepted from students unless the students are first clearly informed that the faculty member will have access to such material and that the anonymity of the student cannot be preserved.

Stat. Auth.: ORS 351.065 & 351.070

Stats. Implemented: ORS 351.065

Hist.: OSU 1-2009(Temp), f. & cert. ef. 6-9-09 thru 12-4-09; OSU 5-2009, f. & cert. ef. 8-12-09

576-003-0080

Entry into File of Comments, Explanations, and Rebuttals

(1) The relevant Oregon State University officials shall, upon request, offer the faculty member opportunity to enter into the evaluation file a rebuttal, refutation, or explanation of any observations contained therein.

(2) On a faculty member's request, an appropriate faculty committee shall examine the faculty member's file to verify that all statements therein have been provided. If not, the committee shall require that the information be made available.

(3) On a faculty member's request, the faculty committee shall examine the confidential file to verify that it contains only those excised portions provided in OAR 576-003-0070. The committee shall have the authority to require that any other material be removed from the confidential file.

(4) A copy of the periodic, regular written evaluation of the faculty member containing or having attached to it a statement to the effect that the faculty member may discuss the evaluative statement with the evaluating administrator, shall be given the faculty member. A copy of the evaluative statement, signed by the faculty member signifying receipt of a copy thereof, shall be placed in the faculty member's evaluation file. The faculty member may enter into the evaluation file such comments, explanations, or rebuttals as desired. A copy of such comments, explanations or rebuttals made by the faculty member shall be attached to each copy of the evaluative statement retained by Oregon State University.

Stat. Auth.: ORS 351.065 & 351.070

Stats. Implemented: ORS 351.065

Hist.: OSU 1-2009(Temp), f. & cert. ef. 6-9-09 thru 12-4-09; OSU 5-2009, f. & cert. ef. 8-12-09

576-003-0090

Retention of Evaluative Materials Concerning Candidates for Possible Employment

(1) If an individual is not employed, it is expected that the evaluative materials brought together by the Oregon State university as it evaluates an individual's qualifications in connection with possible employment will be retained as long as may be necessary to respond to affirmative action investigations and investigations of any claimed violation of the civil rights of any person in connection with employment. Thereafter, they will be disposed of in a manner designed to assure confidentiality, in accordance with rules of the State Archivist.

(2) When federal rules or orders require certain personal records to be compiled before the employment of a faculty member and retained thereafter, such records pertaining to persons not employed that have been

obtained with the promise of confidentiality will be closed to all persons except as required by federal rules or orders.

Stat. Auth.: ORS 351.065 & 351.070

Stats. Implemented: ORS 351.065

Hist.: OSU 1-2009(Temp), f. & cert. ef. 6-9-09 thru 12-4-09; OSU 5-2009, f. & cert. ef. 8-12-09

576-003-0100

Availability to Faculty Members of Objective Information Concerning Categories of Staff

A faculty member who feels adversely affected by a personnel action or lack thereof may request from the appropriate OSU administrator objective or quantitative information contained in limited access files concerning personnel actions affecting categories of faculty members, where such actions appear to have relevance to the requesting faculty member. Such information may include, but is not limited to, assignment, load, and list of publications. Such information may not include any evaluative statements concerning other faculty members or the requesting faculty member if the faculty member is not otherwise entitled to the information.

Stat. Auth.: ORS 351.065 & 351.070

Stats. Implemented: ORS 351.065

Hist.: OSU 1-2009(Temp), f. & cert. ef. 6-9-09 thru 12-4-09; OSU 5-2009, f. & cert. ef. 8-12-09

576-003-0110

Availability of Faculty Records for Research Purposes

Oregon State University may make information about the faculty member available for research purposes, but shall adequately conceal the identity of the faculty member whose personal data or information are being included in the research. If the confidentiality of faculty records would be jeopardized in any way by the release of the information for research purposes, Oregon State University shall first obtain written consent of the faculty member prior to releasing personal information for research purposes.

Stat. Auth.: ORS 351.065 & 351.070

Stats. Implemented: ORS 351.065

Hist.: OSU 1-2009(Temp), f. & cert. ef. 6-9-09 thru 12-4-09; OSU 5-2009, f. & cert. ef. 8-12-09

576-003-0120

Permanence, Duplication, and Disposal of Faculty Records

(1) The individual faculty member's record shall be maintained only for the time required to serve the basic official functions of the office that generates and maintains it. It should then be disposed of in a manner designed to assure confidentiality.

(2) The permanent retention of faculty records shall be limited to those that the president or the State Archivist shall determine to be of long-range value to the faculty member, Oregon State University, or to the public. ORS 351.065 provides that access to personal records more than 25 years may not be limited.

(3) Duplication of faculty records shall be minimized. Duplicated records that are made shall be destroyed at a time to be determined and set forth in institutional rules and in such manner as to assure confidentiality in accordance with the rules of the State Archivist, or with the Archivist's approval.

Stat. Auth.: ORS 351.065 & 351.070

Stats. Implemented: ORS 351.065

Hist.: OSU 1-2009(Temp), f. & cert. ef. 6-9-09 thru 12-4-09; OSU 5-2009, f. & cert. ef. 8-12-09

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**Oregon University System,
Portland State University
Chapter 577**

Rule Caption: Amends Portland State University's Code of Student Conduct and Responsibility.

Adm. Order No.: PSU 3-2009

Filed with Sec. of State: 8-13-2009

Certified to be Effective: 9-28-09

Notice Publication Date: 7-1-2009

Rules Adopted: 577-031-0138, 577-031-0139, 577-031-0144

Rules Amended: 577-031-0125, 577-031-0130, 577-031-0131, 577-031-0132, 577-031-0133, 577-031-0135, 577-031-0136, 577-031-0137, 577-031-0140, 577-031-0141, 577-031-0142, 577-031-0143, 577-031-0145, 577-031-0146, 577-031-0147, 577-031-0148

Subject: The proposed amendments to Portland State University's procedural rules governing the university's Code of Student Conduct and responsibility are a result of the required review and revision of

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the Student Code of Conduct that takes place every three years. These revisions clarify definitions and jurisdiction, revise potential violations, clarify procedures for complaints arising in University Housing, clarify the emergency authority of the Dean of Students, and provide a schedule of fees. A copy of the Notice of Proposed Rulemaking, Statement of Need and Fiscal Impact and the text of the proposed rules can be found at <http://www.pdx.edu/fadm>.

Rules Coordinator: Diane S. Kirk — (503) 725-2656

577-031-0125

General Policy

(1) Portland State University seeks excellence in instruction, research, and public service. The University recognizes the intrinsic value of individual differences and diversity. The University supports the right of all people to live and learn in a safe and respectful environment that promotes the free and vigorous expression of ideas. Policies and procedures are designed to protect these freedoms and the fundamental rights of others. Students are expected to conduct themselves in a manner consistent with these principles.

(2) A student, Recognized Student Organization, or group of students whose conduct is determined incongruent with the standards of the University as described in this Code of Student Conduct and Responsibility ("Code") is subject to disciplinary action. The procedures for that action are generally educational in nature and are intended to lead to self-evaluation and accountability.

(3) The procedures of this Code consider each case individually and without prejudice.

(4) In addition to the regulations in this Code, all students must follow the academic and professional standards of all applicable academic units, departments, schools, and colleges.

(5) This Code becomes effective on September 28, 2009 and supersedes all other previous student conduct codes.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: PSU 1-1982, f. & ef. 4-22-82; PSU 1-1994, f. & cert. ef. 1-10-94; PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06; PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09

577-031-0130

Applicability

(1) This Code applies to any Student as defined in OAR 577-031-0131(17)

(2) This Code applies to any Recognized Student Organization as defined in OAR 577-031-0131(13) or other groups of Students.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: PSU 1-1982, f. & ef. 4-22-82; PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06; PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09

577-031-0131

Definitions

(1) The "Code" is this Code of Student Conduct and Responsibility, OAR chapter 577, division 31.

(2) A "Complainant" is any person submitting a written complaint to DOS alleging that a student(s), Recognized Student Organization or group has engaged in conduct proscribed by this Code.

(3) A "Complaint" is a Campus Public Safety Office Incident Report, Portland Police Bureau Report, Dean of Students Conduct Complaint Form, or Residence Life Incident Report.

(4) A "Conduct Record" includes, but is not limited to, incident reports, final reports, notification of allegation, disciplinary reports, informal discussion notes, formal hearing records and recommendations, decision statements, appeal records and decision, and related documentation and correspondence that may be covered by OAR 166-475-0110(38).

(5) A "Course Instructor" is any person employed by the University to conduct classroom activities or who has an official instructional function with the University.

(6) A "Day" is any business day in which the University is open. It does not include weekends, federal and state holidays or days in which the University is not open for business.

(7) The "Dean of Students" or "Dean" or "DOS" is the University Official holding this title. Any action required to be performed by the Dean under this Code may be performed by his or her designee.

(8) "Effective Consent" is a voluntary, non-coerced and mutually understandable communication indicating a willingness to participate in a particular act.

(9) A "Hearing Officer" is a University Official designated to adjudicate cases by the Senior Conduct Officer.

(10) A "Mental or physical impairment" is an impairment that causes a person to be unable to understand the situation, understand the consequences of his/her choices, or to express his/her desires. This may include, but is not limited to, being intoxicated, being under the influence of drugs, being unconscious, or other cognitive impairment

(11) A "Mental Disorder" is a diagnosable mental disease or disorder that limits a person's ability to make a knowing or voluntary decision.

(12) "Mental Incapacitation" is a condition that renders a person incapable of determining his or her own conduct at the time of the alleged offense because of the influence of a controlled or other intoxicating substance.

(13) A "Recognized Student Organization" is a group of five or more eligible students who have formed around a defined mission or purpose and who have been officially recognized by Student Activities and Leadership Programs or Campus Recreation.

(14) A "Respondent" is a Student who is alleged to have engaged in conduct proscribed by the Code.

(15) The "Senior Conduct Officer" is the University Official charged with the responsibility of administering the Code. Any action required to be performed under this Code by the Senior Conduct Officer may be performed by his or her designee.

(16) The "Student Conduct Committee" (the "Committee") is composed of faculty and staff appointed by the Faculty Senate of the University and students appointed by the President of the Associated Students of Portland State University.

(17) A "Student" is a person who: (a) is enrolled as a student and/or registered for one or more credit hours; (b) is enrolled in a special non-credit program approved by the University; or (c) was enrolled as a student within the last six months. A person who satisfies (a), (b), or (c) above is considered a "Student" for purposes of the Code as of the date that the person first submitted an application for admission, financial aid or any other service provided by the University that requires student status.

(18) A "University Official" is any person performing assigned administrative or professional responsibilities on behalf of the University.

(19) The "University Premises" are all lands, buildings, facilities, and other property owned, in the possession of, used, or controlled by the University.

(20) A "University Sponsored Activity" is any program or event hosted by a department, program, organization, or individual representing the University. Such activities include, but are not limited to, field trips, athletic events, education abroad, University exchange programs, and student organization-hosted programs or events.

(21) The "University" is Portland State University, or any part, program, department, or division within Portland State University.

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 1-2006, f. & cert. ef. 3-10-06; PSU 3-2006, f. & cert. ef. 7-21-06; PSU 4-2006, f. & cert. ef. 8-22-06; PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09

577-031-0132

General Statement of Authority

(1) The Senior Conduct Officer will maintain overall responsibility for developing and implementing policies for the administration of the Code and procedural rules for the conduct of hearings that are consistent with provisions of the Code and applicable law.

(2) The Senior Conduct Officer will review all complaints received by the Office of the Dean of Students, determine if they are reasonable, and assign them to the appropriate hearing body or University Official for adjudication.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06; PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09

577-031-0133

Jurisdiction

(1) The provisions of OAR 577-031-0135 and 577-031-0136 apply to all students and activities on University Premises; during any University Sponsored Activity regardless of location; and to off-campus conduct that has a rational nexus to the University and/or the pursuit of its objectives or that poses a potential threat to the University or any person associated with the University or substantially impacts any person's ability to continue their University-related pursuits. Questions regarding jurisdiction will be resolved by the Senior Conduct Officer.

(2) Students participating in co-admission programs between Portland State University and other institutions will be accountable to conduct

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standards at Portland State University regardless of the standards applicable at the other institution and whether the other institution is or is not pursuing charges.

(3) Allegations of certain behavior may be adjudicated within the University's administrative conduct program as outlined in this Code as well as within any off-campus criminal justice system. Adjudication of allegations of student misconduct will occur expeditiously without regard to the status of any off-campus adjudication.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06; PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09

577-031-0135

Proscribed Conduct by the State Board of Higher Education

The following constitutes conduct as proscribed by the State Board of Higher Education for which a student or Recognized Student Organization or group is subject to disciplinary action:

(1) Obstruction or disruption of teaching, research, administration, disciplinary procedures or other University activities, including the University's public service functions or other authorized activities on University-owned or -controlled property.

(2) Obstruction or disruption interfering with freedom of movement, either pedestrian or vehicular, on University-owned or -controlled property.

(3) Possession or use of firearms, explosives, dangerous chemicals, or other dangerous weapons or instrumentalities on University-owned or -controlled property, unless expressly authorized by law, Board or PSU rules (for purposes of this section, absence of criminal penalties shall not be considered express authorization).

(4) Detention or physical abuse of any person or conduct which is intended to threaten imminent bodily harm or endanger the health of any person on University-owned or -controlled property.

(5) Malicious damage, misuse or theft of University property, or the property of any other person where such property is located on University-owned or controlled property, or, regardless of location, is in the care, custody or control of the University.

(6) Refusal by any person while on University property to comply with an order of the President of the University, or appropriate authorized official or officials, to leave such premises because of conduct proscribed by the Code, when such conduct constitutes a danger to personal safety, property, or other appropriate University activities on such premises.

(7) Unauthorized entry to or use of University facilities, including buildings and grounds.

(8) Illegal use, possession or distribution of drugs on University-owned or -controlled property.

(9) Inciting others to engage in any of the conduct or to perform any of the acts prohibited in this Code. Inciting means that advocacy of proscribed conduct that calls upon the person or persons addressed for imminent action, and is coupled with a reasonable apprehension of imminent danger to the functions and purposes of the University, including the safety of persons, and the protection of its property.

(10) Violating the State Board of Higher Education's Policy for Intercollegiate Athletics as described in Section 8 of its Internal Management Directives, specifically including the subsection entitled Code of Ethics.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: PSU 1-1982, f. & ef. 4-22-82; PSU 1-1994, f. & cert. ef. 1-10-94; PSU 3-1994, f. & cert. ef. 10-26-94; PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06; PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09

577-031-0136

Proscribed Conduct by Portland State University

The following constitutes conduct proscribed by Portland State University for which a student or Recognized Student Organization or group is subject to disciplinary action:

(1) Academic dishonesty. Academic dishonesty is the act of knowingly or intentionally seeking to claim credit for the work or effort of another person or participation in such acts. This includes, but is not limited to: (a) cheating, (b) fraud, (c) plagiarism, such as word for word copying, using borrowed words or phrases from original text into new patterns without attribution, or paraphrasing another writer's ideas; (d) The buying or selling of all or any portion of course assignments and research papers; (e) Performing academic assignments (including tests and examinations) for other persons; (f) Unauthorized disclosure or receipt of academic information; (g) Falsification of research data; and (h) Unauthorized collaboration.

(2) Academic negligence. Academic negligence is unknowingly or unintentionally claiming credit for the work or effort of another person.

(3) Furnishing false or misleading information to the University, including but not limited to knowingly failing to provide required information to the University or misrepresenting a person's identity to a Course Instructor or University Official.

(4) Forgery, alteration or unauthorized use of University documents, records, identification or resources.

(5) Behavior that constitutes a possible threat to the health or safety of self or others.

(6) Stalking. Stalking is repeatedly contacting another person without a legitimate purpose when: (a) The contacting person knows or should know that the contact is unwanted by the other person; and (b) It is reasonable for the person in that situation to have been alarmed or coerced by the contact. As used in this subsection, "contacting" includes but is not limited to coming into the visual or physical presence of the other person; following another person; or sending written, electronic or telephonic communication of any form to the other person, personally or through a third party.

(7) Harassment. Harassment is a course of conduct directed at a specific individual or individuals that causes or is intended to cause significant emotional distress and serves no legitimate purpose.

(8) Sexual harassment. Sexual harassment is unwanted or unwelcome sexual advances or requests for sexual favors and other verbal or physical conduct of a sexual nature where:

(a) Submission or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's employment or participation in a University Sponsored Activity;

(b) Submission to or rejection of such conduct by an individual is used as a basis for academic or employment decisions affecting the individual; or (c) such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance, or of creating an intimidating, hostile or offensive educational or working environment.

(9) Sexual misconduct. Sexual misconduct is sexual conduct, or the threat of such conduct, that is predatory in nature and that a reasonable person in the circumstances would consider offensive or likely to be harmful to others. Sexual misconduct may include, but is not limited to, the exposure of one's sexual organs or the display of sexual behavior.

(10) Sexual assault. Sexual assault is defined as unwanted sexual contact of any kind or threat of such contact or attempt to engage in such conduct. Sexual contact includes vaginal, oral or anal sex, touching the intimate parts of another person, or causing a person to touch the intimate parts of another person. Sexual conduct is "unwanted" if no Effective Consent is given or if the student knew or should have known that the person was incapable of giving Effective Consent by reason of mental or physical impairment, mental disorder, or mental incapacity.

(11) Tampering with the election of any student, Recognized Student Organization or group.

(12) Hazing. Hazing is conduct which subjects a person to bodily danger, or physical, mental, or emotional harm, or to the likelihood of bodily danger or physical, mental, or emotional harm, or requiring, authorizing or permitting that the person be subjected to such conduct or act, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a student group or organization. The real or alleged participation in, consent to, or acquiescence in such conduct by a person subjected to hazing does not relieve an individual or group from responsibility for violating the Code.

(13) Violation of the University Alcohol and Other Drugs Policy or possession or consumption of alcohol beverages by persons under 21 years of age, or furnishing of alcoholic beverages to persons under 21 years, on University Premises or at University sponsored or supervised activities.

(14) Smoking in unauthorized areas.

(15) Public indecency, such as exposing the intimate parts while in a public place or a place visible from a public place.

(16) Failure to comply with a University Official's requests. Students and Recognized Student Organizations and groups are expected to comply with and respond appropriately to the lawful requests of University Officials made in the performance of their duties.

(17) Engaging in conduct that is contrary to any federal or state law or city or local ordinance when such violation interferes with, or is detrimental to, the mission of the University or interferes with other students' legitimate educational activities and interests. University disciplinary proceedings may be instituted against a student charged with conduct that potentially violates both the law and this Code without regard to the pending civil or criminal litigation or criminal arrest and prosecution. Determinations made or sanctions imposed under this Code are not subject to change merely because criminal charges arising out of the same facts are dismissed, reduced, or resolved in favor of or against an individual.

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(18) Violation of any University rule, policy or Internal Management Directive (IMD), including but not limited to: Standards of Residence, PSU Housing Handbook, University Housing Office contracts, University Key Policy, and the University Computer and Acceptable Use Policy.

(19) Conviction of a felony or misdemeanor under circumstances where it is reasonable to conclude that the presence of the person at the University would constitute a danger to health, personal safety, or property.

(20) A violation of any sanctions imposed as a result of previous disciplinary proceedings under the Code.

(21) Abuse of the University conduct program as outlined in this Code, including but not limited to: (a) falsification, distortion or misrepresentation of information before any conduct body; (b) knowingly initiating any conduct proceedings without cause; (c) attempting to discourage an individual's participation in, or use of, any conduct system; or (d) influencing or attempting to influence another person to commit an abuse of any conduct system.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06; PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09

577-031-0137

Procedures for Complaints Against Recognized Student Organizations

(1) Complaints submitted to the Office of the Dean of Students (DOS) against a Recognized Student Organization may be referred to a Hearing Officer of the department or unit to which the group is most closely affiliated. The Hearing Officer will follow the procedures of the department or unit to which the complaint is referred.

(2) The president, principal officer, contact person(s), or other students designated by the Recognized Student Organization to act on behalf of the organization shall be given reasonable notice of the charges and be afforded all procedural rights in accordance with the provisions of this Code. The president, principal officer, contact person(s), or group agent shall be required to represent the group at all applicable stages of the judicial program. Failure to cooperate or appear and represent the organization will not delay the disposition of the matter.

Stat. Auth.: ORS 351.070

Stats. Implemented:

Hist.: PSU 1-1994, f. & cert. ef. 1-10-94; PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06; PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09

577-031-0138

Procedures for Complaints Against Students in University Housing

(1) Complaints alleging only a violation of the Housing Handbook will generally be heard by a Hearing Officer within Residence Life.

(2) The Hearing Officer will follow the procedures outlined in the Housing Handbook.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09

577-031-0139

Procedures for Emergency Action

(1) If the Dean of Students determines that a Student presents a significant risk of substantial harm to the health or safety of the Student or others, then the Dean may take such emergency action as is necessary to address the risk. Emergency action may include, but is not limited to:

(a) Immediate suspension of the Student;

(b) Exclusion from University Premises or any portion thereof; (c) loss of any of the privileges of being a Student;

(d) Mandating completion by the Student of an assessment by a qualified professional and compliance with the recommendations of the professional; or

(e) Any other action determined by the Dean to be reasonable due to the circumstances.

(2) All incidents in which emergency action is taken will be forwarded to the Senior Conduct Officer and follow the procedures outlined in OAR 577-031-0140. The emergency action will remain in effect until a final decision has been made about the Respondent. All incidents in which emergency action has been taken will be adjudicated as quickly as possible.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09

577-031-0140

Procedures for Complaints Against Individuals

(1) Any person may submit a written complaint to DOS alleging that a student(s) or Recognized Student Organization or group has engaged in conduct proscribed by this Code. Any charge should be submitted as soon

as possible after the event takes place, preferably within fourteen days of the event. The process cannot begin until the written complaint has been received.

(2) The Senior Conduct Officer will review all complaints received by the Office of the Dean of Students to determine if the complaint is reasonable. If the Senior Conduct Officer determines that there are not reasonable grounds for the complaint, the complaint will be dismissed and no record will be kept. If there are reasonable grounds for the complaint the process will proceed as outlined below.

(3) Within a reasonable time from the receipt of a complaint, the Senior Conduct Officer will send written notice to the Respondent(s) (with reference to the specific section of this Code allegedly violated). This notice will advise the Respondent of the allegations and request a meeting to investigate the matter. If the Respondent fails to attend the initial meeting, the complaint will be adjudicated and the Respondent will be sent written notice of the outcome.

(4) During the initial meeting, the Senior Conduct Officer will review the complaint with the Respondent and determine which hearing body will hear the complaint.

(5) If the Senior Conduct Officer hears the case, the Respondent will be given an opportunity to explain the alleged behavior and will be informed of the information supporting the charge. All hearings are closed and information presented and supporting documents are confidential except as required by law. The hearing is informal and does not follow administrative contested case or courtroom procedures.

(a) If the Respondent fails to attend the meeting, the Senior Conduct Officer will decide the matter in the Respondent's absence. Failure to cooperate or appear will not delay the disposition of the matter.

(b) The Respondent may bring up to two (2) third party advisors of his/her choice to the hearing as long as the availability of the advisor does not interfere with the timeliness of the hearing. The Respondent will be expected to speak for him or her self at all times and may only use the advisor for consultation or support. The Respondent may elect to have an attorney serve as an advisor. The Respondent must notify the Office of the Dean of Students at least 24 hours prior to the scheduled meeting if his or her attorney will be present. The University assumes no responsibility for any costs associated with such representation.

(c) The Respondent has the opportunity to offer information on his or her behalf and to review and respond to all information presented.

(d) The Senior Conduct Officer may ask questions of any person present during the hearing. The Senior Conduct Officer may invite questions and comments from advisors or others present.

(e) If the Senior Conduct Officer decides an essential person or piece of information is missing, the Senior Conduct Officer may decide to reconvene the hearing at the earliest practical time that the missing information will be available.

(f) The Senior Conduct Officer will determine, based upon a preponderance of the evidence (which means whether something is "more likely than not"), whether a Code violation exists. Once that determination is made, the Senior Conduct Officer will send written notice to the Respondent articulating the determination of responsible or not for the alleged violation(s), subsequent sanction(s), if any are imposed, and information about the Appeal Process.

(6) If the Student Conduct Committee (the Committee) hears the case, the Committee Chairperson facilitates the hearing procedures and has voting power in the case of a tie. The Senior Conduct Officer serves as an ex-officio consultant and ensures administrative support of the process. All Committee hearings are closed and information presented and supporting documents are confidential except as required by law. The hearing is informal and does not follow administrative contested case or courtroom procedures.

(a) If the Respondent fails to attend the meeting, the Committee will proceed with the hearing in the Respondent's absence. Failure to cooperate or appear will not delay the disposition of the matter.

(b) The Respondent may bring up to two (2) third party advisors of his/her choice to the hearing as long as the availability of the advisor does not interfere with the timeliness of the hearing. The Respondent will be expected to speak for him or her self at all times and may only use the advisor for consultation or support. The Respondent may elect to have an attorney serve as an advisor. The Respondent must notify the Office of the Dean of Students at least 24 hours prior to the scheduled meeting if his or her attorney will be present. The University assumes no responsibility for any costs associated with such representation.

(c) The Respondent has the opportunity to offer information on his or her behalf and to review and respond to all information presented.

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(d) Members of the Committee may ask questions of any person present during the hearing. The Chairperson may invite questions and comments from advisors or others present. If the Chairperson decides an essential person or piece of information is missing, the Chairperson may decide to reconvene the hearing at the earliest practical time that the missing information will be available.

(e) After the Chairperson has determined that all the necessary information has been presented and questions answered, the Committee goes into executive session and all persons are excused. The Committee is to determine, based on a preponderance of evidence (which means whether something is "more likely than not"), whether a Code violation exists, and, if so, what sanctions are to be imposed. Once that determination is made, the Committee will send written notice to the Respondent articulating the determination of responsible or not for the alleged violation(s), subsequent sanction(s), if any are imposed, and information about the Appeal Process.

(7) The hearing process will make an effort to consider the rights and needs of the Complainant in decisions related to sanctions such as restitution.

(8) Appeals of the decision of the Senior Conduct Officer or of the Committee must follow the process outlined in OAR 577-031-0144. If no appeal is filed, sanctions will take effect upon expiration of the time period allocated for appeal. If an appeal is filed, the imposition of sanctions are stayed pending resolution of the appeal.

(9) Except as limited by the Dean pursuant to OAR 577-031-0139, the Respondent is entitled to all rights and privileges of a student in good standing pending resolution of the matter.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: PSU 1-1982, f. & ef. 4-22-82; PSU 4-1987, f. 9-30-87, ef. 10-1-87; PSU 2-1988(Temp), f. & cert. ef. 3-15-88; PSU 4-1988, f. & cert. ef. 6-16-88; PSU 1-1994, f. & cert. ef. 1-10-94; PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06; PSU 1-2007, f. & cert. ef. 1-5-07; PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09

577-031-0141

Procedures for Matters involving Allegations of Sexual Offenses

As required by the Jeanne Cleary Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 USC 1092(f), if a Complaint alleges facts that would, if proven, constitute a sex offense for purposes of the Cleary Act, then:

(1) The Complainant may be present during the proceedings (including any appeal) and is entitled to the same opportunities as provided to the Respondent to have other present during the proceedings; and

(2) the Complainant is to be informed of the final determination with respect to the alleged offense and any sanction imposed against the Respondent.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06; PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09

577-031-0142

Procedures for Complaints of Academic Dishonesty

(1) Course Instructors have the primary responsibility and purview to respond to academic dishonesty with students enrolled in their respective courses. Course Instructors may issue a zero or a failing grade for the assignment for which the dishonesty was found. Course Instructors may not issue a failing grade for the course unless a failing grade on the assignment in question results in a failing grade for the course, per the syllabus. Instructors may not disenroll a student from a course.

(2) Departments, programs, colleges, or schools may also address academic dishonesty in accordance with their respective policies and procedures. These entities are limited to the following academic sanctions:

(a) Issuing a zero or a failing grade for the assignment for which the dishonesty was found; or

(b) Suspension or Expulsion from the department, program, college or school per the process proscribed by the respective entity.

(3) Any person may submit a written complaint to DOS alleging that a student(s) has engaged in academic dishonesty. Any charge should be submitted as soon as possible after the activity takes place, preferably within fourteen days of such activity.

(4) If the complaint is submitted by anyone other than the Course Instructor, the complaint is also referred to the Course Instructor in which the alleged academic dishonesty occurred.

(5) Faculty submitting a complaint alleging academic dishonesty will be notified of the outcome of this complaint upon request.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06; PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09

577-031-0143

Appeals

(1) Appeals from the decision of the Senior Conduct Officer or the Committee shall be made to the Vice Provost for Student Affairs, whose decision is final.

(2) Appeals must be in writing and filed with the Vice Provost for Student Affairs within ten (10) working days following the date of the letter notifying the Respondent of the outcome of the hearing.

(3) The request for an appeal must include specific justification, such as: errors, failure to consider all of the evidence presented, or any other action, including any new evidence not known at the time of the original hearing, which denied the student a fair hearing.

(4) During the appeal hearing, the Respondent may bring up to two (2) third party advisors of his/her choice as long as the availability of the advisor does not interfere with the timeliness of the hearing. The Respondent will be expected to speak for himself or herself at the hearing. The Respondent may elect to have an attorney serve as an advisor. The Respondent must notify the Vice Provost of Student Affairs at least 24 hours prior to the scheduled meeting if his or her attorney will be present. The University assumes no responsibility for any costs associated with such representation.

(5) The Vice Provost of Student Affairs may dismiss the appeal if the Respondent fails to appear at the appeal hearing.

(6) During the appeal hearing:

(a) The Senior Conduct Officer or the Chair of the Committee will have the opportunity to offer information and to review and respond to all information presented.

(b) The Respondent will have the opportunity to offer information and to review and respond to all information presented.

(c) The Vice Provost of Student Affairs may ask questions of any person present during the hearing. The Vice Provost of Student Affairs may invite questions and comments from advisors or others present. No person other than the Vice Provost for Student Affairs may ask questions of persons present at the hearing.

(d) If the Vice Provost of Student Affairs decides an essential person or piece of information is missing, the Vice Provost of Student Affairs may decide to reconvene the hearing at the earliest practical time that the missing information will be available.

(7) After the Vice Provost of Student Affairs has determined that all the necessary information has been presented and questions answered, the appeal hearing will be closed. The Vice Provost of Student Affairs will determine, based on a preponderance of evidence, whether or not the appeal is warranted, and, if so, what subsequent actions may be appropriate.

(8) The Vice Provost of Student Affairs' decision will be in writing to the student with copies to the Senior Conduct Officer and/or Chair of the Committee.

(9) Pending resolution of an appeal, the student is entitled to all rights and privileges of a student in good standing except as provided in OAR 577-031-0139.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06; PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09

577-031-0144

Fees

(1) A Student or Recognized Student Organization or group that has been determined to have violated the Code will be assessed a fee as provided in this rule. In incidents involving more than one violation, a fee will be assessed for the highest level offense only.

(2) The amount of the fee will be determined by the nature of the offense, as follows:

(a) For a Low Level Offense, the first violation will result in a \$10 fee, a second violation of the same or similar nature will result in a \$20 fee, and the fee will increase by an additional \$10 for each subsequent violation of the same or similar nature.

(b) For a Mid Level Offense, the first violation will result in a \$20 fee, a second violation of the same or similar nature will result in a \$40 fee, and the fee will increase by an additional \$20 for each subsequent violation of the same or similar nature.

(c) For a High Level Offense, the first violation will result in a \$75 fee, a second violation of the same or similar nature will result in a \$100 fee, and the fee will increase by an additional \$25 for each subsequent violation of the same or similar nature.

(d) For a Drug or Alcohol Offense, the first violation will result in a \$50 fee, a second violation of the same or similar nature will result in a \$75

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fee, and the fee will increase by an additional \$25 for each subsequent violation of the same or similar nature.

(3) The following definitions apply to this rule:

(a) A "Low Level Offense" is any of the following:

(A) any violation of the Housing Handbook that is not a High Level Offense or a Drug or Alcohol Offense, unless the offense endangered the health or safety of the Student or others,

(B) Academic Negligence; or

(C) A violation based solely on the use of University computer resources that is alleged to have violated intellectual property rights.

(b) A "Mid Level Offense" is any offense that is not a Low Level Offense, High Level Offense or Drug or Alcohol Offense.

(c) A "High Level Offense" is any of the following: (i) any offense that involved firearms or weapons, (ii) any offense that resulted in physical injury to another, (iii) Sexual Misconduct, (iv) Sexual Assault, (v) Hazing, or (vi) any offense in which the sanction imposed includes suspension, expulsion or negative notation on transcript.

(d) A "Drug or Alcohol Offense" is any offense, that is not a High Level Offense, that included the use or possession of drugs or alcohol in violation of the Code.

(4) The Senior Conduct Officer may waive the imposition of a fee in unique and compelling circumstances.

(5) All fees will be assessed to the University account of the responsible Student or Recognized Student Organization or group.

Stat. Auth.: ORS 351

Stats. Implemented:

Hist.: PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09

577-031-0145

Sanctions

Students or student groups and organizations whose behavior violates this Code may be subject to one or more sanctions, including, but not limited to:

(1) Mediation. Participation in a facilitated discussion with the Complainant.

(2) Assessments. Completion of an evaluation(s) and following the recommendations of a qualified professional for treatment and/or education.

(3) Restitution. Those responsible may be required to make monetary restitution, return any stolen or misappropriated property, or provide services to the University or a member of the University community in accordance with the nature of the violation and in an amount not to exceed the actual expenses, damages, or losses incurred.

(4) Educational Assignment. Complete specific assignments or render a designated number of hours of specified service to the University or the community.

(5) Reprimand. Written notice that the conduct in which the student(s) engaged is inconsistent with the requirements of the Code and that the student is reprimanded for that conduct. Such notice will also indicate that future violations of the Code may result in the imposition of additional sanctions.

(6) Disciplinary Probation. Constitutes a period of time during which additional violations of the Code will result in sanctions of increased severity. Upon expiration of the period of probation and fulfillment of other sanctions imposed, if any, the student's disciplinary probation will be lifted.

(7) Social Probation. Establishes a fixed period of time, not less than one term, in which a student/organization may not be permitted to represent the University or participate in any University, extracurricular, athletic, or other activities. The specifics of the social probation will vary based upon the violation and the individual student's/organization's circumstances. For example, a student may be restricted and allowed to participate only in activities directly related to academic pursuits and only be permitted to enter buildings necessary for the completion of academic requirements. Students/organizations on social probation may be restricted from attending or purchasing tickets for certain events sponsored by the University including, but not limited to, athletic events, concerts, SALP programs, intramurals, off-campus trips, etc.

(8) No Contact. An order of "no contact" with another student, faculty member, staff or University Official. In this case, students may be required to organize their on-campus activities in order to avoid contact with designated individuals.

(9) Registration Hold. Students who do not complete assigned sanctions within the time provided may be prevented from registering for classes until completion of those sanctions.

(10) Exclusion from the University Premises or any portion thereof.

(11) Suspension. Loss of the right to be a student at the University for a specific period of time. Suspended students are not eligible for the privileges and services provided to currently enrolled students, including but not limited to residing in University-owned student housing, registering, attending class, or using other University services or facilities. The suspension may be specified for any length of time. (a) If a student is suspended, fees will be refunded in accordance with the refund schedule adopted by the Oregon State Board of Higher Education. (b) The conditions of suspension take effect immediately after the student has been informed of the decision and the time limit for an appeal has expired. If an appeal is filed, the imposition of the suspension will be stayed until the conclusion of the appeal process. If the pending conduct hearing or appeal may result in suspension, award of the academic degree sought will be postponed pending the outcome of the hearing. (c) Upon expiration of the period of suspension the student must submit in writing to the Senior Conduct Officer a request for the suspension to be lifted. The request should include a description of the student's activities since the suspension went into effect. If the Senior Conduct Officer certifies that all the terms of the suspension have been met and the suspension lifted, the student may register for courses through the regular process, contingent on the completion and/or satisfaction of all sanctions and satisfaction of general admission and registration requirements. (d) A notation of "Disciplinary Suspension" is entered on the student's transcript for the duration of the suspension. After the suspension period is complete and all other conditions, if any, have been satisfied, the Senior Conduct Officer will notify the Registrar's Office to lift the Registration Hold, and the notation will be removed from the transcript.

(12) Negative Notation on Transcript. Entry of information onto the student's permanent academic record regarding his or her violation of the Code and subsequent sanction. The entry may be permanent or temporary. If the notation is temporary, after the expiration of the period of time specified, the notation will be removed upon written request by the student to DOS. If the notation is permanent, "Permanent Negative Notation" on transcript will remain on the Respondent's transcript indefinitely.

(13) Expulsion. Permanent suspension from the University. A permanent notation is entered on the transcript: "Permanently expelled for [conduct or academic dishonesty] effective [date]."

(14) Degree Revocation. A former student may have his/her degree revoked if the student is found to have engaged in conduct leading to a degree that, if known at the time the degree was awarded, would have made the student unqualified for the program or degree.

Stat. Auth.: OR 351

Stats. Implemented:

Hist.: PSU 1-1982, f. & ef. 4-22-82; PSU 4-1987, f. 9-30-87, ef. 10-1-87; PSU 1-1994, f. & cert. ef. 1-10-94; PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06; PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09

577-031-0146

Types of Sanctions for Recognized Student Organization or Group Conduct

A Recognized Student Organization or group is subject to the appropriate disciplinary sanctions outlined in OAR 577-031-0145, including the temporary or permanent suspension of the organization or group's official University recognition.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06; PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09

577-031-0147

Records

(1) All complaints involve the creation of a conduct record for the student or organization or group alleged to have violated the Code. These records are confidential and accessible only to the Respondent and appropriate University Officials and other entities as required by law.

(2) An Expulsion will be permanently noted in a student's general academic record maintained by the Office of Admissions, Records and Registration by means of a notation, which indicates the reason for the action. The student may include in the record a response to the action taken by the University.

(3) A Suspension will be noted in a student's general academic record maintained by the Office of Admissions, Records and Registration by means of a notation, which indicates the reason for the action until the Suspension is lifted.

(4) All files and records are kept in accordance with OAR 166-475-0110 (38).

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06; PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09

ADMINISTRATIVE RULES

577-031-0148

Interpretation and Revision

(1) Any question of interpretation regarding the Code must be referred to the Vice Provost for Student Affairs or his/her designee for final determination.

(2) The Code should be reviewed every five years or as needed.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Hist.: PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06; PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09

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Rule Caption: Amends Portland State University's Parking Rules and Regulations.

Adm. Order No.: PSU 4-2009

Filed with Sec. of State: 8-13-2009

Certified to be Effective: 9-15-09

Notice Publication Date: 7-1-2009

Rules Amended: 577-070-0005, 577-070-0010, 577-070-0015, 577-070-0020, 577-070-0025, 577-070-0030, 577-070-0035, 577-070-0040, 577-070-0045, 577-070-0050

Subject: The proposed amendments to Portland State University's procedural rules governing the University's Parking Rules and Regulations are of a housekeeping nature. A copy of the Notice of Proposed Rulemaking, Statement of Need and Fiscal Impact and the text of the proposed rules can be found at <http://www.pdx.edu/fadm>.

Rules Coordinator: Diane S. Kirk—(503) 725-2656

577-070-0005

Declaration of Purpose

(1) In order to facilitate the operation and management of parking structures, parking lots and areas of the University accessible by vehicle, the following rules and regulations are hereby established and are enforceable under authority provided by ORS 352.360.

(2) All motor vehicle laws of the State of Oregon including specifically, but not limited by, ORS Chapters 481, 482, 483, 484, and 486, together with amendments hereafter adopted, are applicable to the campus of Portland State University to the same extent as if this campus and its streets were public highways, and all provisions of said motor vehicle laws are applicable and enforceable. State motor vehicle laws shall apply should any of these parking rules and regulations be found inconsistent and incompatible.

(3) Portland State University, through the President and other administrative officers designated by him or her, is hereby authorized to place these rules and regulations into effect and to provide for the enforcement thereof through the hiring, appointment and management of university employees.

Stat. Auth.: ORS 351 & 352

Stats. Implemented:

Hist.: PSU 6(Temp), f. & ef. 8-13-76; PSU 9, f. & ef. 11-2-76; PSU 5-1978, f. 7-18-78; PSU 2-1979, f. & ef. 9-17-79; PSU 1-1980, f. 7-30-80, ef. 8-1-80; PSU 1-1981, f. 7-28-81, ef. 8-1-81; PSU 2-1982, f. 7-30-82, ef. 8-1-82; PSU 6-1988, f. 9-6-88, cert. ef. 9-1-88; PSU 1-2003, f. 6-25-03, cert. ef. 7-1-03; PSU 2-2007, f. & cert. ef. 1-5-07; PSU 4-2009, f. 8-13-09, cert. ef. 9-15-09

577-070-0010

Use Restrictions

The parking structures and parking lots owned or leased by PSU are for the use of faculty, staff, students, tenants, guests and visitors of the State System of Higher Education; parking by all persons is subject to availability of parking spaces and the policies as established by the administration of Portland State University. All persons who park in University-owned or leased parking lots, structures, street access areas, other no parking zones, or all other campus areas must obtain and display a valid PSU parking permit for the space or area where the vehicle is parked. Vehicles cited for failure to display such permits are subject to penalties as assessed by the University. PSU reserves the right to enforce all campus areas at all times.

Stat. Auth.: ORS 351 & 352

Stats. Implemented:

Hist.: PSU 6(Temp), f. & ef. 8-13-76; PSU 9, f. & ef. 11-2-76; PSU 5-1978, f. 7-18-78; PSU 2-1979, f. & ef. 9-17-79; PSU 1-1980, f. 7-30-80, ef. 8-1-80; PSU 1-1981, f. 7-28-81, ef. 8-1-81; PSU 2-1982, f. 7-30-82, ef. 8-1-82; PSU 6-1988, f. 9-6-88, cert. ef. 9-1-88; PSU 1-2000, f. 5-10-00, cert. ef. 6-19-00; PSU 1-2003, f. 6-25-03, cert. ef. 7-1-03; PSU 2-2007, f. & cert. ef. 1-5-07; PSU 4-2009, f. 8-13-09, cert. ef. 9-15-09

577-070-0015

Permits and Fees

(1) Permits: Valid PSU parking permits are required to park in any non-assigned parking space in University parking facilities during days and

times designated at the facility, except on legal holidays when the University is closed. To be eligible for a permit lasting more than seven (7) calendar days, applicants must provide PSU Transportation and Parking Services (TAPS) with their vehicle license number (or VIN# in lieu), make, color and year of the vehicle(s) on which the permit(s) will be displayed. Applicants registering vehicles with TAPS may be required to provide proof of registration or leasing of the vehicle by Applicant, or member's of Applicants' immediate family. Professors emeriti may receive, upon written confirmation from the Office of Academic Affairs, a complimentary parking permit. Student applicants desiring PSU parking permits must meet the housing and credit requirements designated by TAPS for the parking permit which they are purchasing. All permit holders must maintain their eligibility requirements throughout the term or surrender their permit for applicable permit exchange and, if applicable, monetary adjustment within ten (10) calendar days of becoming ineligible for the permit, whether or not notice was provided to the student. Failure to surrender the permit will result in the permit being deemed invalid, and vehicles displaying the permit will be subject to parking citations for misuse of permit. Applicants may be required to pay for all outstanding fines, prior to purchasing a permit.

(2) PSU parking permits are valid only when purchased from or approved by PSU TAPS. Permits are to be displayed in a manner prescribed by TAPS. Permits which are static cling or stickers are to be adhered inside of vehicle, on the lower left rear window or driver's front left side window. Motorcycle permits are to be displayed in a conspicuous place. Hangtag permits are to be hung on rear view mirror facing toward front windshield, and clearly visible through the windshield or taped to the lower left rear window.

(3) Except in the case of carpool and reserved space permits, only one physical permit is issued.

(4) Institutional University accounts may not be charged for permits or spaces issued to PSU paid employees or PSU students, but may be charged for permits or spaces for guests or volunteers not paid by the university or for PSU owned or leased vehicles.

(5) The following types of parking permits have additional restrictions:

(a) Reserved Space permits allow authorized vehicles or users to park from 6:00 a.m. to 6:00 p.m., Monday through Saturday in their assigned reserved space, unless otherwise posted.

(b) Carpool permits allow one vehicle at any time from a carpool registered with TAPS to park in one of the preferred carpool parking spaces on campus. If the carpool spaces are full, carpool permit holders may park in non-assigned, general permit parking spaces. A carpool shall be defined as two (2) or more University staff, faculty, or full-time students, who have compatible schedules, allowing the individuals to ride together a minimum of three (3) days per week. Individuals who carpool must come into the Transportation and Parking Services office together to sign a carpool agreement and receive their carpool permit.

(c) Motorcycle permits allow motorcycles, power scooters and mopeds to be parked at any time in areas designated as "Motorcycle Parking". This excludes spaces identified as bicycle parking or pedestrian areas.

(d) Guest and Event parking permits may be made available if the issuance of the guest and event parking permit does not displace a University permit holder who has purchased permits under section one (1) of OAR 577-070-0015. Special event parking requires a PSU parking permit designed and/or approved by TAPS. Parking availability will be the decision of the Manager of Transportation and Parking Services, or designated staff. Some events will require written agreement with regard to permit distribution, fees, and related considerations.

(e) Student Housing permits are available to those individuals with proof of on campus student residency, and may require registration at the University for at least one (1) credit hour.

(f) Tenant parking permits are provided at the discretion of the Manager of Transportation and Parking Services or designated employee or through the tenant's lease terms.

(g) Service, Contractor and Loading Zone permits are available to individuals and companies working on PSU campus and allow vehicles to park in any non-assigned parking space in non-restricted lots or designated areas. Parking in reserved spaces, restricted lots or no parking areas must be approved by the Manager or designated employee of TAPS. Permits arranged through PSU Facilities and Planning require appropriate project accounting codes identified at the time the permit is issued and submitted to TAPS.

(h) Departmental Service permits may be requested by departments at no charge to be used by faculty and staff parking permit holders for loading and unloading in no parking zones for up to 30 minutes.

ADMINISTRATIVE RULES

(6) Commercial Delivery vehicles may use any designated loading zone for the time allowed in that space noted through signage, while conducting business with the University without a permit.

(7) Lost and Stolen permits:

(a) Permits, which are lost or stolen, must be reported immediately to TAPS. Permits will be replaced (see rule 577-070-0020) only if the person to whom the permit was originally issued signs a lost/stolen permit form. In order for the stolen permit fee to be waived, a report must first be filed with the Campus Public Safety Office stating that permit was stolen on PSU owned or leased property.

(b) Any car appearing on campus with a permit listed as lost or stolen with TAPS may be booted or towed immediately upon discovery, and will be subject to fines listed in rule 577-060-0020(002). Possession of a lost or stolen permit could be grounds for criminal charges and, if applicable, University disciplinary action. Drivers of cars bearing a stolen or lost permit will also be charged for the entire value of the permit from the date that it was originally designated as stolen or lost.

(8) Forged or Altered permits: Drivers of cars bearing forged or altered permits are subject to fines listed in 577-060-0020(002). The car may be booted or towed immediately upon discovery, and the remaining permit value may, at the discretion of PSU TAPS, be forfeited. Drivers of vehicles bearing a forged permit will also be charged for the entire cost of the permit, without proration, from the date that its original copy was issued.

(9) Application for Refund of Fees: Unused portions of parking permits valid for longer than one day may be submitted to TAPS for a pro-rated refund. Permits must be removed from the vehicle and returned to TAPS. Refunds are computed from the day after the permit is returned. Refunds for term and academic year permits will not be issued during the last two weeks of the academic term and refunds for monthly or annual permits will not be issued during the last fifteen (15) days of the month for that month. Monthly charges for Faculty/Staff permits not returned after employment termination will continue to be billed to the registered permit holder until the permit is returned or reported lost or stolen.

Stat. Auth.: ORS 351.070 & 352.360

Stats. Implemented: ORS 352.360

Hist.: PSU 6(Temp), f. & ef. 8-13-76; PSU 9, f. & ef. 11-2-76; PSU 5-1978, f. & ef. 7-18-78; PSU 2-1979, f. & ef. 9-17-79; PSU 1-1980, f. 7-30-80, ef. 8-1-80; PSU 1-1981, f. 7-28-81, ef. 8-1-81; PSU 2-1982, f. 7-30-82, ef. 8-1-82; PSU 3-1983, f. 6-22-83, ef. 7-1-83; PSU 2-1984, f. 6-8-84, ef. 7-1-84; PSU 2-1985, f. 6-26-85, ef. 7-1-85; PSU 2-1986, f. 7-28-86, ef. 9-1-86; PSU 2-1987, f. 6-19-87, ef. 9-1-87; PSU 6-1988, f. 9-6-88, cert. ef. 9-1-88; PSU 4-1989(Temp), f. & cert. ef. 10-10-89; PSU 1-1990, f. & cert. ef. 1-22-90; PSU 6-1990(Temp), f. 8-17-90, cert. ef. 9-1-90; PSU 7-1990(Temp), f. 11-14-90, cert. ef. 12-26-90; PSU 8-1990, f. 12-11-90, cert. ef. 12-26-90; PSU 3-1992, f. & cert. ef. 6-16-92; PSU 2-1994, f. 10-14-94, cert. ef. 1-1-95; PSU 2-1996, f. & cert. ef. 5-1-96; PSU 4-1996, f. & cert. ef. 10-8-96; PSU 1-1998, f. & cert. ef. 7-16-98; PSU 1-2000, f. 5-10-00, cert. ef. 6-19-00; PSU 1-2003, f. 6-25-03, cert. ef. 7-1-03; PSU 2-2007, f. & cert. ef. 1-5-07; PSU 4-2009, f. 8-13-09, cert. ef. 9-15-09

577-070-0020

Replacement Permits

A replacement parking permit may be obtained when a permit is lost, stolen or damaged at the replacement fee cost listed in OAR 577-060-0020(002) after completing and signing a lost/stolen permit form. In the event a permit is stolen on PSU campus, a stolen permit report must be filed with the Campus Public Safety Office before a replacement permit may be issued.

Stat. Auth.: ORS 351.070 & 352.360

Stats. Implemented: ORS 352.360

Hist.: PSU 6(Temp), f. & ef. 8-13-76; PSU 9, f. & ef. 11-2-76; PSU 5-1978, f. 7-18-78; PSU 2-1979, f. & ef. 9-17-79; PSU 1-1980, f. 7-30-80, ef. 8-1-80; PSU 1-1981, f. 7-28-81, ef. 8-1-81; PSU 2-1982, f. 7-30-82, ef. 8-1-82; PSU 6-1988, f. 9-6-88, cert. ef. 9-1-88; PSU 4-1989(Temp), f. & cert. ef. 10-10-89; PSU 1-1990, f. & cert. ef. 1-22-90; PSU 1-2000, f. 5-10-00, cert. ef. 6-19-00; PSU 1-2003, f. 6-25-03, cert. ef. 7-1-03; PSU 2-2007, f. & cert. ef. 1-5-07; PSU 4-2009, f. 8-13-09, cert. ef. 9-15-09

577-070-0025

Miscellaneous Regulations

(1) No driver of a vehicle shall stop or park a vehicle at a time or in a place not authorized by a permit issued under these regulations.

(2) Other vehicles: motorcycles, scooters, mopeds and bicycles may be parked only in those areas specifically designated for their use. Bicycles may be parked without charge in unenclosed areas where the University has placed suitable racks. Bicycles parked in any area designated for vehicle parking, chained to signposts, stairwells, trees or other structures not designed for bicycle parking are subject to being removed at the owner's expense and will be retained by PSU, if not picked up by the bicycle owner, for fourteen (14) calendar days at which time it will be deemed forfeited and become the property of PSU. Bicycles are only allowed in campus buildings if being taken to a designated indoor bicycle parking facility or to one's office or cubicle if approved by Transportation and Parking Services

and the applicable dean, vice president or director within FADM. No motorized vehicles are allowed to park in bicycle areas.

(3) No permit holder is allowed to use his/her vehicle, while on PSU property, for the purpose of temporary or permanent residence. Vehicle maintenance and repair may not be done in parking areas or any other campus areas without the approval of Transportation and Parking Services.

(4) Loading Zones are for the specific use of loading and unloading only, and vehicles parked in loading zones that are not being used for this purpose are subject to citations listed in OAR 577-060-0020(002).

(5) State Vehicles (E-Plates) owned or assigned to the University may park in any non-assigned, general permit parking space at the current faculty/staff rates; other State Vehicles wishing to park in PSU owned or leased areas, including all other government vehicles i.e., cities, municipalities, counties, or federal government, will be required to obtain a permit in accordance with established fees under 577-060-0020(002).

(6) Police and fire vehicles and ambulances may park on campus for official business at PSU at no cost. Vehicles whose operator is at Portland State University for any other purpose will be required to obtain a permit in accordance with established fees under 577-060-0020(002).

(7) No permit holder is allowed to use PSU property for the purpose of storing an inoperable vehicle. Vehicles in this condition may be towed at the owners expense.

Stat. Auth.: ORS 351.070 & 352.360

Stats. Implemented: ORS 352.360

Hist.: PSU 6(Temp), f. & ef. 8-13-76; PSU 9, f. & ef. 11-2-76; PSU 5-1978, f. & ef. 7-18-78; PSU 2-1979, f. & ef. 9-17-79; PSU 1-1980, f. 7-30-80, ef. 8-1-80; PSU 1-1981, f. 7-28-81, ef. 8-1-81; PSU 2-1982, f. 7-30-82, ef. 8-1-82; PSU 2-1984, f. 10-14-94, cert. ef. 1-1-95; PSU 4-1996, f. & cert. ef. 10-8-96; PSU 1-1998, f. & cert. ef. 7-16-98; PSU 1-2000, f. 5-10-00, cert. ef. 6-19-00; PSU 1-2003, f. 6-25-03, cert. ef. 7-1-03; PSU 2-2007, f. & cert. ef. 1-5-07; PSU 4-2009, f. 8-13-09, cert. ef. 9-15-09

577-070-0030

Vehicular Traffic Within Parking Structures and Lots

(1) Unless otherwise posted, the speed limit within the parking structures and lots and any other PSU areas shall be 10 miles per hour.

(2) Traffic within the parking structures or lots is limited to movement into and out of parking spaces and from parking spaces to an exit. All vehicles will follow the indicated direction of traffic flow, including traffic on the University-controlled street access areas. Vehicles in violation are subject to the fines listed under OAR 577-060-0020(002) and may be subject to forfeiture of a parking permit. Failure to forfeit a parking permit or to comply with the instructions against driving a vehicle on PSU owned, leased or managed property may result in the violator's vehicle being towed and/or elimination of all parking privileges.

Stat. Auth.: ORS 351.070 & 352.360

Stats. Implemented:

Hist.: PSU 6(Temp), f. & ef. 8-13-76; PSU 9, f. & ef. 11-2-76; PSU 5-1978, f. & ef. 7-18-78; PSU 2-1979, f. & ef. 9-17-79; PSU 1-1980, f. 7-30-80, ef. 8-1-80; PSU 1-1981, f. 7-28-81, ef. 8-1-81; PSU 2-1982, f. 7-30-82, ef. 8-1-82; PSU 2-1985, f. 6-26-85, ef. 7-1-85; PSU 6-1988, f. 9-6-88, cert. ef. 9-1-88; PSU 3-1992, f. & cert. ef. 6-15-92; PSU 2-1994, f. 10-14-94, cert. ef. 1-1-95; PSU 1-2000, f. 5-10-00, cert. ef. 6-19-00; PSU 1-2003, f. 6-25-03, cert. ef. 7-1-03; PSU 2-2007, f. & cert. ef. 1-5-07; PSU 4-2009, f. 8-13-09, cert. ef. 9-15-09

577-070-0035

Vehicle Immobilization, Towing, Booting and Boot/Tow Notices

(1) Booting, Towing and Impoundment: Release of a booted, towed or impounded vehicle will be made upon payment (cash, credit card or check with the exception of after hours transactions limited to cash or checks at the discretion of the Campus Public Safety Office) of all outstanding fines with TAPS, after proof of ownership is substantiated. In the case of a vehicle being booted or towed for displaying a forged, altered or stolen permit, the permit must be given to TAPS before the vehicle is released.

(2) Boot/Tow Notice Violation: A vehicle having three or more outstanding parking citations is subject to a Boot/Tow Notice Violation. If payments of all outstanding citations are made with TAPS office within (7) seven calendar days of receiving a Boot/Tow Notice Violation, the penalty for the Boot/Tow Notice Violation will be waived.

(3) Vehicles parked anywhere on University property may be booted or towed at the owner's expense without notice, under the following conditions:

(a) Parking in an area designated as a fire-lane (yellow or red curbing and/or signed) or tow-a-way zone.

(b) Blocking traffic or obstructing the normal flow of traffic.

(c) For fire or safety reasons.

(d) Abandoned vehicles — Abandoned or junked vehicles remaining on University property more than 24 hours will be removed. Unlicensed vehicles (to include those with obscured VIN numbers) parked on University property will be considered as abandoned and subject to removal upon discovery or booted until ownership and information is verified.

ADMINISTRATIVE RULES

- (e) Vehicles bearing forged, altered or stolen permits.
- (f) Parking in a reserved space, Disabled space, or restricted area without an appropriate permit.
- (g) Vehicles equipped with alarms that do not cease emitting intermittent or constant sound after an aggregate time of 3 minutes within any 15-minute period.
- (h) Vehicles parked in pedestrian or no parking zones without a permit for that location.
- (i) Vehicles with an outstanding, expired tow notice violation.

Stat. Auth.: ORS 351.070 & 352.360

Stats. Implemented: ORS 352.360

Hist.: PSU 6(Temp), f. & ef. 8-13-76; PSU 9, f. & ef. 11-2-76; PSU 5-1978, f. & ef. 7-18-78; PSU 2-1979, f. & ef. 9-17-79; PSU 1-1980, f. 7-30-80, ef. 8-1-80; PSU 1-1981, f. 7-28-81, ef. 8-1-81; PSU 2-1982, f. 7-30-82, ef. 8-1-82; PSU 2-1984, f. 6-8-84, ef. 7-1-84; PSU 6-1988, f. 9-6-88, cert. ef. 9-1-88; PSU 4-1989(Temp), f. & cert. ef. 10-10-89; PSU 1-1990, f. & cert. ef. 1-22-90; PSU 6-1990(Temp), f. 8-17-90, cert. ef. 9-1-90; PSU 7-1990(Temp), f. 11-14-90, cert. ef. 12-26-90; PSU 8-1990, f. 12-11-90, cert. ef. 12-26-90; PSU 3-1992, f. & cert. ef. 6-16-92; PSU 2-1995, f. & cert. ef. 12-12-95; PSU 4-1996, f. & cert. ef. 10-8-96; PSU 1-2000, f. 5-10-00, cert. ef. 6-19-00; PSU 1-2003, f. 6-25-03, cert. ef. 7-1-03; PSU 2-2007, f. & cert. ef. 1-5-07; PSU 4-2009, f. 8-13-09, cert. ef. 9-15-09

577-070-0040

Pedestrian Traffic

(1) Right of Way: Pedestrian traffic shall have the right of way over vehicular traffic in any place in the parking structures, parking lots, or in any of the University-controlled street areas, including the Park Blocks.

(2) Trespassing: Trespassing in the parking structures or any of the University-controlled parking lots or street areas may be subject to arrest for criminal trespass under ORS 164.243 and 164.245.

(3) Skateboard and Skate Regulations: Skateboards, roller blades, roller skates, in-line skates, skateskis or similar devices are prohibited in the parking structures and parking lots under the control of the University. Exception to this rule may be made by the Vice President of Finance and Administration, or designee for University-sponsored and supervised classes, programs and events.

Stat. Auth.: ORS 351.070 & 352.360

Stats. Implemented: ORS 352.360

Hist.: PSU 6(Temp), f. & ef. 8-13-76; PSU 9, f. & ef. 11-2-76; PSU 5-1978, f. & ef. 7-18-78; PSU 2-1979, f. & ef. 9-17-79; PSU 1-1980, f. 7-30-80, ef. 8-1-80; PSU 1-1981, f. 7-28-81, ef. 8-1-81; PSU 2-1982, f. 7-30-82, ef. 8-1-82; PSU 1-1998, f. & cert. ef. 7-16-98; PSU 1-2000, f. 5-10-00, cert. ef. 6-19-00; PSU 1-2003, f. 6-25-03, cert. ef. 7-1-03; PSU 4-2009, f. 8-13-09, cert. ef. 9-15-09

577-070-0045

Violations and Penalties

(1) Fines. Fines for violation of regulations are set forth in OAR 577-060-0020(002). Citation payments must be made to TAPS.

(2) Enforcement of Penalties:

(a) All disputed violations may be appealed within fourteen (14) calendar days of the date of the citation by completion of a PSU Citation Petition Form which will be decided upon by a PSU citation appeals officer. Decisions made by appeals officers may be disputed by completing a PSU Traffic Appeals Board Petition and will be reviewed by the Traffic Appeals Board. Disputes to the Traffic Appeals Board may be conducted in writing or in person at scheduled Traffic Appeals Board meetings. Any further dispute of decisions on waivers may be appealed in writing to the Director or Associate Director within Finance and Administration at Portland State University who directly oversees Transportation and Parking Services within fourteen (14) calendar days of the postmark of notification by the Traffic Appeals Board.

(b) The Director or Associate Director will also provide an opportunity for a hearing if requested by the appealing party. Such hearing will be conducted without formal rules of evidence, and will provide an opportunity for presentation of circumstances surrounding the issuance of the citation(s). Decisions by the Director or Associate Director, after the hearing will be in writing, but need not contain specific findings of fact and conclusions of law.

(c) The ruling on the appeal to the Director or Associate Director shall be final.

(d) Failure to adhere to the timelines laid out above will result in dismissal of petition.

(3) Nonpayment of Fines:

(a) A student who fails to tender payment to the University for any parking citations received, or fails to request a waiver in a timely manner as specified in rule 577-070-0045 on or before the date specified in the parking citation may have their transcripts withheld, a registration hold placed on their student account or may be denied graduation if any fines or fees under these regulations are unpaid.

(b) Unpaid parking citations that have been unpaid for at least three (3) months may be sent to the responsible party's university Accounts

Receivable account or an outside collection agency at the discretion of TAPS.

(4) Forfeiture of Parking Privileges:

(a) Drivers of vehicles bearing forged, altered or stolen permits, drivers who are verbally or physically abusive to TAPS or other PSU personnel, persons who cause damage to TAPS property, or drivers who have had their vehicle booted or towed three (3) or more times in one year may be denied parking privileges for a period determined by the Manager of Transportation and Parking. Drivers will be booted and/or towed for not adhering to their revocation of parking privileges.

(b) Six or more violations resulting in non-payment of citations in a one year period may be cause for forfeiture of a parking permit. Failure to forfeit a parking permit or to comply with the instructions against driving a vehicle within on PSU owned, leased or managed areas, may result in the violator's vehicle being towed or booted.

Stat. Auth.: ORS 351.070 & 352.360

Stats. Implemented: ORS 352.360

Hist.: PSU 6(Temp), f. & ef. 8-13-76; PSU 9, f. & ef. 11-2-76; PSU 5-1978, f. & ef. 7-18-78; PSU 2-1979, f. & ef. 9-17-79; PSU 1-1980, f. 7-30-80, ef. 8-1-80; PSU 1-1981, f. 7-28-81, ef. 8-1-81; PSU 2-1982, f. 7-30-82, ef. 8-1-82; PSU 2-1984, f. 6-8-84, ef. 7-1-84; PSU 2-1986, f. 7-28-86, ef. 9-1-86; PSU 2-1987, f. 6-19-87, ef. 9-1-87; PSU 4-1989(Temp), f. & cert. ef. 10-10-89; PSU 1-1990, f. & cert. ef. 1-22-90; PSU 6-1990(Temp), f. 8-17-90, cert. ef. 9-1-90; PSU 7-1990(Temp), f. 11-14-90, cert. ef. 12-26-90; PSU 8-1990, f. 12-11-90, cert. ef. 12-26-90; PSU 3-1992, f. & cert. ef. 6-16-92 (and corrected 6-19-92); PSU 1-1998, f. & cert. ef. 7-16-98; PSU 1-2000, f. 5-10-00, cert. ef. 6-19-00; PSU 1-2003, f. 6-25-03, cert. ef. 7-1-03; PSU 2-2007, f. & cert. ef. 1-5-07; PSU 4-2009, f. 8-13-09, cert. ef. 9-15-09

577-070-0050

Abandoned or Inoperable Vehicles

(1) Abandoned vehicles. Abandoned or junked vehicles remaining on University property more than 24 hours, will be removed at the owner's expense, in accordance with ORS Chapter 819. Unlicensed (to include those with obscured VIN numbers) vehicles parked on University property will be considered as abandoned and subject to removal upon discovery.

(2) Inoperable vehicles. Vehicles which have broken down on University property and which cannot be removed must be reported at once to TAPS or Campus Public Safety Office. Inoperable vehicles must be removed from the campus within 24 hours, or will be subject to removal at the owner's expense. Mechanical repairs to disabled private vehicles on University property is prohibited.

Stat. Auth.: ORS 351 & 352

Stats. Implemented:

Hist.: PSU 6(Temp), f. & ef. 8-13-76; PSU 9, f. & ef. 11-2-76; PSU 5-1978, f. 7-18-78; PSU 2-1979, f. & ef. 9-17-79; PSU 1-1980, f. 7-30-80, ef. 8-1-80; PSU 1-1981, f. 7-28-81, ef. 8-1-81; PSU 2-1982, f. 7-30-82, ef. 8-1-82; PSU 6-1988, f. 9-6-88, cert. ef. 9-1-88; PSU 1-2003, f. 6-25-03, cert. ef. 7-1-03; PSU 2-2007, f. & cert. ef. 1-5-07; PSU 4-2009, f. 8-13-09, cert. ef. 9-15-09

Rule Caption: Adoption of Rule by Portland State University Requiring Certain Disbursement by Electronic Funds Transfer.

Adm. Order No.: PSU 5-2009

Filed with Sec. of State: 8-13-2009

Certified to be Effective: 1-1-2010

Notice Publication Date: 7-1-2009

Rules Adopted: 577-072-0030

Subject: The proposed new rule would require certain disbursements by Portland State University to persons or entities doing business with Portland State University to be by Electronic Fund transfer. The rule would not generally apply to payments to employees or students. A copy of the Notice of Proposed Rulemaking, Statement of Need and Fiscal Impact and the text of the proposed rules can be found at <http://www.pdx.edu/fadm>.

Rules Coordinator: Diane S. Kirk — (503) 725-2656

577-072-0030

Disbursement by Electronic Funds Transfer

(1) It is the policy of Portland State University that the primary payment method to persons or entities doing business with the University be by electronic fund transfer (EFT). All such payments by the University shall be by EFT unless otherwise provided in this rule.

(2) EFT payments will be made by direct deposit to a checking or savings account that is located in a financial institution in the United States.

(3) Notwithstanding section (2), the University will disburse payments by check when one of the following specific exceptions apply:

(a) The individual or entity presents satisfactory evidence to the University that the individual or entity does not have a bank account or is otherwise unable to receive payment by EFT; or

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(b) The individual or entity presents satisfactory evidence of special circumstances, which the University will review on a case by case basis and will consider based on whether the issuance of a paper check would be in the best interests of the University; or

(c) The University otherwise determines that issuance of a paper check is in the best interests of the University.

(4) A request for exception must be made in writing.

(5) If an exception is granted pursuant to section 3(b) of this rule, the University will assess a fee for issuance of a paper check in order to recover the costs associated with such issuance. The fee shall be established pursuant to OAR 577-060-0020 and will be deducted from the amount of the payment.

(6) This rule does not apply to:

(a) Payments to employees, such as wages or the reimbursement of expenses that are related to the employment relationship;

(b) Payments to students that are related to their student status, including stipends;

(c) Single payments less than \$100 that are not expected to be recurring;

(d) Payments that the University and the other party agree will be made by credit card or other non-check method.

Stat. Auth.: ORS 293.525, 351

Stats. Implemented: ORS 293.525

Hist.: PSU 5-2009, f. 8-13-09, cert. ef. 1-1-10

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**Oregon University System,
Southern Oregon University
Chapter 573**

Rule Caption: Student Code of Conduct and Rights and Responsibilities.

Adm. Order No.: SOU 2-2009

Filed with Sec. of State: 8-5-2009

Certified to be Effective: 8-14-09

Notice Publication Date: 7-1-2009

Rules Adopted: 573-076-0000, 573-076-0010, 573-076-0020, 573-076-0030, 573-076-0040, 573-076-0050, 573-076-0060, 573-076-0070, 573-076-0080, 573-076-0090, 573-076-0100, 573-076-0110, 573-076-0120, 573-076-0130

Rules Amended: 573-075-0200

Rules Repealed: 573-075-0000, 573-075-0010, 573-075-0020, 573-075-0030, 573-075-0040, 573-075-0050, 573-075-0060, 573-075-0070, 573-075-0080, 573-075-0090, 573-075-0100, 573-075-0110, 573-075-0130, 573-075-0140, 573-075-0150, 573-075-0160, 573-075-0170, 573-075-0180, 573-075-0190, 573-075-0210, 573-075-0220

Subject: Code of Student Conduct, Administration of Grievances, Grievances

Current SOU code of student conduct is primarily comprised of outdated information that is, in some places, irrelevant to current procedures, designations, technology, and terminology. Further, new procedures for student conduct hearings and hearings boards are inline with current trends in higher education/student affairs. The current code is also repetitive in places, and has been deemed by those who participated in our vetting process as “legalistic” and “difficult to follow.” Efforts have been made in the revision to make a departure from legal terms altogether, and to create a more comprehensive document that lends itself to greater “ease of use” for students accused of conduct violations, as well as hearings board members.

Rules Coordinator: Treasa Sprague—(541) 552-6319

573-075-0200

Delay in Granting Access

A maximum delay of forty-five (45) days is authorized in granting access to education records involving students. (HEW regulations require that requests for access to, or copies of, student records must be acted on within forty-five (45) days.

Stat. Auth.: ORS 315

Stats. Implemented: ORS 351.070, OAR 580-013 & Family Educ., Privacy Act

Hist.: SOU 1-2004, f. & cert. ef. 4-5-04; SOU 2-2009, f. 8-5-09 cert. ef. 8-14-09

573-076-0000

Introduction

(1) Participation as a member of the Southern Oregon University community entails respect for oneself and all other members of the campus community. All students, upon matriculation, agree that every other member of the campus community is to be respected as a colleague committed to the pursuit of knowledge and self-understanding. To misuse or abuse that mutual respect is to threaten the entire academic enterprise.

(2) Behaviors that impede others' abilities to engage in their work and lives at the University and/or that are self-destructive have no place. The student code of conduct, prohibited conduct, and all of the University's policies are designed to guide students by providing clear descriptions of problematic behaviors and the responses that can be expected should they occur.

(3) Civility is the hallmark of this community. Hostility in any form has no place in open and honest learning. These ideals operate within the balance between freedom of expression and freedom from threats to safety, both physical and emotional.

(4) Acceptance of admission to Southern Oregon University implies your acceptance of the University's rules and regulations, and compliance with them. All University rules and policies have been crafted to balance freedom and responsibility and to provide standards for the orderly operation of this educational community.

(5) Conduct occurs in the context of a community of scholars dedicated to personal and academic excellence. Joining this community obligates each member to observe the following principles:

- (a) Mutual respect
- (b) Personal and academic integrity
- (c) Civil discourse
- (d) Responsible decision making

(6) Most members of the SOU community act in a mature manner consistent with the benchmarks of mutual respect, civil discourse, appreciation of differences, and responsible choices. However, it is necessary to protect the many from the few who may choose to act in an irresponsible manner. This is one of the main reasons the University has a code of conduct and a comprehensive set of policies and regulations.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: SOU 2-2009, f. 8-5-09 cert. ef. 8-14-09

573-076-0010

Process Overview

(1) Regarding the practical matter of reviewing incidents of student misconduct, this code outlines the procedures to be followed by the University. Any allegations of misconduct must involve violations of listed rules and the University must follow written procedures. These procedures include:

(a) Written notice of what rule(s) have allegedly been violated, in sufficient detail to allow a response.

(b) An opportunity to address the issue(s) before a designated University staff member or hearing board.

(c) A timely, written decision based on the greater weight of the information presented.

(d) An opportunity to appeal based on alleged deviation from the written procedures.

(2) The Code of Conduct should be read broadly. It does not define all prohibited conduct in exhaustive terms.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: SOU 2-2009, f. 8-5-09 cert. ef. 8-14-09

573-076-0020

Jurisdiction

(1) Generally, University jurisdiction and discipline shall be limited to student conduct which occurs on University premises or which threatens the University community and/or the pursuit of its objectives (the term “University premises” includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the University, and/or University sponsored or controlled events).

(2) Participants on overseas and off-campus programs are expected to act in accordance with University rules and regulations but assume added responsibility to the group and to the laws and regulations of the host country.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: SOU 2-2009, f. 8-5-09 cert. ef. 8-14-09

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573-076-0030

Violation of Law and University Conduct Proceedings

(1) In cases where criminal charges are filed against a student for actions that are also violations of University policy, the University is responsible for hearing allegations of policy violations regardless of and separate from any other proceedings. Student conduct hearings may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus.

(2) When a student is charged by federal, state, or local authorities with a violation of law, the University will not request or agree to special consideration for that individual because of his or her status as a student. If the alleged offense is also a violation of University policy, the University may advise off-campus authorities of the existence of this Code and of how such matters will be handled internally within the University community. The University will cooperate fully with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by the criminal courts for the rehabilitation of student violators.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: SOU 2-2009, f. 8-5-09 cert. ef. 8-14-09

573-076-0040

Oversight and Administration

(1) When it appears that a student has violated one or more University policies, the University intervenes with a process designed to resolve the issue and ensure that future problems do not arise. The Office of the Dean of Students coordinates the procedures associated with response to student conduct issues. The responsibilities of the office include:

- (a) Receipt of information about alleged policy violations (typically from Campus Public Safety reports, Residence Hall incident reports, and/or reports from other students)
- (b) Determination of the policies that appear to have been violated.
- (c) Interviewing and advising parties involved in student conduct proceedings.
- (d) Training and advising conduct officers and conduct boards.
- (e) Conducting hearings.
- (f) Reviewing the decisions of conduct boards.
- (g) Maintenance of all student conduct records.
- (h) Development of procedures for conflict resolution.
- (i) Monitoring of educational sanctions.
- (j) Collection and dissemination of research and analysis concerning student conduct.

(2) The Dean of Students or designee determines who will hear each allegation of student misconduct.

(3) The Dean of Students may designate an arbiter for disputes within the student community which do not involve a violation of University policy. All parties must agree to arbitration, and to be bound by the decision with no opportunity to appeal.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: SOU 2-2009, f. 8-5-09 cert. ef. 8-14-09

573-076-0050

Conduct Officers and Conduct Boards

Hearings or other proceedings outlined in this Code may be held before the following individuals or boards.

(1) Dean of Students and/or Designee—in matters of alleged violations of University policy, the Dean or designee will contact the student in writing regarding the allegation(s) and how the matter is to be resolved.

(2) Peer Review Board (consisting of students appointed by the Dean of Students or Designee and approved by the ASSOU Senate) — in matters of alleged conduct violations, the PRB may hear allegations of misconduct at the joint discretion of the Dean of Students and the PRB Chair. The PRB also may act as a mediating body for disputes between students that fall outside of the scope of this Code.

(3) University Review Boards (consisting of at least one student, one faculty member, and one staff member) may be appointed by the Dean of Students or designee to hear alleged policy violations under the following circumstances:

- (a) When alleged violations involve faculty and/or staff members as victims
- (b) When other boards are unable to obtain a quorum or are unable to hear a case,
- (c) At the discretion of the Dean of Students or designee.

(4) The Academic Honor Board consists of three students (approved by the ASSOU Student Senate) and three faculty members (approved by the

Provost), and the Dean of Students or designee, who serves as a non-voting Board advisor. The Academic Honor Board serves these purposes:

(a) To hear all cases of alleged academic dishonesty, including alleged violations of provisions regarding the responsible use of academic technology.

(b) To recommend sanctions to the Dean of Students or designee as noted in this Code.

(c) To advise and consult with academic and administrative officers in matters related to academic integrity standards, policies, and procedures.

(5) The Sexual Misconduct Review Board is composed of specially trained administrators and staff, three of whom will be selected to hear a case involving an alleged violation of this code, or those outlined in the Sexual Harassment Policy.

(6) At the discretion of the Dean of Students or designee, cases involving assault, intimidation, or other matters posing an immediate threat to the campus community, may be handled by the Dean of Students or designee, independent of conduct board action.

(7) Student members of any conduct board who are charged with any violation of this Code or with a criminal offense may be suspended from their conduct positions by the Dean of Students or designee until a final resolution of the situation is obtained. Students found responsible for any such violation or offense may be disqualified from any further participation in the University conduct system by the Dean of Students or designee.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: SOU 2-2009, f. 8-5-09 cert. ef. 8-14-09

573-076-0060

Conduct Referrals and Hearing Procedures

(1) Any person may refer a student or a student group or organization suspected of violating University policy to the Dean of Students' Office. Persons making such referrals are required to provide information pertinent to the situation and will normally be expected to provide an incident report and written statement, and/or appear at a hearing as the complainant. The hearing format for resolution will be selected at the discretion of the Dean of Students or designee.

(2) The Dean of Students or designee may conduct an investigation (or request conduct of an investigation by other University officials) to determine if the allegations have merit and/or if they can be disposed of administratively by mutual consent of the parties involved on a basis acceptable to the Dean of Students or designee. Such disposition shall be final and there shall be no subsequent proceedings. If the charges cannot be disposed of by mutual consent, the Dean of Students or designee will proceed with a hearing.

(3) All allegations of misconduct are presented to the accused student in written form. The notification includes the date, location, and description of the prohibited conduct relevant to the alleged violation. A time is set for a hearing, not less than three (3) calendar days and not more than fifteen (15) calendar days after the student has been notified. Minimum and maximum time limits for scheduling of hearings may be extended at the discretion of the Dean of Students or designee based on the academic calendar or at the written request of the accused student.

(4) Hearings are conducted according to the following guidelines:

(a) Hearings are conducted in private, unless both the accused student(s) and the complainant(s) agree to an open hearing.

(b) Admission of any person to the hearing is at the discretion of the conduct officer or conduct board chair.

(c) In hearings involving more than one accused student, the chair of the conduct board may permit the hearings concerning each student to be conducted separately.

(d) The complainant and the accused may be accompanied by advisors. The complainant and/or the accused is responsible for presenting his or her own information. Comments from advisors may be requested from the conduct officer or conduct board chair.

(e) The complainant, the accused, and the conduct officer/board have the privilege of presenting witnesses, subject to questioning by the conduct officer/board.

(f) Pertinent records, exhibits, and written statements may be accepted for consideration by a conduct officer/board at the discretion of the conduct officer or conduct board chair.

(g) All procedural questions are subject to the final decision of the Board Chair.

(h) After the hearing, the accused student is dismissed and the conduct officer or board (by majority vote) determines whether the student is responsible for each alleged policy violation.

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(i) The conduct officer/board's determination is made on the basis of whether it is "more likely than not" that the accused student violated the policy(ies).

(j) Not less than seven (7) working days following the hearing, the accused student is notified in writing of the decision and its rationale, including any sanction(s) imposed, and the opportunity to appeal the decision.

(k) There is a record of all hearings before a conduct officer/board, consisting of an audio recording and all written documentation including notes taken during the hearing. The record is the property of the University and is maintained in the Office of the Dean of Students.

(l) Except in the case of a student accused of violating the "failure to comply with directives" policy by not appearing before a conduct board or University official, no student may be found to have violated the policy(ies) in question solely because the student failed to appear. In all hearings, the information in support of the allegations is presented and considered. Final decisions are based on the information available.

(5) Principles governing Honor Board decisions of alleged academic misconduct are as follows:

(a) Academic penalties (grades) are imposed only by faculty members (course instructor).

(b) Because academic dishonesty is a policy violation, disciplinary penalties (probation, suspension, or dismissal) may be imposed only by the Dean of Students or designee, upon recommendation from the Academic Honor Board, or when the Board cannot meet, upon recommendation from the faculty member.

(6) Sexual Misconduct Review Board hearings are conducted in accordance with guidelines established in the Sexual Conduct Policy.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: SOU 2-2009, f. 8-5-09 cert. ef. 8-14-09

573-076-0070

Sanctions

(1) A disciplinary sanction is an educational tool designed to send a clear message regarding violation of University policy. Sanctions relate to the nature of the violation, with stronger sanctions imposed for more aggravated or repeated misconduct. Sanctions of probation, suspension, and dismissal require the approval of the Dean of Students.

(2) The following sanctions may be imposed when a student is found responsible for policy violation(s). (a) Warning: A notice in writing to the student that the student is violating or has violated University policy.

(b) Loss of Privileges: Denial of specified privileges for a designated period of time.

(c) Fines: Previously established and published fines may be charged to a student's account.

(d) Restitution: Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

(e) Discretionary Sanctions: Work assignments, research, apology letters, service to the University, or other related discretionary assignments.

(f) Educational classes to be paid by fee assessed to violator. Fee may be paid directly or through community restitution.

(g) Conditional Disciplinary Probation: A written reprimand which places the student's participation in University activities in a provisional status. Probation may exclude the student from participation in co-curricular activities in which the student represents the University (e.g. varsity athletics and club sports, elected student office, debate, musical and dramatic groups). Probation may include mandatory counseling and includes the probability of more severe disciplinary sanctions if the student further violates University regulation(s) during the probationary period.

(h) Residence Hall Suspension: Separation of the student from the residence halls for a stated period of time, after which the student is eligible to return. Because the University maintains a one year residency requirement, a residence hall suspension may result in a suspension from the University, if the student has not completed the one year residency requirement. Conditions for readmission may be specified. The student may be issued a written trespass notice from one or more residence halls for the duration of the suspension.

(i) Residence Hall Expulsion: Permanent separation of the student from the residence halls. The student will be issued a written trespass notice from all residence halls at the time of the expulsion.

(j) Eviction from University Housing: Removal from any University owned or operated housing other than the residence halls (see 8 & 9 above). The student will be issued a written trespass notice from all University housing at the time of the eviction.

(k) Unconditional Probation: Immediate invocation of University suspension if additional violation(s) of University policies occur during a specified period of time. Unconditional Probation also includes the provisions of a disciplinary probation.

(l) Disciplinary Suspension: Separation of the student from the University for a specific period of time after which the student is eligible to return. Conditions for readmission may be specified. At the discretion of the Dean of Students or designee, a University trespass order is in effect for the period of the suspension. A suspension may be deferred to the end of a term at the discretion of the Dean of Students or designee.

(m) University Dismissal—Permanent separation of the student from the University.

(3) The following sanctions may be imposed upon groups or organizations:

(a) Those sanctions listed above.

(b) Deactivation—Loss of all privileges, including University recognition, for a specified period of time.

(4) Interim Suspension—In certain circumstances, the Dean of Students or designee may impose a University or residence hall suspension prior to the hearing.

(a) Interim suspension may be imposed only:

(A) to ensure the safety and well being of members of the University community or preservation of University property and/or;

(B) to ensure the student's own physical or emotional safety and well being and/or;

(C) if the student poses a definite threat of disruption of or interference with the normal operations of the University.

(b) During the interim suspension, the student is denied access to the campus (including classes) and all other University activities or privileges for which the student might otherwise be eligible, as the Dean of Students or designee may determine to be appropriate.

(5) More than one of the sanctions listed above may be imposed for any single violation.

(6) Other than University dismissal, disciplinary sanctions are not made part of the student's permanent academic record, but are part of the student's confidential disciplinary record.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: SOU 2-2009, f. 8-5-09 cert. ef. 8-14-09

573-076-0080

Appeals

(1) A decision may be appealed within seven (7) working days of the date of the sanction letter to the Dean of Students or designee. Such appeals must be in writing and must be delivered to the Dean of Students or designee. Appeals of decisions reached by the Dean of Students are to be directed to the Vice President for Student Affairs. The officer hearing the appeal will review all documentation resulting from the original hearing, and may elect to

(2) An appeal is limited to one or more of the following purposes:

(a) To determine whether the original hearing was conducted fairly in light of the allegations and information presented and in conformity with the procedures outlined in this Code.

(b) To determine whether the decision reached regarding the accused student was based on substantial information, that is, whether the facts were sufficient to establish that a violation of University policy occurred under the "more likely than not" standard.

(c) To determine whether the sanction(s) imposed were appropriate for the violation(s) which the student was found to have committed.

(d) To consider new information, sufficient to alter a decision, or other relevant facts not brought out in the original hearing, because such information and/or facts were not known to the person appealing at the time of the original hearing.

(3) If an appeal is granted, this written decision will be communicated to the original conduct officer/ board for action, if appropriate.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: SOU 2-2009, f. 8-5-09 cert. ef. 8-14-09

573-076-0090

Student Groups and Organizations

(1) Student groups and organizations may be charged with violations of University policy.

(2) A student group or organization and its officers may be held collectively or individually responsible when violations of policy by those associated with the group or organization have received the tacit or overt

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consent or encouragement of the group or organization or of the group's or organization's leaders, officers, or spokespersons.

(3) The student officers or leaders or any identifiable spokespersons for a student group or organization may be directed by the Dean of Students or designee to take action to prevent or end violations by the group or organization. Failure to make reasonable efforts to comply with the Dean's directive shall be considered a violation of University policy, both by the officers, leaders, or spokespersons for the group or organization and by the group or organization itself.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: SOU 2-2009, f. 8-5-09 cert. ef. 8-14-09

573-076-0100

Parent and Guardian Notification

(1) A fundamental goal of the University is to support students' independence and maturity, in part by encouraging them to assume responsibility for their own educational and personal matters. The University also encourages students and parents or guardians to communicate directly, regularly, and openly with each other about issues of mutual concern.

(2) Under laws and policies that govern the privacy rights of students, Southern Oregon University has the authority and reserves the right to contact parents or guardians of dependent students about a variety of serious matters and the parents or guardians of all students in certain emergencies regarding imminent serious injury or life or death situations. Parental or guardian notification may occur under the following circumstances:

(a) Hospital visits for alcohol poisoning or drug overdose;

(b) Behavior or circumstances which put the student at an imminent safety risk;

(c) Serious mental health concerns.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: SOU 2-2009, f. 8-5-09 cert. ef. 8-14-09

573-076-0110

Disciplinary Files and Records

(1) The formal hearing process prompts creation of a disciplinary file in the Office of the Dean of Students. The file contains information related to the incident as well as the following:

(a) Any written statements from earlier documents bearing the name of the student violator which have been maintained at the residence hall level.

(b) Copies of letters regarding prior disciplinary matters.

(c) Any subsequent correspondence related to the case.

(d) Materials related to sanctions.

(e) Other reports at the discretion of the Dean of Students or designee.

(2) Accused students involved in disciplinary processes may review the contents of this confidential file (to the extent that the materials therein do not compromise the confidentiality of other students, faculty or staff), and may contest in writing anything in the file.

(3) Disciplinary records of students will be destroyed pursuant to the Oregon University System retention schedule governing institutional records. Prior access is granted to students who have requested access before the records are destroyed, and the State Archivist is empowered to order the retention of some categories of records.

(4) Student conduct files are maintained permanently in the event of dismissal.

(5) Student conduct records of students who have not yet responded to allegations will remain active. Once they have responded, the records are retained in accordance with the procedures above.

(6) Student conduct records may be voided by the Dean of Students or designee for good cause, upon written petition of the student. Factors to be considered in review of such petitions include:

(a) The present demeanor of the student;

(b) The conduct of the student subsequent to the violation;

(c) The length of time between the violation and the request;

(d) The nature of the violation and the severity of any damage, injury, or harm resulting from it.

(7) Disciplinary files are treated as "education records" under the provisions of the Family Education Rights and Privacy Act (FERPA) and may be viewed only by those who "need to know" such information in the conduct of their official duties, as determined by the Dean of Students or designee. Otherwise, content of the file may be released to others only with consent of the student whose name is on the file.

(8) A maximum delay of forty-five (45) days is authorized in granting access to education records involving students.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: SOU 2-2009, f. 8-5-09 cert. ef. 8-14-09

573-076-0120

Interpretation and Revision

(1) Any question of interpretation regarding this Code and University Policy must be referred to the Dean of Students or designee for final determination.

(2) This Code and University policies are reviewed annually under the direction of the Dean of Students or designee, who consults with students, faculty, and staff as appropriate.

(3) Changes to the Code recommended through this consultative process are subject to approval by the Executive Council of the University.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: SOU 2-2009, f. 8-5-09 cert. ef. 8-14-09

573-076-0130

Prohibited Conduct

(1) Academic Dishonesty.

(a) Acts of academic dishonesty involve the use or attempted use of any method that enables a student to misrepresent the quality or integrity of his or her academic work and are prohibited.

(b) Academic dishonesty with respect to examinations includes but is not limited to copying from the work of another, allowing another student to copy from one's own work, unauthorized use of crib notes during exam time, arranging for another person to substitute in taking an examination, or giving or receiving unauthorized information prior to or during the examination.

(c) Academic dishonesty with respect to written or other types of assignments includes but is not limited to:

(A) Failure to acknowledge the ideas or words of another that have been intentionally taken from any published or unpublished source;

(B) Placing one's name on papers, reports, or other documents that are the work of another individual;

(C) Flagrant misuse of the assistance provided by another in the process of completing academic work;

(D) Submission of the same paper or project for separate courses without prior authorization by faculty members;

(E) Fabrication, alteration, or other manipulation of data; or

(F) Knowingly aiding in or inciting the academic dishonesty of another.

(d) Academic dishonesty with respect to intellectual property includes but is not limited to theft, alteration, or destruction of the academic work of other members of the community, or of the educational resources, materials, or official documents of the University and is prohibited.

(2) Other Acts of Dishonesty. In general, acts of dishonesty are prohibited. Such acts may include, but are not limited to:

(a) Furnishing false and/or misleading information to any University or community official, faculty member, administrative office, or conduct body;

(b) Forgery, alteration, and/or misuse of any University record, document, or instrument of identification;

(c) Bribery and/or coercion;

(d) Fraud and/or other misrepresentation.

(3) Animal Control

(a) The following animal-related behavior is prohibited:

(A) Inhumane or cruel treatment of animals on University premises;

(B) Bringing any animal inside a University Building, with the exception of guide or service animals approved by Disabled Student Services, or by special permission of the Dean of Students;

(C) Leaving an animal unattended on University premises, even when tethered;

(D) Leaving an animal in a closed vehicle on University premises.

(b) Additionally, resident students may not own or care for pets, other than fish in approved aquaria, in campus residence halls.

(4) Controlled Substances

(a) The unlawful use, abuse, sale, purchase, transfer, possession, manufacture, distribution, or dispensing of alcohol or other drugs on University property or as part of any University activity is prohibited.

(b) Use, possession, cultivation, manufacture, promotion, sale, and/or distribution of narcotics or other controlled substances, except as expressly permitted by law, is prohibited.

(c) Use and/or possession of prescription drugs prescribed to another is prohibited.

(d) The service of alcohol to and/or consumption by any person who is under the age of 21 or is intoxicated is prohibited.

(e) Public intoxication at any age is prohibited.

(f) Intoxication to the point of incapacitation at any age is prohibited.

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(g) Common source containers of alcohol, such as kegs, are prohibited on campus except with prior written permission from the Vice President for Student Affairs.

(h) Alcohol and other drugs may not be consumed in the course of any class, laboratory, or other activity at which attendance is required as part of a student's course or degree requirements.

(5) Disorderly Conduct. Loud, aggressive, profane, abusive, drunken, and/or other behavior which disrupts or obstructs the orderly functioning of the University or disturbs the peace and/or comfort of person(s) on campus, on University owned or controlled property, or at University sponsored or supervised functions is prohibited. Exhibiting behavior that creates a concern for harm to self or others, or behavior that suggests a serious problem which is detrimental to the University and University community is prohibited.

(6) Disruption, Obstruction, or Interference. Engaging in, or inciting others to engage in the disruption, obstruction, and/or interference with of any of the following is prohibited:

(a) University student conduct proceedings;

(b) Educational activities in classrooms (both physical and online), lecture halls, campus library, laboratories, computer laboratories, theatres, or any other place where education and teaching activities take place;

(c) Classroom expectations. Disruption, obstruction, or interference includes classroom behavior, which, in the judgment of the instructor, impedes other students' opportunity to learn and/or which interferes with class objectives. This provision includes University classes held on and off Southern Oregon University premises, including distance learning and online courses.

(d) Operations of Campus Public Safety, fire, police, emergency services, and/or residential life staff;

(e) Interference with campus safety instruments;

(f) Any student's ability to study, learn, and/or complete academic requirements including, but not limited to, destroying, preventing, and/or limiting access to information or records;

(g) Intentionally interfering with the freedom of expression of others on University premises or at University sponsored activities;

(h) University activities, including its public service functions, whether on- or off-campus, and other non-University activities which occur on University premises.

(7) Failure to Comply

(a) Failure to comply with University regulations, state and/or federal laws, and/or the directives of University and/or community officials while acting in their duties is prohibited.

(b) Failure to comply with University student conduct proceedings, including rules governing hearings procedures and sanctions imposed by University student conduct officials is prohibited.

(8) Gambling. Illegal gambling or wagering on University premises, or at any official function sponsored by the University is prohibited.

(9) Harassment and Discrimination

(a) Physical or verbal abuse, threats, intimidation, harassment, coercion, or other conduct directed at a specific person, which threatens the health and safety of any person or seriously alarms or intimidates another person is prohibited.

(b) Written abuse, intimidate-on, or harassment through the use of Internet peer-networking sites, weblogs, or other online media which is open to the public is prohibited.

(c) Remarks, actions, or gestures which have the purpose or effect of creating an intimidating, hostile, and/or offensive working, campus living, and/or academic experience due to a race, color, sex, religion, age, expression, marital status, national origin, the presence of any physical or sensory disability, veteran status, sexual orientation or any other basis protected by applicable local, state or federal law is prohibited.

(d) University Statement on Hate and Bias-motivated language: The University appreciates the complexity of defining language and actions that are not acceptable in a community which values freedom of expression. All members of the SOU community must be free to hold views that others may find distressing or offensive. However, freedom of expression does not include the right to intentionally and maliciously aggravate, intimidate, ridicule, or humiliate another person.

(10) Hazing. Any act which endangers the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization is prohibited.

(11) Interference with Community Standards. Verbal or physical threats and/or intimidation of a person participating in a student conduct

proceeding in any capacity is prohibited. Influencing or attempting to influence another person to commit an abuse of community standards is prohibited. Attempting to influence the impartiality of a member of a conduct body prior to, and/or during the course of, the conduct proceeding is prohibited. Failure to comply with the sanction(s) imposed under the Code is prohibited.

(12) Misuse of Emergency Equipment and Procedures

(a) Tampering with, damage of, or intentional misuse of emergency devices or blocking of fire exits or other means of impeding traffic is prohibited.

(b) Use of fire escapes, ground level fire doors, fire hoses, extinguishers, and/or alarm equipment in non-emergency situations is prohibited.

(c) Failure to comply with fire drill procedures or emergency building evacuation is prohibited.

(d) Initiating a false report or warning, or the threat of fire, explosion, false fire alarm, or other emergency is prohibited.

(13) Misuse of Weapons & Destructive, Chemical, and/or Incendiary Devices

(a) On-campus use, Possession, storage (unless authorized), or manufacture of the following is prohibited:

(A) Firearms or other devices capable of casting a projectile;

(B) Any weapon, device, instrument, material, or substance which is designed to, or may by use, inflict injury upon another person;

(C) Explosives, bombs, or other incendiary or destructive devices;

(D) Fireworks of any kind.

(b) Attempting, committing, or aiding the intentional commission of an act which results in a fire being ignited which causes damage, or is intended to cause damage, to the property of the University, to the property of another individual, or to personal property is prohibited.

(14) Noise. Activities inconsistent with posted quiet hours in residence halls and academic buildings or which violate local, state or federal noise ordinances is prohibited.

(15) Obstruction. Obstruction of the free flow of pedestrian or vehicular traffic on University premises or at University-sponsored or supervised functions is prohibited.

(16) Sexual Misconduct. Sexual Misconduct is defined as any sexual contact or sexual behavior that is non-consensual and/or inflicted upon someone who is incapacitated, and/or forced, and is prohibited. Additionally, Sexual Exploitation, and Sexual Harassment are prohibited. Definitions, as outlined by the Oregon University System, are as follows:

(a) Sexual Contact means the touching of the genitalia, anus, buttocks, breasts or mouth, as well as, any contact for the purpose of sexual gratification.

(b) Sexual Behavior means any action, short of sexual contact, done for purposes of sexual gratification, and may include but is not limited to voyeurism, exposing, masturbation, frottage, and audio/video recording.

(c) Non-consensual is the absence of shared sexual permission. Shared sexual permission is clear, voluntary, non-coerced and clearly indicates a willingness to participate in sexual contact/behavior, whether through affirmative verbal responses or non-verbal communication unmistakable in meaning and given by an adult (age 18 or older). Shared sexual permission to one form of sexual contact/behavior does not operate as permission to any other or the same form of sexual contact/behavior.

(d) Incapacitation is a mental or physical condition that renders a person unable to grant consent. Incapacitation may be a state or condition resulting from the use of alcohol or other drugs, or lack of sleep, sleep, and unconsciousness. Incapacitation may also be the result of a cognitive impairment, such as a developmental disability, brain injury, or mental illness.

(e) Force includes but is not limited to physical force, violence, abuse, threat of force (direct or implied), intimidation, extortion, harassment, coercion, fraud, duress or pressure.

(f) Sexual Exploitation occurs when a person takes non-consensual, unjust or abusive advantage of another in a sexual or intimate context, for his/her own advantage or benefit, or to benefit or advantage of anyone other than the one being exploited, and that behavior does not otherwise constitute non-consensual sexual misconduct. Sexual exploitation includes permitting or facilitating non-consensual viewing, videotaping, or audio taping of sexual or intimate activity, knowingly inflicting another person with HIV or other sexually transmitted infection, inducing incapacitation of another person with the intent to facilitate sexual misconduct against that person, and/or compelling prostitution.

(g) Sexual Harassment includes unwelcome sexual advances, requests for sexual favors, and other physical conduct of a sexual nature when:

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(A) Submission to such conduct is made a term or condition of employment or academic advancement (explicitly or implicitly).

(B) Submission or rejection to such conduct is used as a basis for employment or academic advancement decisions, or

(C) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or learning environment; or creating an intimidating, hostile or offensive work, academic, residential living, or any University-related environment.

(17) Smoking. Smoking is prohibited:

- (a) In any University building;
- (b) Within 25 feet of any University building;
- (c) In any University vehicle;
- (d) In any other designated areas.

(18) Stalking. Stalking is a pattern of repeated harassment by unwanted attention and/or contact, and is prohibited. Stalking includes, but is not limited to:

(a) Following or lying in wait for the victim

(b) Repeated unwanted, intrusive, and frightening contact from the perpetrator by phone, mail, email, etc.

(c) Damaging the victim's property

(d) Making direct or indirect threats to harm the victim, the victim's children, relatives, friends, or pets

(e) Repeatedly sending the victim unwanted gifts.

(f) Harassment through the Internet, known as "cyberstalking," "online stalking," or "Internet stalking."

(g) Securing personal information about the victim by accessing public records, using Internet search devices, hiring private investigators, contacting friends, family, work, or neighbors, going through the victim's garbage, following the victim, etc.

(19) Theft. Attempted or actual theft and/or damage to College property or property of students, other members of the College, or others legitimately using College property is prohibited.

(20) Unauthorized Use of Property. Unauthorized use and/or abuse of University property is prohibited. Such acts may include, but are not limited to:

(a) Alteration, duplication, and/or misuse of keys, University documents, or identification;

(b) Unauthorized entry into, or use of, University premises or equipment, including but not limited to camping, building a fire, or use of an unauthorized heating, cooking or electrical device.

(c) Damage, vandalism, misuse, or theft of University property, or the property of another person, group, or agency;

(e) Graffiti, which is defined as intentionally defacing public and/or private property, regardless of the purpose;

(f) Littering, which is defined as throwing, discarding, placing, or depositing items in University buildings or on University grounds, except in receptacles provided for such purposes.

(21) Unwelcome Use of Electronic Devices. Unwanted communication with another person using computers, email, cell phones, or any other digital device is prohibited. Abuse, misuse, and/or theft of computer data, equipment, and/or software, including unauthorized file-sharing and distribution of electronic materials is also prohibited.

(22) Violation of Local, State, or Federal Laws. Violation of local, state, or federal laws on or off University premises that may be reasonably expected to have a negative impact on the College or members of the College community in any form is prohibited.

(23) Violent, Threatening, Coercive, or Abusive Conduct. Examples of prohibited violence and abusive behavior include, but are not limited to, the following:

(a) Slapping, punching, or otherwise physically attacking a person;

(b) A direct or implied threat of harm or hostile behavior that creates a reasonable fear of injury to another person or unreasonably subjects another individual to emotional distress;

(c) Brandishing a weapon or an object which appears to be a weapon in a threatening manner;

(d) Intimidating, threatening, or directing abusive language toward another person;

(e) Intentionally damaging University property and/or the property of a member of the SOU community or a visitor;

(f) Committing acts motivated by and/or related to racial or sexual harassment or domestic violence;

(g) Retaliation and/or harassment against a person making a report in good faith.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: SOU 2-2009, f. 8-5-09 cert. ef. 8-14-09

Oregon University System, Western Oregon University Chapter 574

Rule Caption: Revisions to special course fees and general services fees, code of student responsibility and judicial structure.

Adm. Order No.: WOU 2-2009

Filed with Sec. of State: 7-29-2009

Certified to be Effective: 7-29-09

Notice Publication Date: 7-1-2009

Rules Amended: 574-031-0000, 574-031-0030, 574-031-0040, 574-032-0020, 574-032-0030, 574-032-0040, 574-032-0120, 574-032-0150, 574-050-0005

Subject: Amendments will allow for increases, additions, and revisions of special course fees and general services fees, revisions to code of student responsibility and judicial structure.

Rules Coordinator: Debra L. Charlton—(503) 838-8597

574-031-0000

Introduction

(1) Western Oregon University has a fundamental interest in the education and conduct of its students. The academic, social and personal development of a student through his or her University experience involves a fusion of the learning process with the development of a coherent and consistent system of ethics, as well as adherence to standards of behavior created and accepted by the University community.

(2) All members of the University community have a responsibility to maintain a level of behavior that reflects favorably upon the person and the University. The University requires that all students be responsible for their own conduct. The University expects students who live on and off campus to abide by local, state, and federal laws as well as University policies, procedures, and regulations, including this Code of Student Responsibility.

(3) The Code of Student Responsibility will be applied impartially and without regard to age, disability, ethnic background, gender, race, religious or political affiliation, sexual or gender orientation.

(4) The application of the standards within this Code of Student Responsibility applies to individuals, clubs, educational activity groups, other student groups, and any individual student who is registered for one or more credit hours, including on-line courses, is enrolled in a special non-credit program approved by the University, or who has been accepted for admission, housing, financial aid, or any other service or benefit provided by the University which requires student status.

(5) This Code of Student Responsibility was adopted on September 1, 2009, became effective September 1, 2009 and supersedes all other previous conduct codes.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0046; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2009, f. & cert. ef. 7-29-09

574-031-0030

Specific Standards and Policies

The following list of prohibited forms of conduct is not all inclusive since it is not possible to list all potential violations. The University requires that all students behave in a manner congruent with established community standards and in a manner conducive to the development of the individual. Actions detrimental to the mission of the University and the legitimate activities of the academic community which constitute the University are in violation of this Code and may be subject to judicial procedures. Judicial action may be initiated by the University and educational and/or punitive sanctions may be assigned to any student or recognized student organization found participating in, attempting to participate in, or assisting others in participating in any of the following prohibited forms of conduct:

(1) Academic Dishonesty, which includes but is not limited to:

(a) Cheating — intentional use, or attempted use of artifice, deception, fraud, and/or misrepresentation of one's academic work;

(b) Fabrication — unauthorized falsification and/or invention of any information or citation in any academic exercise;

(c) Facilitating dishonesty — helping or attempting to help another person commit an act of academic dishonesty. This includes students who substitute for other persons in examinations or represent as their own papers, reports, or any other academic work of others;

(d) Plagiarism — representing without giving credit the words, data, or ideas of another person as one's own work in any academic exercise.

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This includes submitting, in whole or in part, prewritten term papers of another or the research of another, including but not limited to the product of commercial vendors who sell or distribute such materials, and the appropriation and/or use of electronic data of another person or persons as one's own, or using such data without giving proper credit for it; or

(e) Any use or attempted use of electronic devices in gaining an illegal advantage in academic work in which the use of these devices is prohibited, and such devices include but are not limited to cell phones, PDAs, laptops, programmable calculators, removable disk drives, etc.

(2) Disorderly, lewd, indecent, or any other form of conduct which interferes with but is not limited to:

(a) The academic program of the University;

(b) The health and safety of members or visitors of the University community;

(c) The security of University owned or controlled property;

(d) The conduct of non-classroom activities (e.g., lectures, concerts, athletic events, and social functions); or

(e) The functions of the University.

(f) Any other University activity or University sponsored activity or event.

(3) Harassment, which includes but is not limited to:

(a) Physical contact with or physical interference with a person which:

(A) Is objectively offensive;

(B) Causes pain;

(C) Prevents or disrupts the person from any lawful chosen activity;

(D) Puts the person in fear for safety;

(E) Causes damage to person or property.

(b) Conduct without physical contact or physical interference with a person, including but not limited to hazing, harassing or threatening behavior, including verbal communication, which is intended to and has the effect of:

(A) Substantially disrupting another person's lawful activity;

(B) Causes another person to be subject to unwelcome or offensive physical contact;

(C) Causes risk of personal injury or injury, risk of property damage or property damage;

(D) Causes another person to be subject to unwelcome and objectively unreasonable interference with mental and emotional health; or

(E) Puts the person in fear for safety.

(c) Repeatedly contacting another person when:

(A) The contacting person knows or should know that the contact is unwanted by the contacted person; and

(B) The contact causes the contacted person reasonable apprehension of imminent physical harm or the contacting person knows or should know that the contact causes the contacted person mental anguish or distress and/or substantial impairment of the contacted person's ability to perform the activities of daily life. As used in this context, "contacting" includes but is not limited to communicating with or remaining in the physical presence of the contacted person; or

(d) Sexual Harassment, whether or not it be by direct physical attack, as defined below. Sexual harassment includes, but is not limited to, sexual advances, requests or suggestions to engage in sexual conduct, and other physical and expressive behavior of a sexual nature when:

(A) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education; or

(B) Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting the individual; or

(C) Such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creates an intimidating or hostile employment, educational, or living environment.

(e) It is a defense to any charge of harassment if the alleged harassing conduct is not objectively unreasonable.

(4) Detention or physical abuse, or conduct which threatens imminent bodily harm, or endangers the physical or emotional health of any person or oneself.

(5) Sexual Misconduct: Sexual Misconduct is unwanted sexual contact of any kind or the attempt to have unwanted sexual contact or the threat of such contact. Sexual contact shall be considered unwanted if no clear consent is freely given. Sexual contact is considered unwanted if the person is substantially impaired by alcohol or drugs or the person is otherwise without the physical or mental capacity to give clear consent. Sexual contact for the purpose of this rule means the touching of any private body part, including, but not limited to: genitalia, anus, buttocks, or breasts of another.

or causing such person to touch the genitalia, anus, buttocks, or breasts of another.

(6) Specifically insulting another person in his or her immediate presence with abusive words or gestures in a manner intended and likely to provoke a disorderly or violent response, whether or not it actually does.

(7) Possession, consumption, or sale of alcoholic beverages on University owned or controlled property with the exception of approved events that follow the President's policy on use of alcohol at WOU functions.

(8) Possession, consumption, manufacturing, or sale of illegal drugs or any other controlled substance on or off University owned or controlled property.

(9) Possession, consumption, sale, or distribution of alcoholic beverages or illegal drugs during the official portion of a University sponsored off-campus event as defined by the faculty or staff advisor.

(10) Acts which violate federal, state, or local laws.

(11) Violation of residence hall rules and procedures as listed in official residence hall publications.

(12) Tampering with fire safety equipment, generating a false alarm, or engaging in behavior that constitutes a fire or safety hazard.

(13) Failure to evacuate a University building after a fire alarm has sounded or other notice to evacuate has been given by a person authorized to give such notice.

(14) Possession or use of firearms, fireworks, explosives, dangerous chemicals, or other weapons or dangerous instruments on institutionally owned or controlled property.

(15) Obstruction or disruption of teaching, research, administration, judicial procedures, or other institutional activities, including the institution's public service functions, other authorized activities, or University sponsored off-campus events.

(16) Malicious damage, misuse, or theft of institutionally owned property, or the property of any person where such property is located on institutionally owned or controlled property, or, regardless of location, is in the care, custody or control of the University.

(17) Failure by a person causing accidental damage to or removal of property to report to appropriate University staff or individual owner within a reasonable period of time following the accidental damage to or removal of University or personal property.

(18) Theft of property or services, or knowingly possessing or using stolen property or services including, but not limited to, furniture, equipment, university publications or any other form of media, and any other university owned property or services.

(19) Unauthorized entry to or use of institutional facilities, including buildings and grounds. This includes non-residential students who are in the residence hall area without an expressed invitation and/or remain overnight in a residence hall without permission from the Office of University Residences.

(20) Disruption of campus activities or function of the University.

(21) Use of campus computers and/or network resources that includes, but is not limited to:

(a) Unauthorized access to programs;

(b) Alteration of computer records or data;

(c) Theft or other abuse of computer time and/or overloading computing resources;

(d) Violation of copyright laws;

(e) Using a computer account not issued directly to the student; or

(f) Sending or posting threatening or harassing statements as described in 574-031-0030(3).

(g) Any violation of the Acceptable Use of Computing Resources Policy.

(22) Refusal while on institutionally owned or controlled property, or at University sponsored on- or off-campus events, to comply with reasonable requests or directions from authorized University officials, including Public Safety officers, Resident Assistants, faculty and administrators.

(23) Misrepresentation of Matters of Fact, including:

(a) Knowingly furnishing false information to an authorized University official who is making an inquiry to carry out official University business;

(b) Representing one's self as another person, including a University official, with or without that person's permission to gain a benefit improperly;

(c) Altering, forging, improperly possessing, creating, distributing, or lending to another person a University identification card or instrument of identification unless authorized by the University or an authorized University official; or

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(d) Intentionally furnishing false academic information or concealing previous academic information in University application materials, assisting someone else in furnishing false information to the University, or using University documents for fraudulent purposes.

(e) Providing forged, false or improper documents to the University.

(24) Student groups representing themselves or an individual in the group representing him or herself as acting for or in behalf of the University in any commercial enterprise or in the solicitation or collection of funds for any purpose whatsoever without approval in advance by the appropriate University official or agency. This applies to all means of communication (e.g., verbal, written, electronic).

(25) Violation of motor vehicle rules and regulations, or other policies adopted by the University or the State Board of Higher Education pertaining to the use of motor vehicles.

(26) Obstruction or disruption which interferes with the freedom of movement, either pedestrian or vehicular, on institutionally owned or controlled property.

(27) Publication, posting, or distribution on University property, or at authorized University activities, of material that violates copyright laws, postal regulations, University policies or rules, or any other law or statute.

(28) Hazing, defined as any initiation rite for the purpose of admission into, affiliation with, or as a condition for continued membership in a group or organization. The act of hazing, whether on or off campus, involves any intentional action or situation that a reasonable person would foresee as causing mental or physical discomfort, embarrassment, or ridicule; or which destroys or removes public or private property. Activities and situations that may occur as part of hazing include, but are not limited to:

(a) Physical abuse, pain, harm, or risk;

(b) Mental anguish, fear or anxiety;

(c) Required performance of activities (e.g., pranks, servitude, physical contests);

(d) Compelled ingestion of any substance;

(e) Any form of confinement or restraint; or

(f) Other activities which violate federal, state or local laws.

(29) Contempt of adjudicative proceedings, which includes but is not limited to:

(a) Conduct that interrupts the due course of proceedings in the presence of any hearing body created under this Code;

(b) Violating the confidentiality of judicial proceedings administered under this Code;

(c) Knowingly giving false information at a judicial hearing or knowingly giving false information in a statement to be used as evidence at a judicial hearing, or knowingly giving false information to a campus judicial hearing officer;

(d) Failure by a witness to appear at a conduct hearing when requested to do so by a representative of the Campus Judicial Program;

(e) Knowingly and falsely initiating the judicial process, for instance, by filing a false complaint or report;

(f) Influencing or attempting to influence the impartiality of a hearing officer or a member of a campus judicial body or a witness;

(g) Harassment of a member of a campus judicial body or hearing officer prior to, during, and/or after a judicial proceeding; or

(h) Failure to comply with the terms of any judicial sanction imposed in accordance with the Code of Student Responsibility or mandated by the Residence Halls Judicial Board.

(30) Violation of published University policies, rules, or regulations.

(31) Inciting others to engage in any of the above prohibited forms of conduct or to perform any of the acts prohibited herein. Inciting means the advocacy of proscribed conduct which calls upon the person or persons addressed for imminent actions, and is coupled with a reasonable apprehension of imminent danger to the functions and purposes of the institution, including the safety of its students, faculty, and officials, and the protection of its property.

(32) Violation of OUS Higher Education policies.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0048; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2009, f. & cert. ef. 7-29-09

574-031-0040

Sanctions

The following order of sanctions implies neither degree of severity nor appropriateness of the sanction to the number of violations. Multiple sanctions may be assigned. Students will be responsible for any applicable

costs for carrying out sanctions. The sanctions that may be assigned include, but are not limited to:

(1) Mediation: When charges of theft, vandalism, harassment, assault, or other harmful treatment are upheld through the adjudicative process, the student may be assigned to participate in a mediated meeting with the victim.

(2) Counseling: A student may be assigned to participate in a counseling intake session and to follow the recommendations of the intake counselor for further counseling sessions.

(3) Alcohol/Drug Assessments: A student may be assigned to complete an alcohol and/or drug evaluation and to follow the recommendations of the alcohol/drug counselor for treatment and/or education.

(4) Warning: The student or group is given written or verbal warning that his/her/their acts violated specified University regulations or policies and is advised that further violations may result in the assigning of more severe sanctions.

(5) Loss of Privileges: The student or group is denied specific privileges normally associated with student or group status, such as participation in recognized activities, use of University facilities or services, or living in University owned student residences.

(6) Community Service: The student or group must perform a designated number of hours in service to the community affected by his or her behavior.

(7) Restitution: The student or group must replace, restore, or pay for damaged, stolen, or misappropriated property.

(8) Disciplinary Probation: The student or group is placed on a probationary status, with or without loss of designated privileges, which may include the following: restriction on an individual's participation in co-curricular activities, receiving recognition through awards, and eligibility for scholarships. Probation is a serious warning. Probation occurs for a specific period of time and/or prior to completion of certain specific activities.

(9) Negative Notation on Transcript: There may be an entry of information onto the student's permanent academic record regarding his or her violation of the Code of Student Responsibility. The entry may be permanent or for a specific period and must be noted as such on the transcript. After the expiration of the period of time specified, the notation will be removed upon written request by the student to the Coordinator of Campus Judicial Affairs.

(10) Suspension: The student or group is excluded from the University for a specific period and during that period may not enjoy academic privileges, participate in any University recognized function or group, or be allowed to reside in any University residence hall or building. If it is a group, the group may not function as a recognized group for a specific period of time.

(11) Expulsion: The student or group is permanently excluded from the University and may not enjoy academic privileges, participate in any University recognized function, or be allowed to reside in any University residence hall or building.

(12) Degree Revocation: The University may revoke a degree if a former student is found to have engaged in academic dishonesty in courses taken leading to the degree, or if the student is found to have engaged in actions that if known at the time the degree was awarded would have made the student unqualified for the degree.

(13) Deferred Sanction: The execution of any sanction authorized under this Code may be deferred. When deferring a sanction the following will apply:

(a) Assignment of a time limit for the deferred period;

(b) Notice given that subsequent violations of the Code or failure to comply with an existing sanction will terminate the deferment and result in automatic imposition of the original sanction. In the absence of such violation(s), the original sanction will be deemed completed at the end of the deferred period;

(c) The Coordinator of Campus Judicial Affairs or other hearing officer will hear allegations of a student's misconduct during the period of his or her deferred sanction within five business days during which the University is in session. The original sanction will take effect at the time the Coordinator of Campus Judicial Affairs or other hearing officer receives notice of the allegations pending this hearing. The Coordinator of Campus Judicial Affairs or other hearing officer may render a decision in the absence of the charged student. The original sanction will remain in effect unless the allegations are not upheld; or

(d) A student found in violation of the Code of Student Responsibility during his or her period of a deferred sanction may appeal the finding through this Code's normal appeal process. The sanction will remain in effect until resolution of the appeal.

ADMINISTRATIVE RULES

(14) Sanction of Restraint: The student may not knowingly interact with another student or member of the University community specified by the sanctioning person or body. The restriction prohibits the restrained student from purposefully interacting with the protected person, over the phone, over any electronic source, in person, and through the mail. Unless specifically stated otherwise in the sanction, the restriction does not prohibit the restrained student from unintentionally, or out of necessity, being in the same building or vicinity as the protected student (e.g., eating in the Dining Hall, attending the same class). The sanctioning person or body will determine the time limit for this sanction.

(15) Suspension of Student Status for Medical or Mental Health Reasons Pending Hearing Procedures: When evidence is received from an appropriate health professional which indicates that a student has a medical or mental health condition which creates a serious and imminent threat to the University community, to the student, or to the educational processes of the institution, the Vice President for Student Affairs will review that evidence and may suspend the student immediately pending a hearing. The hearing must occur within ten business days during which the University is in session. The student may be required to submit to psychological or physical assessment and to authorize release of such records to the Vice President for Student Affairs or other appropriate University officials in order to be re-enrolled in the University.

(16) Interim Sanction for Emergency Reasons: The Vice President for Student Affairs, the Coordinator of Campus Judicial Affairs, or their designee can invoke an interim, pre-hearing sanction when it is deemed necessary for the health or safety of the individual, other students, or University staff or faculty. In such instances where a student is assigned an interim sanction, the student will receive a hearing within ten working days in which the University is in session. Only when it is not possible to schedule necessary witnesses or obtain information significant to the case will the hearing be held more than ten working days in which the University is in session after assignment of the interim sanction. Interim sanctions include the following:

- (a) Expulsion;
- (b) Suspension;
- (c) Restraint;
- (d) Removal from Residence Halls; or
- (e) Holding Records.

(17) Placement of VP Hold or Judicial Hold: A VP Hold prohibits the student from conducting most forms of business with the University, including receiving grades and sending or receiving transcripts. A Judicial Hold prohibits the student from registering for classes at the University. Holds are intended to be used with a time limit determined by the Coordinator of Campus Judicial Affairs or designee except in the case of expulsion when the VP Hold will be placed with no date of termination.

(18) Other Sanctions as assigned that are deemed appropriate to the educational/developmental nature of this Code and the student(s) involved. Failure by a student to complete the sanctions imposed can result in further judicial action and sanctions being assigned to the student. Appeals of sanctions can be made through the appeal process (see section 574-032-0120).

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0049; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2009, f. & cert. ef. 7-29-09

574-032-0020

Student Conduct Committee

(1) The President of the University appoints the Student Conduct Committee which consists of no fewer than three faculty members, three professional unclassified staff members to serve on non-academic related cases, and no fewer than six student members. The faculty and staff members will serve for three years on a rotational basis so two experienced members of each classification serve each year.

(2) The Coordinator of Campus Judicial Affairs solicits nominations for faculty appointments from the Department or Division Chairs and the Faculty Senate President by the end of each Spring term to fill whatever faculty vacancies exist.

(3) The Coordinator of Campus Judicial Affairs solicits nominations for staff members from the Administrative Support Council and non-academic departments by the end of each Spring term to fill whatever staff vacancies exist.

(4) The Coordinator may nominate a faculty and/or staff member to emeritus status when he or she leaves his or her rotation. This status recognizes outstanding service to the Committee by a faculty member. Members of this standing could still participate in Committee hearings, business

meetings and social events, but would not be required to participate. Professors of this status also could serve the University and the Committee, including its advisor, in a counsel and historian role. Final appointment to this status is made by the President.

(5) The Coordinator of Campus Judicial Affairs solicits nomination for student appointments by the end of Spring term from the Residence Halls Association, the Associated Students of Western Oregon University (ASWOU), and the Vice President for Student Affairs. Each organization and the Vice President submit to the Coordinator a list of students willing to serve on the committee. The Coordinator interviews all nominees and then selects students for the Committee to fill any vacancies from the year before using the following quota: three students as on-campus, three students as off-campus, and (if numbers allow) two students as alternate representatives. The Coordinator then forwards the names to the President for approval. If the Coordinator does not receive nominations by the end of Spring term, he or she may, with the approval of the Vice President for Student Affairs, follow a different procedure for selecting student Committee members.

(6) The Coordinator convenes the Student Conduct Committee early in Fall term of each year for orientation and training. Faculty, staff and student members of the Committee must attend training as a condition of their membership. Faculty, staff and students who do not attend training during the Fall and at other times during the year will be removed from the Student Conduct Committee.

(7) The Student Conduct Committee reviews and recommends to the Vice President for Student Affairs appropriate changes to the Code of Student Responsibility. However, the Vice President for Student Affairs, the Coordinator of Campus Judicial Affairs, or any other campus individual or group may also recommend changes at any time. The Vice President for Student Affairs coordinates proposed changes with appropriate campus groups and places a notice in the student newspaper inviting interested parties to review the revision. Upon completion of the review process the Vice President for Student Affairs will recommend the changes to the President for final approval. The revisions become effective when filed with the Oregon Secretary of State's Office.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0051; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2009, f. & cert. ef. 7-29-09

574-032-0030

Hearing Sub-Committee

(1) The Hearing Sub-Committee is a sub-committee of the Student Conduct Committee. This sub-committee will consist of a maximum of two faculty or staff members and four student members. Selection of sub-committee members for each hearing sub-committee is made by the Coordinator for Campus Judicial Affairs. A minimum of one faculty or staff member and two students is required for a quorum, and a quorum must always consist of at least one more student than faculty or staff member. If a quorum cannot be obtained, a hearing will be postponed until a quorum is present, unless the student waives the requirement for a quorum in writing.

(2) The Hearing Sub-Committee will meet at the request of the Coordinator of Campus Judicial Affairs to hear judicial cases. The Hearing Sub-Committee will select a chair for each hearing and that chair will submit findings and sanctions to the Coordinator of Campus Judicial Affairs. A faculty or staff member must always serve as chair.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0052; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2009, f. & cert. ef. 7-29-09

574-032-0040

Appeals Sub-Committee

An Appeals Sub-Committee is a sub-committee of the Student Conduct Committee formed as needed to hear appeals of decisions made by the Coordinator of Campus Judicial Affairs. An Appeals Sub-Committee consists of a maximum of two faculty or staff members and four student members. For more information concerning appeals, see the appeals section (574-032-0120).

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 2-1996, f. & cert. ef. 11-12-96; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2009, f. & cert. ef. 7-29-09

ADMINISTRATIVE RULES

574-032-0120

Appeal of Hearing

(1) A student in violation may appeal decisions reached at a hearing. The appeal must be filed within five working days in which the University is in session following the date the student receives notice of the hearing results. Appeals must be delivered, in writing, to the Office of the Vice President for Student Affairs or the Office of University Residences. Appeals for academic dishonesty cases must be delivered to the Office of the Provost. An appeal form must include specific justification for the appeal as listed in (3) below.

(2) The Coordinator for Campus Judicial Affairs may appeal decisions reached at a hearing to the Vice President for Student Affairs if the Coordinator believes the decision is not in compliance with University Standards.

(3) Except as required to explain the basis of new evidence, an appeal will be limited to review of the accurate record of the initial hearing and supporting documents for one or more of the following purposes:

(a) To determine whether the original hearing was conducted in conformity with the procedures described in the Code of Student Responsibility;

(b) To determine whether the decision reached regarding the charged student was based on a preponderance of the evidence; that is, whether the facts presented were sufficient to establish that a violation of the Code of Student Responsibility occurred;

(c) To determine whether the sanction(s) imposed were appropriate to the charged student's previous judicial history and to the present violation(s) of the Code of Student Responsibility; or

(d) To consider new evidence, sufficient to alter a decision, or other relevant facts not brought out in the original hearing, because such evidence and/or facts were not known to the person appealing at the time of the original hearing.

(4) The following decisions may be made by the Appeals Body:

(a) That evidence exists not available at the time of the hearing sufficient to alter the original decision. In this case the Appeals Body remands the case to the original hearing body for a supplemental hearing;

(b) The appeal is denied. In this case, the entire decision of the original hearing body, including sanctions, remains effective. New violations can never be found through the appeal process; or

(c) The appeal is upheld. In this case, the Appeals Body renders a new decision, including reducing or removing sanctions, and/or replacing the findings and sanctions of the original hearing body or officer.

(5) Procedure

(a) The Vice President for Student Affairs will hear appeals of hearings with the Student Conduct Hearing Sub-Committee and appeals of hearings with the Coordinator of Campus Judicial Affairs;

(b) An appeals sub-committee of the Student Conduct Committee or the Vice President for Student Affairs will hear appeals of hearings with the Coordinator of Campus Judicial Affairs;

(c) The Provost will hear appeals of cases of academic dishonesty;

(d) The Coordinator of Campus Judicial Affairs will hear appeals of hearings with the Residence Halls Judicial Board;

(e) Upon receipt of the appeal, the Appeals Body may suspend any or all sanctions pending its decision;

(f) The Appeals Body must consider the appeal based on the record, with no new evidence considered. If new evidence becomes available, the Appeals Body must remand the case to a new hearing with the original hearing body. The Coordinator of Campus Judicial Affairs must provide a complete and accurate record of the original hearing to the Appeals Body. The Appeals Body may, but is not required to, meet with the student regarding his or her appeal; and

(g) Within ten days in which the University is in session following receipt of the appeal, the Appeals Body will notify the student in writing of the results of the appeal.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0058; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 7-29-09

574-032-0150

Rights of Victims

A fundamental aspect of the Code of Student Responsibility is to provide procedures that ensure the Constitutional rights of the charged student. However, the University also recognizes that the victims of misconduct should also have rights. Therefore, the following rights of victims must be guaranteed during judicial proceedings conducted by the University.

(1) A victim has the right to be identified as a witness and provide a witness statement.

(2) A victim has the right to have a person of her or his own choice accompany her or him while in attendance at the judicial hearing.

(3) Unless it bears directly on the charges, a victim has the right not to have her or his past history or behavior discussed during a hearing. This includes reference to past violations of the Code of Student Responsibility, past sexual history, and past indiscretions of any type.

(4) A victim has the right to make a victim impact statement only when the charged student's alleged harmful behavior against the victim is upheld. The victim impact statement may only be used or considered for sanctioning purposes.

(5) A victim has the right to be shielded from face to face contact with the charged student.

(6) A victim has the right to be kept informed during the judicial process within legal guidelines; and

(7) A victim has the right to be informed immediately of the outcome of a hearing within legal guidelines.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0060; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2009, f. & cert. ef. 7-29-09

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: Publication(s) referred to or incorporated by reference are available from the Office of the Vice President for Finance and Administration at Western Oregon University.]

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; WOSC 3-1997, f. & cert. ef. 10-7-97; WOSC 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; WOU 2-2008, f. & cert. ef. 9-3-08; WOU 1-2009, f. & cert. ef. 2-13-09; WOU 2-2009, f. & cert. ef. 7-29-09

Oregon Youth Authority

Chapter 416

Rule Caption: Managing offender mail within youth correctional facilities.

Adm. Order No.: OYA 3-2009

Filed with Sec. of State: 7-21-2009

Certified to be Effective: 7-27-09

Notice Publication Date: 11-1-2008

Rules Amended: 416-440-0015, 416-440-0020, 416-440-0035

Subject: The rule modifications clarify the offender "correspondence" definition and how the correspondence is received by offenders in youth correctional facilities. Also clarified are types of correspondence that may be prohibited. The modifications also allow for an appeal process when correspondence is rejected by the agency.

Rules Coordinator: Winifred Skinner—(503) 373-7570

416-440-0015

Definitions

(1) **Immediate Family Member:** Legal spouse, domestic partner, parent, guardian, sibling, child, aunt, uncle, grandchildren and grandparents, including foster, in-law, and step relationships. Immediate family also includes the caregiver of the offender's minor child(ren).

ADMINISTRATIVE RULES

(2) Inspection: To examine or view, including reading or photocopying.

(3) Offender correspondence: Correspondence and packages designated official or personal.

(a) Official correspondence is mail sent to or received from officials of the Oregon Youth Authority, any confining or community supervising authority, the Governor, the Secretary of State, any state or federal legislator, administrators of grievance systems, foreign embassy consulates, attorneys, courts, court officials, or any agency that provides legal services to an offender, including legal aid offices.

(b) Personal correspondence is all other mail.

(4) Prohibited mail: Any material that threatens or is detrimental to the general public, or facility/program security, safety, or order, including but not limited to:

(a) Mail that contains escape plans, plans to commit a criminal act or to violate facility rules, or mail that constitutes a crime in or of itself or is used in the furtherance of illegal activity;

(b) Sexually explicit material which by its nature or content poses a threat or is detrimental to the security, safety, or order of the facility or program, or facilitates criminal activity;

(c) Mail sent or received on behalf of another offender;

(d) Incoming mail to a confined OYA offender from an offender confined in a correctional, penal, or detention institution, unless prior written authorization is received from the superintendent/camp director or designee;

(e) Mail to or from identified victims, including through third parties, unless prior written authorization is received from the superintendent/camp director or designee;

(f) Contraband items, including but not limited to weapons or explosives, medications, electronic items, negotiable instruments, money, or photographs with chemical substances on the back of the photograph;

(g) Unauthorized business transactions, such as promotions given in exchange for purchase or subscription, audio or book clubs, requests or applications for credit cards, credit or deferred billing transactions;

(h) Publications deemed contraband, detrimental to an offender's reformation, or publications sent other than directly from a publisher or commercial distributor; and

(i) Attachments or enclosures that are glued, taped or otherwise affixed to the envelope, package, or its contents.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 420A.025, 419C.478, 420A.015, 420.011, 420.014, 420A.025 & 420A.105

Hist.: OYA 17-2005, f. & cert. ef. 7-29-05; OYA 3-2009, f. 7-21-09, cert. ef. 7-27-09

416-440-0020

Offender Mail

(1) The OYA realizes it is important for offenders in its custody to maintain ties with the community through written correspondence with community members, family, and friends. Within the administration of its facilities and programs, the OYA seeks to balance the positive effects of community contact with the responsibilities and values of the agency's mission.

(2) All incoming and outgoing mail is subject to inspection.

(3) An offender's right to send and receive mail will be protected unless the correspondence threatens the preservation of order, security, or discipline of a facility/program; poses a threat to the safety of the program, public officials, or the general public; is being used to further illegal activities; or at the court's direction.

(4) Offender correspondence is designated official or personal.

(5) The OYA will provide the equivalent of three stamps per week for offenders who have no financial resources to maintain ties to the community, including letters to family, friends, or other persons who are involved in the offender's life. Otherwise, no limits will be placed on the amount of business or personal correspondence an offender sends or receives.

(6) Personal mail may be inspected for contraband. Official mail will remain sealed but may be opened and inspected for contraband in the presence of the offender. Contraband items will be removed and documented. Appropriate contents will be delivered to the offender or recipient.

(7) All mail will:

(a) Be placed in an envelope or appropriate packaging acceptable by the official mail carrier;

(b) Include a sending and return address on the envelope or package;

(c) Contain appropriate postage;

(d) Be sent via the U.S. Postal Service or other official mail carriers, such as Federal Express, United Parcel Service, or the state shuttle.

(A) Official correspondence may be sent using U.S. postage and official carrier, or without postage using the facility's internal delivery system or state shuttle mail system, depending upon the intended recipient.

(B) Personal correspondence must be sent via the U.S. Postal Service or other official mail carrier. It is not appropriate to use the state shuttle mail system to send personal correspondence.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C.478, 420A.015, 420.011, 420.014, 420A.025 & 420A.105

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 11-2002, f. & cert. ef. 5-17-02; OYA 17-2005, f. & cert. ef. 7-29-05; OYA 3-2009, f. 7-21-09, cert. ef. 7-27-09

416-440-0035

Prohibited Mail

(1) If mail is prohibited, it may be rejected by OYA staff.

(a) For offenders placed in OYA facilities, only the superintendent/camp director, or specific designee, may reject an offender's mail.

(b) For offenders placed under supervision in the community, only the local supervisor, or specific designee, may reject an offender's mail.

(2) A confined OYA offender may be permitted to correspond with an offender confined in another correctional, penal, or detention institution if the offenders are immediate family members or their correspondence is deemed to have an integral role in offender reformation.

(a) Confined offender-to-offender mail must be inspected by designated staff;

(b) The superintendent/camp director or designee must approve of the confined offender-to-offender correspondence prior to its occurrence.

(A) When one of the confined offenders is not in OYA custody, the equivalent of the superintendent/warden of that institution must also approve of the confined offender-to-offender correspondence.

(3) Both the sender and intended recipient will be notified when mail is rejected. The sender and intended recipient will be informed of a mail rejection appeal process.

(4) When an offender transfers and an address is available, all letters and packages will be promptly forwarded, unopened to the offender. If no

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 419C.478, 420A.015, 420.011, 420.014, 420A.025 & 420A.105

Hist.: OYA 17-2005, f. & cert. ef. 7-29-05; OYA 3-2009, f. 7-21-09, cert. ef. 7-27-09

Public Utility Commission Chapter 860

Rule Caption: In the Matter of a Rulemaking to Implement SB 838 Relating to Renewable Portfolio Standard.

Adm. Order No.: PUC 8-2009

Filed with Sec. of State: 8-5-2009

Certified to be Effective: 8-5-09

Notice Publication Date: 5-1-2009

Rules Adopted: 860-083-0010, 860-083-0100, 860-083-0200, 860-083-0300, 860-083-0350, 860-083-0400, 860-083-0500

Rules Amended: 860-083-0005

Subject: These rules and amendments, adopted by the Commission in this third phase of rulemaking to implement the Oregon Renewable Energy Act (the Act, ORS 469A.005 through 469A.210), are required to establish compliance by electric companies and electricity service suppliers with their applicable renewable portfolio standard. The rules and amendments adopted in this phase implement estimation of the incremental cost of compliance, estimation of electric company annual revenue requirement, compliance standards under the cost limits in the Act, compliance reports, implementation plans, and alternative compliance rates and the use of such funds.

Rules Coordinator: Diane Davis — (503) 378-4372

860-083-0005

Scope and Applicability of Renewable Portfolio Standards Rules

(1) OAR 860-083-0005 through 860-083-0500 (the "Renewable Portfolio Standards rules") establish rules governing implementation of Renewable Portfolio Standards for electric companies and electricity service suppliers provided under ORS 469A.005 through 469A.210.

(2) For good cause shown, a person may request the Commission waive any of the Renewable Portfolio Standards rules.

Stat. Auth.: ORS 756.040, 757.659, 469A.065

Stats. Implemented: 469A.065

Hist.: PUC 7-2009, f. & cert. ef. 6-25-09; PUC 8-2009, f. & cert. ef. 8-5-09

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860-083-0010

Definitions

As used in division 083:

(1) "Aggregate costs" means costs included in ORS 469A.100(4)(c), (d), and (e) that are applicable to more than one generating facility. Aggregate costs also include physical or financial costs for assets to replace interruptions of generation or deliveries of short-term or long-term qualifying electricity, short-term electricity that is not qualifying, or electricity from proxy plants.

(2) "Alternative compliance rate" has the meaning given that term in ORS 469A.180(2).

(3) "Amortization" means spreading the initial estimates of capital costs of long-term qualifying electricity or a proxy plant at the discount rate over an initial amortization period. For replacement costs that were not included in the initial estimate of capital or operating costs for qualifying electricity, amortization means spreading such replacement costs at the discount rate over the remainder of the current amortization period for the associated qualifying electricity. For significant investments in facilities producing qualifying electricity, amortization means spreading such significant investment costs and the remaining unamortized investment of the facility at the discount rate over the expected useful life of the facility.

(4) "Annual revenue requirement" has the meaning given that term in ORS 469A.100(3).

(5) "Applicable filing for an electric company" means an implementation plan under ORS 469A.075, a filing for a change to rates for retail electricity consumers that includes costs of qualifying electricity in rates for the first time, or a compliance report under ORS 469A.170. Applicable filing does not include filings to change rates before 2011.

(6) "Applicable filing for an electricity service supplier" means a compliance report under ORS 469A.170.

(7) "Average cost of compliance" for an electricity service supplier means its total cost of compliance divided by its retail sales in megawatt-hours in the service areas of electric companies subject to ORS 469A.052 for a compliance year.

(8) "Average retail revenue" for an electric company means the annual revenue requirement for a compliance year as determined in OAR 860-083-0200 divided by the forecast of retail sales in megawatt-hours used to determine the annual revenue requirement.

(9) "Banked renewable energy certificate" has the meaning given that term in ORS 469A.005(1).

(10) "Bundled renewable energy certificate" has the meaning given that term in ORS 469A.005(3).

(11) "Compliance year" has the meaning given that term in ORS 469A.005(4).

(12) "Cost of bundled renewable energy certificates" means the leveled incremental cost of the qualifying electricity associated with the bundled renewable energy certificate.

(13) "Cost limit for an electric company" has the meaning given that term in ORS 469A.100.

(14) "Discount rate" means the nominal after-tax marginal weighted-average cost of capital.

(15) "Electric company" has the meaning given that term in ORS 757.600.

(16) "Electricity service supplier" has the meaning given that term in ORS 757.600.

(17) "Extended amortization period" means the period or periods after an initial amortization period where a facility will continue to provide qualifying electricity.

(18) "Implementation plan" has the meaning given that term in ORS 469A.075.

(19) "Incremental cost of compliance" means the cost of bundled renewable energy certificates used for compliance for a compliance year as calculated pursuant to OAR 860-083-0100.

(20) "Initial amortization period for an electric company" means the amortization period for new long-term qualifying electricity or a corresponding proxy plant established in the beginning year of new long-term qualifying electricity. If the qualifying electricity is acquired through a contract, the length of the amortization period is the term of the agreement. For facilities owned by an electric company and the proxy plant, the initial amortization period is based on the electric company's most recent depreciation study approved by the Commission for the type of generating facility.

(21) "Initial amortization period for an electricity service supplier" for facilities that produce qualifying electricity means a period based on the expected useful lifetime of the facility. If the qualifying electricity is

acquired through a contract, the length of the amortization period is the term of the agreement. For proxy plants for an electricity service supplier, the initial amortization period means the period for a proxy plant used by the electric company subject to ORS 469A.052 in whose service area it made the most retail sales in megawatt-hours over the five calendar years preceding the compliance year.

(22) "Integrated resource plan" means the long-term resource plan filed by an electric company that is subject to Commission acknowledgement as is generally set forth in Commission Order Nos. 07-002, 07-047 and 08-339. Integrated resource plan does not include an implementation plan filed under ORS 469A.075.

(23) "Interruptions of generation or deliveries" include, but are not limited to, planned and unplanned generating and transmission facility outages and derates, natural gas delivery interruptions, and reduced generation due to weather or curtailments.

(24) "Levelized cost for long-term qualifying electricity and the corresponding proxy plant" means the present value of amortized capital costs and all other costs amortized at the discount rate over the time horizon of the qualifying electricity. Levelized cost also includes an estimate of the net present value of costs and benefits for the qualifying electricity and the corresponding proxy plant likely to occur after the end of the applicable time horizon, amortized over the time horizon at the discount rate.

(25) "Levelized cost for short-term qualifying electricity" means costs leveled over the term of the contract.

(26) "Levelized cost for short-term non-qualifying electricity" means costs leveled over a term consistent with the duration of the contract for qualifying electricity.

(27) "Long-term qualifying electricity" means electricity from facilities owned by an electric company or electricity service supplier that generate qualifying electricity and qualifying electricity purchased pursuant to contracts of five years or more in duration.

(28) "New qualifying electricity for an electric company" means qualifying electricity when the costs are first included in an applicable filing for a compliance year. New qualifying electricity may be from new generating facilities, generating facilities with significant new investments, or new contracts to purchase electricity.

(29) "New qualifying electricity for an electricity service supplier" means qualifying electricity from new generating facilities, generating facilities with significant new investments, or new contracts to purchase electricity that the supplier plans to use to serve customers of electric companies subject to ORS 469A.052 and are first operational in a compliance year.

(30) "Proxy plant" means, unless otherwise specified by the Commission, a base-load combined-cycle natural gas-fired generating facility that is used to estimate the costs of non-qualifying electricity corresponding to new long-term qualifying electricity with the same beginning amortization year.

(31) "Qualifying electricity" has the meaning given that term in ORS 469A.005(9).

(32) "Renewable energy certificate" has the meaning given that term in OAR 330 160-0015(8) (effective September 3, 2008).

(33) "Renewable energy source" has the meaning given that term in ORS 469A.005(10).

(34) "Replacement costs" means capital costs that have the effect of replacing initial capital costs for long-term qualifying electricity or proxy plants.

(35) "Retail electricity consumer" has the meaning given that term in ORS 469A.005(11).

(36) "Short-term qualifying electricity" means qualifying electricity purchased pursuant to contracts of less than five years in duration.

(37) "Significant investments" means investments in a compliance year that if the investments were amortized over the remainder of the amortization period and combined with cost changes associated with such investments, they would increase the leveled cost of the facility by more than 10 percent. Such estimates do not include replacement costs that were included in the initial estimates of capital or operating costs.

(38) "Specific costs" means the costs for electricity plus the costs for transmission delivery and substations that can reasonably serve only a single generating facility or contract.

(39) "Total cost of compliance" for an electric company or electricity service supplier means the cumulative cost of:

(a) The incremental cost of compliance;

(b) The cost of unbundled renewable energy certificates used to meet the applicable renewable portfolio standard for a compliance year; and

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(c) The cost of alternative compliance payments used to meet the applicable renewable portfolio standard for a compliance year.

(40) "Unbundled renewable energy certificate" has the meaning given that term in ORS 469A.005(12).

Stat. Auth.: ORS 756.040, 757.659 & 469A.065
Stats. Implemented: ORS 469A.005 - 469A.210
Hist.: PUC 8-2009, f. & cert. ef. 8-5-09

860-083-0100

Incremental Costs

(1)(a) For amortization and levelization calculations, an electric company must use the discount rate used in its most recently filed or updated integrated resource plan, unless otherwise specified by the Commission.

(b) For amortization and levelization calculations, an electricity service supplier must use the discount rate applicable to the electric company in whose service area it made the most retail sales in megawatt-hours over the five calendar years preceding the compliance year.

(c) The incremental cost under ORS 469A.100(4) for long-term qualifying electricity is the difference between the leveled annual cost of qualifying electricity delivered in a compliance year and the leveled annual cost of an equivalent amount of electricity delivered from the corresponding proxy plant.

(d) The time horizon for long-term qualifying electricity and for the corresponding proxy plant must be no longer than the amortization period of the qualifying electricity and must be at least as long as the lesser of:

(A) The amortization period of the qualifying electricity; or

(B) The period from the beginning year of the amortization period of the qualifying electricity until 20 years after the current compliance year.

(e) The incremental cost under ORS 469A.100(4) for short-term qualifying electricity is the difference between the leveled annual cost of qualifying electricity delivered in a compliance year and the leveled annual cost of an equivalent amount of delivered market purchases with a consistent term that is not qualifying electricity. The cost of non-qualifying electricity must be based on published prices for a nearby electricity trading hub. When choosing among nearby hubs, the one with transmission costs most similar to the short-term qualifying electricity must be used. Specific costs must be adjusted to account for the differences in all transmission-associated costs.

(f) Levelized annual delivered costs for qualifying electricity and non-qualifying electricity are specific costs plus applicable shares of aggregate costs.

(g) Aggregate and specific costs for interstate electric companies must reflect interstate allocations of costs.

(h) Incremental cost estimates for an electric company must be based on the likely impacts on the rates of its Oregon retail electricity consumers.

(i) Incremental costs are deemed to be zero for qualifying electricity from generating facilities or contracts that became operational before June 6, 2007 and for certified low-impact hydroelectric facilities under ORS 469A.025(5).

(2) Each electric company must forecast the leveled incremental cost of long-term qualifying electricity in the following manner:

(a) For each generation source of qualifying electricity, the electric company must estimate the delivered cost of qualifying electricity for each year over the time horizon of the qualifying electricity. Delivered cost includes aggregate costs and costs specific to a generating facility or contract. Costs include, but are not limited to, those specified in ORS 469A.100(4). Capital costs must be amortized.

(b) The leveled annual cost of qualifying electricity delivered in the compliance year must be based on all costs that will be included in rates through the qualifying electricity's time horizon.

(c) Aggregate costs must be estimated as the incremental cost to the utility system for all qualifying electricity.

(d) Aggregate transmission costs must be allocated proportionately to existing and planned generating facilities that will reasonably be served by the transmission facilities.

(e) If an electric company anticipates that it will have firming and shaping services available for sale for a compliance year, the company may not use rates in its Open Access Transmission Tariff approved by the Federal Energy Regulatory Commission as the basis for the firming or shaping portion of aggregate costs. In such case, the electric company should use the actual or forecasted cost of supplying or purchasing firming and shaping services as the basis for such costs. If an electric company anticipates it will not be able to sell firming and shaping services due to its use of such services, the company may use its approved Open Access Transmission Tariff as the basis for such costs.

(3) Each electricity service supplier must forecast the cost of long-term qualifying electricity it plans to use to serve the service areas of electric companies subject to ORS 469A.052 consistent with section (2) of this rule.

(4) Updates of amortization periods are required for compliance reports described in ORS 469A.170 and implementation plans described in ORS 469A.075 under any of the following circumstances:

(a) If a generation facility that was previously included in a compliance report has significant investment costs in a compliance year, all qualifying electricity from the facility is new qualifying electricity under this rule with an amortization period based on the expected useful life of the facility, considering such investments. Except as provided in subsections (13)(a) and (b) of this rule, costs for each such facility must be updated in the next regularly scheduled compliance report and implementation plan.

(b) Except as provided in subsections (13)(a) and (b) of this rule, if a generating facility produces qualifying electricity after all capital costs have been amortized, the electric company must update the next regularly scheduled compliance report and implementation plan to establish an extended amortization period. The extended amortization period must be based on the expected remaining useful life of the facility. Qualifying electricity from the facility must be treated in the same manner as new qualifying electricity. Additional extended amortization periods may be added.

(c) Each electricity service supplier must update amortization periods for long-term qualifying electricity it plans to use to serve the service areas of electric companies subject to ORS 469A.052 consistent with subsections (4)(a) and (b) of this rule.

(5) The amortization period for a generation facility may change as provided in subsections (4)(a) or (b) or (6)(g) of this rule. Otherwise, the amortization period of the facility may not change.

(6) For each compliance year, except as provided in subsections (13)(a) and (b) of this rule, each electric company must establish a new proxy plant for use in estimating the cost of non-qualifying electricity corresponding to new long-term qualifying electricity with the same beginning amortization year. New proxy plant costs must be based on relevant information in the most recently filed or updated integrated resource plan unless there have been material changes since the most recent of such filings. Proxy plant costs must be estimated in the following manner:

(a) For each new proxy plant, each electric company must provide the estimated heat rate, availability factor, operation and maintenance costs per megawatt-hour, annualized capital replacement costs per megawatt-hour, and the initial capital costs per megawatt. The initial capital cost estimate must comply with the following requirements:

(A) Adjustment must be made for price escalation or de-escalation based on the initial year of the proxy plant and the applicable year of the estimate. Such adjustment may be based on applicable construction cost indexes or other published sources; and

(B) Initial capital costs must be amortized.

(b) Each electric company must estimate the costs of factors listed in subsection (6)(a) of this rule and other elements of the proxy plant that affect its costs for each year of the time horizon of the proxy plant. Estimates must account for expected degradation of the heat rate, capacity, and other elements affecting costs. Forecasts of fuel prices must include cost adders based on current regulation of greenhouse gas emissions or such regulations that are known or reasonably expected to be implemented in the relevant time frame.

(c) Each electric company must allocate aggregate costs for proxy plants in a manner consistent with the allocation of aggregate costs for qualifying electricity.

(d) For calculating the incremental cost for long-term qualifying electricity from a specific generating source, annual aggregate and specific costs for the corresponding proxy plant must be leveled over the time horizon of the qualifying electricity.

(e) The average cost per megawatt-hour for each year of the applicable time horizon is the leveled cost in subsection (6)(d) of this rule divided by the expected base-load electricity production of the proxy plant for that year.

(f) The cost of equivalent non-qualifying electricity is the estimated average cost per megawatt-hour of the proxy plant in subsection (6)(e) of this rule for each year multiplied by the amount of corresponding long-term qualifying electricity that was produced, or is expected to be produced, in each year of the applicable time horizon.

(g) If corresponding long-term qualifying electricity is produced or is planned to be produced after a proxy plant's initial amortization period, a new amortization period for the qualifying electricity must be established based on the expected remaining useful life of the generating facility. Any

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remaining unamortized investment for the facility associated with the qualifying electricity must be amortized over the new amortization period. Qualifying electricity from the facility must be treated in the same manner as new qualifying electricity.

(h) If the initial amortization period for new long-term qualifying electricity is longer than the initial amortization period for the corresponding proxy plant, the electric company must estimate the year-by-year replacement capital, operation and maintenance expenditures necessary to extend the lifetime of the proxy plant to a period equal to or greater than the amortization period of the qualifying electricity. In such case, initial and replacement capital costs of the proxy plant must be amortized over its extended lifetime before the proxy plant costs are leveled in subsection (6)(d) of this rule. Fuel costs must be estimated for each year of the extended lifetime of the proxy plant. A proxy plant whose lifetime has been extended under this subsection may be used as the corresponding proxy plant for all new long-term qualifying electricity with the same beginning amortization year.

(i) Each electricity service supplier must forecast the cost of proxy plants consistent with subsections (6)(a) through (h) of this rule for plants corresponding to long-term qualifying electricity it plans to use to serve the service areas of an electric company subject to ORS 469A.052.

(7) To the extent practical, forecasts of proxy plant fuel prices in compliance reports and implementation plans must be based on the most recent forecast filed in an avoided cost proceeding under ORS 758.525(1) or filed or updated in an integrated resource planning proceeding per Commission orders. Fuel prices must include fuel transportation costs to an appropriate location for the proxy plant. Forecasts of fuel costs made by electric companies and electricity service suppliers for each new proxy plant must use one of the following methods when a new proxy plant is established:

(a) Proxy plant fuel prices may be based on financially firm, long-term fixed prices for fuel for the period such contracts are available. After such period, the method in subsection (7)(b) of this rule must be used; or

(b) Proxy plant fuel prices may be based on forecasts of spot prices for fuel at an appropriate market trading hub plus an estimate of the cost of hedging as much fuel price risk as can be reasonably achieved for remainder of the time horizon of such plant.

(8) To the extent practical, forecasts of biomass fuel prices in compliance reports and implementation plans must be based on the most recently filed or updated integrated resource plan. Fuel costs for long-term qualifying electricity from biomass sources specified in ORS 469A.025(2) must be forecast in a manner that reduces fuel price risk as much can be reasonably achieved through long-term contracts, hedging, or other mechanisms for the time horizon of the generation resource.

(9)(a) If fuel prices for a proxy plant or biomass plant were forecasted based on a method similar to the method in subsection (7)(b) of this rule, an electric company must update plant costs for actual spot fuel prices, including actual cost adders from regulation of greenhouse gas emissions, in each implementation plan and compliance report.

(b) If fuel prices are updated as described in subsection (9)(a) of this rule, actual fuel costs must include hedging costs as described in subsection (7)(b) or section (8) of this rule.

(c) For the period fuel prices for a proxy plant or biomass plant were forecasted based on a method similar to the method in subsection (7)(a) of this rule, fuel costs are not updated, except fuel costs are updated for additional actual costs from regulation of greenhouse gas emissions if such costs were not included in the contract referenced in subsection (7)(a) of this rule.

(d) In its implementation plans and compliance reports, an electric company must update for amounts of actual qualifying electricity.

(e) To the extent that forecasts of the amount of qualifying electricity are used in a compliance report, such forecasts, to the extent practicable, should be based on the most recently filed implementation plan, unless section (10) or (11) of this rule applies.

(f) In its compliance reports, an electricity service supplier must include updated estimates of the incremental cost of long-term qualifying electricity at least every two years consistent with subsections (9)(a) through (e) of this rule for qualifying electricity it plans to use to serve the service areas of an electric company subject to ORS 469A.052.

(10) If an electric company or electricity service supplier discovers a significant error in its incremental cost estimates, it must update incremental cost estimates in the next applicable filing.

(11) If the number of renewable energy certificates used for compliance or the amount of alternative compliance payments is reduced due to a cost limit in ORS 469A.100, the electric company or electricity service supplier must review the methodologies used to estimate the leveled costs of

proxy plants and long-term qualifying electricity. If a systematic error is discovered, all such errors must be corrected in estimates of the incremental costs of qualifying electricity in the applicable compliance report. If such a correction is made, the correct total number of certificates and amount of alternative compliance payment, if any, must be used for the compliance year.

(12) If the cost limit specified in ORS 469A.100(1) is expected to reduce the number of renewable energy certificates used for compliance or the amount of alternative compliance payments for any forecasted compliance year covered by an implementation plan, the electric company must review the methodologies used to estimate the leveled costs of proxy plants and long-term qualifying electricity. If a systematic error is discovered, all such errors must be corrected in estimates of the incremental cost of qualifying electricity in the applicable implementation plan.

(13)(a) Except as provided in section (11) of this rule, if new long-term qualifying electricity in a compliance year, including qualifying electricity treated in the same manner as new qualifying electricity in subsections (4)(b) and (6)(g) of this rule, totals less than 20 megawatts of capacity, the incremental cost for such long-term qualifying electricity is not required to be included in compliance reports or implementation plans. Such long-term qualifying electricity may be included in a compliance report for purposes of determining compliance with the applicable renewable portfolio standard under ORS 469A.052 or ORS 469A.065.

(b) When the capacity of qualifying electricity described in subsection (13)(a) of this rule equals or exceeds 20 megawatts in a compliance year or the cumulative capacity of qualifying electricity in subsection (13)(a) of this rule exceeds 50 megawatts, the incremental cost of all such qualifying electricity must be included in the compliance report for the compliance year and in compliance reports and implementation plans filed after such compliance report.

(c) The amortization periods for the qualifying electricity in subsections (13)(a) and (b) of this rule must begin at the same time as the latest operational date for the qualifying electricity. Costs must be adjusted for price escalation or de-escalation based on the beginning amortization year and actual initial years for such qualifying electricity. Adjustments may be based on applicable construction costs indexes or other published sources.

(d) A new proxy plant with the same beginning amortization year as the qualifying electricity in subsection (13)(c) of this rule must be used to estimate the non-qualifying costs corresponding to such qualifying electricity.

Stat. Auth.: ORS 756.040, 757.659 & 469A.065

Stats. Implemented: ORS 469A.100

Hist.: PUC 8-2009, f. & cert. ef. 8-5-09

860-083-0200

Electric Company Revenue Requirements

(1) For the purposes of division 083, annual revenue requirement is the amount produced from the following calculations:

(a) If the electric company is involved in a general rate proceeding using a test year that is reasonably representative of the compliance year and that results in the Commission issuing a final order no later than January 1 of the compliance year, annual revenue requirement is the total revenue the Commission authorizes an electric company the opportunity to recover in Oregon rates before the application of credits resulting from 16 U.S.C. sec. 839(c) (2008) (commonly known as the "Bonneville Power Administration Residential Exchange") adjusted for amounts and costs as needed in accordance with ORS 469A.100(3); or

(b) For a compliance year not involving a general rate proceeding under subsection (1)(a) of this rule, annual revenue requirement is the amount produced by the following calculation:

(A) Calculate the operating revenues related to net power costs, the renewable adjustment clause, updates for base rate changes relating to automatic adjustment clauses, and other adjustments authorized by the Commission subsequent to the most recent general rate proceeding and adjusted for electric company load changes as needed; and

(B) To the amount calculated under paragraph (1)(b)(A) of this rule, add the product of:

(i) The total operating revenues authorized in the most recent general rate proceeding, reduced by the amount of operating revenues related to energy efficiency programs, low income energy assistance, the incremental cost of compliance, unbundled renewable energy certificates, alternative compliance payments, and net power costs in the general rate proceeding, and increased by credits resulting from 16 U.S.C. sec. 839(c) (2008); and

(ii) The ratio of the compliance year forecasted load to the load from the most recent general rate proceeding; and

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(C) In the sum calculated under subsection (1)(b) of this rule, adjust for the amounts and costs as needed in accordance with ORS 469A.100(3).

(2) For a compliance year under subsection (1)(b) of this rule, each electric company that is subject to a renewable portfolio standard in the following calendar year under ORS 469A.052 must file its proposed annual revenue requirement for the following compliance year on or before November 15, 2010, and annually thereafter.

(3) On or before December 1, 2010, and annually thereafter, each electric company must amend its filing made under section (2) of this rule for any updated renewable adjustment clause filing and retail electricity consumer loads that will be served through direct access in the compliance year.

(4) For a compliance year involving a general rate proceeding under subsection (1)(a) of this rule, the electric company must make a compliance filing by December 1 in the year preceding the compliance year or 14 days from the entered date of the Commission's final order in the general rate proceeding, whichever is later. The compliance filing must calculate the total revenue the Commission authorized the electric company the opportunity to recover in Oregon rates in the final rate proceeding order, adjusted for amounts and costs as needed under ORS 469A.100(3).

Stat. Auth.: ORS 756.040, 757.659 & 469A.065

Stats. Implemented: ORS 469A.100

Hist.: PUC 8-2009, f. & cert. ef. 8-5-09

860-083-0300

Compliance Standards

(1) Each electricity service supplier subject to ORS 469A.065 must meet the requirements of 469A.052 unless a limit specified in section (2) or section (3) of this rule applies.

(2)(a) The cost limit under ORS 469A.100(6) for an electricity service supplier means four percent of the weighted average of the average retail revenues per megawatt-hour of the electric companies subject to 469A.052 in whose service areas the electricity service supplier sells electricity. The weights are the retail sales in megawatt-hours by the electricity service supplier in the service areas of electric companies subject to 469A.052 for a compliance year.

(b) If the average cost of compliance per megawatt-hour for an electricity service supplier subject to ORS 469A.065 exceeds the cost limit for a compliance year, the electricity service supplier is not required to incur additional costs to meet section (1) of this rule.

(3)(a) An electric company or an electric service supplier is not required to meet the renewable portfolio standards during each compliance year to the extent that:

(A) For the electric company, the total cost of compliance to meet the renewable portfolio standard exceeds the cost limit in ORS 469A.100(1); and

(B) For the electricity service supplier, the average cost of compliance exceeds the cost limit in section (2) of this rule.

(b) In determining compliance with the applicable renewable portfolio standard in ORS 469A.052 or 469A.065 and the applicable cost limits under 469A.100(1) and 469A.100(6), the following apply:

(A) Subject to the Commission's review under ORS 469A.170, an electric company or electricity service supplier may elect to use alternative compliance payments to comply with the applicable renewable portfolio standard. The Commission may also require an electric company or electricity service supplier to use alternative compliance payments to comply with the applicable renewable portfolio standard if the alternative compliance payments would not cause the electric company or electric service supplier to exceed the applicable cost limits in ORS 469A.100(1) and 469A.100(6).

(B) Each electric company and electricity service supplier must use, in chronological order from first issued to last issued, its banked renewable energy certificates under ORS 469A.140(2)(a) and (2)(b), subject to the limitations under 469A.145, before using certificates issued in the compliance year or between January 1 through March 31 of the year following the compliance year.

(C) Subject to the limitations under ORS 469A.145 and the cost limit under 469A.100, if the banked renewable energy certificates each electric company or electricity service supplier uses are not sufficient to achieve compliance with the applicable renewable portfolio standard, the electric company or electricity service supplier must use renewable energy certificates issued or acquired in the compliance year or between January 1 through March 31 of the year following the compliance year, or make an alternative compliance payment, up to the amount required for compliance with the applicable standard. Bundled renewable energy certificates must be used in chronological order from first issued to last issued.

(D) If the total cost of compliance exceeds the cost limit under ORS 469A.100, the electric company or electricity service supplier is not required to use additional renewable energy certificates or make an alternative compliance payment to meet the applicable standard.

(c) The costs of renewable energy certificates used to determine whether the cost limit has been reached must be from the applicable compliance report.

Stat. Auth.: ORS 756.040, 757.659 & 469A.065

Stats. Implemented: ORS 469A.050, 469A.052, 469A.065, 469A.070, 469A.100, 469A.140 & 469A.145

Hist.: PUC 8-2009, f. & cert. ef. 8-5-09

860-083-0350

Compliance Reports by Electric Companies and Electricity Service Suppliers

(1)(a) On or before June 1, 2012, and annually on or before June 1 thereafter, each electric company that is subject to a renewable portfolio standard set forth in ORS 469A.052 or 469A.055 for the previous calendar year must file a report with the Commission demonstrating compliance, or explaining in detail its failure to comply, with the applicable renewable portfolio standard.

(b) On or before June 1, 2012, and annually on or before June 1 thereafter, each electricity service supplier that is subject to a renewable portfolio standard contained in ORS 469A.065 and sells electricity to retail electricity consumers in the service territories of electric companies subject to 469A.052 must file a report with the Commission demonstrating compliance, or explaining in detail its failure to comply, with OAR 860-083-0300(1) for the preceding compliance year.

(2) For electric companies subject to 469A.065 and electricity service suppliers subject to 469A.065, the report in section (1) of this rule must include the following information related to Oregon retail electric consumers for activities of the electric company or electricity service supplier for the preceding compliance year:

(a) The total number of megawatt-hours sold to retail electricity consumers covered by ORS 469A.052 by the electric company or sold in the service areas of each electric company covered by ORS 469A.052 by the electricity service supplier.

(b) The total number of renewable energy certificates, identified as either unbundled or bundled certificates, acquired in the compliance year and used to meet the renewable portfolio standard.

(c) The total number renewable energy certificates, identified as either unbundled or bundled certificates, acquired on or before March 31 of the year following the compliance year and used to meet the renewable portfolio standard.

(d) The total number and cost of unbundled renewable energy certificates, identified as either banked or non-banked certificates, used to meet the renewable portfolio standard.

(e) The total number of banked bundled renewable energy certificates that were used to meet the renewable portfolio standard.

(f) The total number of renewable energy certificates, identified as either bundled or unbundled certificates, issued in the compliance year that were banked to serve Oregon electricity consumers.

(g) For electric companies, unless otherwise provided under subsection (2)(k) of this rule, the total number of renewable energy certificates included in the rates of Oregon retail electricity consumers that were sold since the last compliance report, including:

(A) The names of the associated generating facilities; and

(B) For each facility, the year or years the renewable energy certificates were issued.

(h) Unless otherwise provided under subsection (2)(k) of this rule, for each generating facility associated with the renewable energy certificates included in subsections (2)(b), (c), (f), or (g) of this rule the following information:

(A) The name of the facility;

(B) The county and state where the facility is located;

(C) The type of renewable resource;

(D) The total nameplate megawatt capacity of the facility;

(E) For an electric company, the Oregon share of the nameplate megawatt capacity of the facility;

(F) The year of the first delivery of qualifying electricity or the first year of the contract for the purchase of unbundled renewable energy certificates; and

(G) The duration of the contract or the amortization period of a facility owned by the electric company or the planned lifetime of a facility owned by the electricity service supplier.

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(i) The amount of alternative compliance payments the electric company or electricity service supplier elected to use or was required to use to comply with the applicable renewable portfolio standard.

(j) For an electric company, sufficient data, documentation, and other information to demonstrate that any voluntary alternative compliance payments were a reasonable compliance method.

(k) Documentation of use of renewable energy certificates from the system under OAR 330-160-0020 established for compliance with the applicable renewable portfolio standard.

(l) For each electric company, a detailed explanation of any material deviations from the applicable implementation plan filed under OAR 860-083-0400, as acknowledged by the Commission.

(m) As specified in OAR 860-083-0100, the total number and cost of bundled renewable energy certificates used for compliance.

(n) For each electric company, its projected annual revenue requirement as calculated in OAR 860-083-0200 and its total cost of compliance.

(o) For each electricity service supplier, its total cost of compliance, its average cost of compliance, and its cost limit as specified in OAR 860-083-0300(2), including all calculations.

(p) For each electric company, an accounting of the use of the renewable energy certificates and alternative cost payments consistent with OAR 860-083-0300(3) if the cost limit in OAR 469A.100(1) is reached for the compliance year.

(q) For each electricity service supplier, an accounting of the use of the renewable energy certificates and alternative cost payments consistent with OAR 860-083-0300(3) if the cost limit in OAR 860-083-0300(2) is reached for the compliance year.

(r) As specified in OAR 860-083-0100, the number and total cost of all bundled renewable energy certificates issued.

(s) As specified in OAR 860-083-0100, the number and total cost of bundled renewable energy certificates issued that are associated with new qualifying electricity since the last compliance report.

(3) If so prescribed by the Commission, each electric company and electricity service supplier must use established forms to provide information required under subsections (2)(a) through (s) of this rule.

(4) Commission staff and interested persons may file written comments on an electric company or electricity service supplier report in section (1) of this rule within 45 calendar days of the filing. The electric company or electricity service supplier may file a written response to any comments within 30 calendar days thereafter. After considering written comments, the Commission may decide to commence an investigation, begin a proceeding, or take other action as necessary to make a determination regarding compliance with the applicable renewable portfolio standard.

(5) Upon conclusion of the Commission review of the report in section (1) of this rule, the Commission will issue a decision determining whether the electric company or electricity service supplier complied with the applicable renewable portfolio standard and any other determinations under ORS 469A.170(2). If the Commission determines that the electric company or electricity service supplier is not in compliance with the applicable renewable portfolio standards set forth in 469A.052 or 469A.065 and such non-compliance is not warranted by the cost limits set forth in OAR 469A.100, the Commission may require an alternative compliance payment to address such shortfall, impose a penalty, or both.

(6) Each electric company subject to OAR 469A.052 and each electricity service supplier subject to 469A.065 must post on its web site the public portion of the four most recent annual compliance reports required under this rule and provide a copy of the most recent such report to any person upon request. The public portions of the most recent compliance report must be posted within 30 days of the Commission decision in section (5) of this rule. The posting must include any Commission determinations under section (5) of this rule.

(7) Consistent with Commission orders for disclosure under OAR 860-038-0300, each electric company subject to OAR 469A.052 and each electricity service supplier subject to 469A.065 must provide information about its compliance report to its customers by bill insert or other Commission-approved method. The information must be provided within 90 days of the Commission decision in section (5) of this rule or coordinated with the next available insert required under OAR 860-038-0300. The information must include the URL address for the compliance reports posted under section (6) of this rule.

(8) A small electric company as described in ORS 469A.055 that has the exemption provided by 469A.055(1) is exempt from the rules in Division 083 except as provided by 469A.055.

Stat. Auth.: ORS 756.040, 757.659 & 469A.065

Stats. Implemented: ORS 469A.050, 469A.052, 469A.055, 469A.070 & 469A.170

Hist.: PUC 8-2009, f. & cert. eff. 8-5-09

860-083-0400

Implementation Plans by Electric Companies

(1) On or before January 1, 2010, and on or before January 1 of even-numbered years thereafter, unless otherwise directed by the Commission, each electric company that is subject to ORS 469A.052 must file an implementation plan under 469A.075.

(2) The implementation plan for an electric company subject to ORS 469A.052 must include the following information for the next odd-numbered compliance year and each of the four subsequent compliance years:

(a) The annual megawatt-hour target for compliance with the applicable renewable portfolio standard based on the forecast of electricity sales to its Oregon retail electricity consumers.

(b) An accounting of the planned method to comply with the applicable renewable portfolio standard, including the number of banked renewable energy certificates by year of issuance, the numbers of other bundled and unbundled renewable energy certificates, and alternative compliance payments.

(c) Identification of the generating facilities, either owned by the company or under contract, that are expected to provide renewable energy certificates for compliance with renewable portfolio standard. Information on each generating facility must include:

(A) The renewable energy source;

(B) The year the facility or contract became operational or is expected to become operational;

(C) The state where the facility is located or is planned to be located; and

(D) Expected annual megawatt-hour output for compliance from the facility for the compliance years covered by the implementation plan.

(d) A forecast of the expected incremental costs of new qualifying electricity for facilities or contracts planned for first operation in the compliance year, consistent with the methodology in OAR 860-083-0100.

(e) A forecast of the expected incremental cost of compliance, the costs of using unbundled renewable energy certificates and alternative compliance payments for compliance, compared to annual revenue requirements, consistent with the methodologies in OAR 860-083-0100 and 860-083-0200, absent consideration of the cost limit in 860-083-0300.

(f) A forecast of the number and cost of bundled renewable energy certificates issued, consistent with the methodology in OAR 860-083-0100.

(3) If so prescribed by the Commission, an electric company must use established forms to provide the information required under subsections (2)(a) through (f) of this rule.

(4) If there are material differences in the planned actions in section (2) of this rule from the action plan in the most recently filed or updated integrated resource plan by the electric company, or if conditions have materially changed from the conditions assumed in such filing, the company must provide sufficient documentation to demonstrate how the implementation plan appropriately balances risks and expected costs as required by the integrated resource planning guidelines in 1.b and c. of Commission Order No. 07-047 and subsequent guidelines related to implementation plans set forth by the Commission. Unless provided in the most recently filed or updated integrated resource plan, an implementation plan for an electric company subject to ORS 469A.052 must include the following information:

(a) At least two forecasts for subsections (2)(d), (e), and (f) of this rule: one forecast assuming existing government incentives continue beyond their current expiration date and another forecast assuming existing government incentives do not continue beyond their current expiration date.

(b) A reasonable range of estimates for the forecasts in subsections (2)(d), (e), and (f) of this rule, consistent with subsection (4)(a) of this rule and the analyses or methodologies in the company's most recently filed or updated integrated resource plan.

(5) Under the following circumstances, the electric company must, for the applicable compliance year, provide sufficient documentation or citations to demonstrate how the implementation plan appropriately balances risks and expected costs as required by the integrated resource planning guidelines in 1.b. and c. of Commission Order No. 07-047 and subsequent guidelines related to implementation plans set forth by the Commission:

(a) The sum of costs in subsection (2)(e) of this rule is expected to be four percent or more of the annual revenue requirement in subsection (2)(e) of this rule for any compliance year covered by the implementation plan;

(b) The company plans, for reasons other than to meet unanticipated contingencies that arise during a compliance year, to use any of the following compliance methods:

(A) Unbundled renewable energy certificates;

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(B) Bundled renewable energy certificates issued between January 1 through March 31 of the year following the compliance year; or

(C) Alternative compliance payments; or

(c) The company plans to sell any bundled renewable energy certificates included in the rates of Oregon retail electricity consumers.

(6) An implementation plan must provide a detailed explanation of how the implementation plan complies, or does not comply, with any conditions specified in a Commission acknowledgment order on the previous implementation plan and any relevant conditions specified in the most recent acknowledgment order on an integrated resource plan filed or updated by the electric company.

(7) If there are funds in holding accounts under ORS 469A.180(4) and if the electric company has not filed a proposal for expending such funds for the purposes allowed under 469A.180(5), the implementation plan must include the electric company's plans for expending or holding such funds. If the plan is to hold such funds, the plan should indicate under what conditions such funds should be expended.

(8) The Commission will acknowledge the implementation plan in the following manner:

(a) Commission staff and interested persons may file written comments on an implementation plan within 45 calendar days of its filing. The electric company may file a written response to any comments within 30 calendar days thereafter. Commission staff should present its recommendation at a Commission public meeting within 120 days of the implementation plan filing date.

(b) The Commission will acknowledge the plan at such public meeting, subject to any conditions specified by the Commission, unless it decides to commence an investigation or take other action as necessary to make its decision regarding acknowledgment of the plan.

(c) The Commission will acknowledge the implementation plan, subject to conditions if necessary, no later than six months after it is filed.

(9)(a) Each electric company must post on its website the public portion of its most recent implementation plan under this rule within 30 days after a Commission acknowledgement order has been issued, including any conditions specified by the Commission under ORS 469A.075(3).

(b) Each electric company must provide a copy of the public portions of the most recently filed implementation plan to any person upon request, until the Commission has issued an acknowledgement order on such plan.

(10) Consistent with Commission orders for disclosure under OAR 860-038-0300, each electric company must provide information about the implementation plan to its customers by bill insert or other Commission-approved method. The information must be provided within 90 days of final action by the Commission on the plan or coordinated with the next available insert required under 860-038-0300. The information must include the URL address for the implementation plan posted under subsection (9)(a) of this rule.

Stat. Auth.: ORS 756.040, 757.659 & 469A.065

Stats. Implemented: ORS 469A.055 & 469A.075

Hist.: PUC 8-2009, f. & cert. ef. 8-5-09

860-083-0500

Alternative Compliance Payments

(1) No later than October 1, 2010, and no later than October 1 of each succeeding even-numbered calendar year, the Commission will set an alternative compliance rate for the next even-numbered compliance year and the year immediately following that even-numbered compliance year for each electric company subject to renewable portfolio standards contained in ORS 469A.052.

(2) The Commission will consider the following factors, and any other factors it determines are appropriate for the circumstances, when setting an alternative compliance rate for an electric company to provide an adequate incentive for the electric company to purchase or generate qualifying electricity in lieu of using alternative compliance payments to meet the applicable renewable portfolio standard set forth in ORS 469A.052:

(a) Forecasts of the likely costs of new qualifying electricity compared to the cost of non-qualifying electricity.

(b) Likely future deliveries of qualifying electricity from contracts and generating facilities owned by the electric company, both planned and existing.

(c) The number of unbundled renewable energy certificates the electric company anticipates using to meet the applicable renewable portfolio standard.

(d) Commission determinations made under ORS 469A.170 in reviewing compliance reports by the electric company and information from a review of the company's compliance report for the previous compliance year, including but not limited to:

(A) Past methods of compliance with the renewable portfolio standard including the use of:

(i) Bundled and unbundled renewable energy certificates that were not banked;

(ii) Banked renewable energy certificates; and

(iii) Alternative compliance payments;

(B) The timing of electricity purchases;

(C) The relevant market prices for electricity purchases and unbundled renewable energy certificates;

(D) Whether the actions taken by the electric company are contributing to long-term development of generating capacity using renewable energy sources;

(E) The effect of the actions taken by the electric company on the rates payable by retail electricity consumers;

(F) Good faith forecasting differences associated with the projected number of retail electricity consumers served and the availability of qualifying electricity; and

(G) Consistency of the compliance reports for the two previous compliance years with the applicable implementation plans filed under ORS 469A.075, as acknowledged by the Commission, including conditions specified by the Commission under 469A.075(3).

(3) The Commission may consider the following additional factors when setting an alternative compliance rate for an electric company:

(a) Uncertainties associated with forecasts of the incremental cost of new qualifying electricity and the incremental cost of compliance in implementation plans required by ORS 469A.075. Uncertainties include, but are not limited to:

(A) Forecasts of the costs of renewable resources;

(B) Fuel price forecasts for proxy plants required under OAR 860-083-0100; and

(C) Whether federal incentives for renewable resources will be extended beyond current sunset dates.

(b) Uncertainties about future market prices for renewable energy certificates including, but not limited to:

(A) Uncertainties associated with forecasts of the incremental costs of new qualifying electricity; and

(B) The effects of current and potential policies by other states and the federal government on the availability and price of renewable energy certificates.

(c) Plans to use alternative compliance payments in the current implementation plan of the electric company.

(4) The Commission may approve the use of the alternative compliance funds in the holding accounts described in ORS 469A.180(4) for the purposes specified in 469A.180(5) upon a filed request by the electric company, in an order issued upon conclusion of the electric company's general rate case or in another proceeding as directed by the Commission.

(a) If such funds are used for the acquisition of qualifying electricity, the renewable energy certificates associated with such electricity may be used by the electric company for future compliance with the renewable portfolio standard.

(b) Upon a request by the electric company, or in response to a filing of an implementation plan by the electric company, the Commission may order that all or a portion of such funds be transferred to the nongovernmental entity receiving funds under ORS 757.612(3)(d). The Commission may specify the proportions of transferred funds that are to be used for acquiring qualifying electricity and for energy conservation programs within the electric company's service area.

(c) If an electric company requests or proposes to use or transfer such funds, it must notify persons appearing on the service list of the most recent implementation plan acknowledgement proceeding for the electric company. The Commission will allow an opportunity for public comment before making a decision to expend such funds.

(5) In deciding which uses to approve for alternative compliance funds in the holding accounts described in ORS 469A.180(4), the Commission may consider the following factors and any other factors it determines are appropriate for the circumstances:

(a) The findings of the Legislative Assembly in enacting the renewable portfolio standards.

(b) Timeliness of the proposed use of such funds compared to other funding opportunities.

(c) The amount of such funds in the electric company's holding accounts.

(d) The likely impacts of using such funds for the acquisition of long-term qualifying electricity.

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(e) Whether there are opportunities to fund cost-effective energy conservation programs within the electric company's service area beyond a level that might not otherwise be achieved.

(f) Whether there are opportunities to fund cost-effective efficiency upgrades to the electricity generating facilities owned by the electric company beyond a level that might not otherwise be achieved.

(g) Whether the impacts in subsections (5)(e) and (f) of this rule might occur earlier with the use of such funds.

(6) The Commission will adopt an alternative compliance rate for the compliance year for each electricity service supplier subject to ORS 469A.065 no later than 15 months before each compliance year in the following manner:

(a) The alternative compliance rate for an electricity service supplier will be the weighted average of the alternative compliance rates for the electric companies subject to ORS 469A.052 in whose service areas the electricity service supplier provides electricity.

(b) The weights for subsection (6)(a) of this rule will be the retail sales in megawatt-hours by the electricity service supplier in each electric company service area for the year prior to the applicable compliance year.

(7)(a) The Commission may approve expenditures of the alternative compliance funds in the holding accounts described in ORS 469A.180(6) for the purposes stated therein through a proceeding as directed by the Commission.

(b) An electricity service supplier may request that the Commission direct that current or prospective alternative compliance funds in the holding accounts described in ORS 469A.180(6) be paid directly to the non-governmental entity receiving funds under 757.612(3)(d). The nongovernmental entity must use the funds to acquire energy conservation for the customers of the electricity service supplier.

Stat. Auth.: ORS 756.040, 757.659 & 469A.065

Stats. Implemented: ORS 469A.055 & 469A.180

Hist.: PUC 8-2009, f. & cert. ef. 8-5-09

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**Public Utility Commission,
Board of Maritime Pilots
Chapter 856**

Rule Caption: Amends physical requirements for trainee and apprentice applicants, and original and renewal pilot license applicants.

Adm. Order No.: BMP 4-2009

Filed with Sec. of State: 8-5-2009

Certified to be Effective: 8-5-09

Notice Publication Date: 6-1-2009

Rules Amended: 856-010-0010

Subject: Revises physical requirements for original and renewal pilot license applicants to mirror the federal model, and imposes similar new physical requirements on pilot trainee and apprentice applicants.

Rules Coordinator: Susan Johnson—(971) 673-1530

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 photocopy of a U.S. Coast Guard physical examination report and signed by an Oregon or Washington licensed physician verifying that the applicant meets the physical, medical and mental criteria required to qualify for a federal pilot's license.

(a) If the examining physician determines that the applicant is not competent to perform the duties of a pilot, the applicant is not then medically eligible to receive a license from the board.

(b) If the examining physician determines that the applicant is competent to perform the duties of a pilot, or if the examining physician determines that the applicant's physical, medical or mental condition is in need of further review, then the applicant is then considered medically eligible to receive a license from the board, subject to any later review and conclusion by the U.S. Coast Guard that the applicant is not competent for continued federal licensure as a pilot

(c) If the U.S. Coast Guard undertakes further medical review of an applicant's physical, medical or mental competency, either upon recommendation by the examining physician or otherwise, then the applicant shall report to the board at least every 30 days regarding the status of such further review. If, at the conclusion of such review process, the U.S. Coast Guard declines to approve the applicant for continued federal licensure as a pilot, the applicant shall immediately notify the board and the board will treat the decision as a suspension of the applicant's federal license. Any license issued by the board shall be automatically suspended as of the date the board receives notice of the U.S. Coast Guard's decision, notwithstanding any appeal that may be taken from such decision. If the Coast Guard concludes its review by issuing a waiver to the applicant, the terms of the waiver shall be immediately reported to the board, and the license issued by the board shall become subject to the terms of the waiver issued by the Coast Guard.

(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 the 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 meet-

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ings 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 pilots 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 pilots 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

Stats. Implemented: ORS 776.115, 776.345

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; BMP 2-2009, f. 6-19-09, cert. ef. 6-23-09; BMP 4-2009, f. & cert. ef. 8-5-09

Secretary of State, Elections Division Chapter 165

Rule Caption: Timelines for a January 26, 2010, Special Election if necessary.

Adm. Order No.: ELECT 15-2009(Temp)

Filed with Sec. of State: 7-30-2009

Certified to be Effective: 7-30-09 thru 1-26-10

Notice Publication Date:

Rules Adopted: 165-007-2010

Subject: This rule adopts timelines, as directed by HB 2414, necessary to conduct a possible special election on January 26, 2010. The rule addresses timelines for the filing of the certified ballot statement and voters' pamphlet arguments. It also contains the deadlines for the mailing of ballots and voters' pamphlets. This rule would be operative only if one or more of the measures qualify for the ballot.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-007-2010

Timelines for the January 26, 2010, Special Election

(1) This rule adopts timelines to conduct a special state election on January 26, 2010, if such an election is necessary. HB 2414 (2009) directs the Secretary of State to conduct a special election on that date if all or parts of either HB 2649 (2009) or HB 3405 (2009) are referred to the people by petition pursuant to Article IV, section 1(3)(b) of the Oregon Constitution.

(2) When a document is to be filed with the Secretary of State, Elections Division under this rule, the document must be delivered to and actually received, in its entirety, in the office of the Secretary of State, Elections Division not later than 5:00 p.m. on the designated filing deadline date.

(3) The following timeline is adopted for a statewide special election on January 26, 2010, as directed in HB 2414, sections (8) through (15):

(a) October 26, 2009:

(A) Last day for joint legislative committee to file ballot titles and explanatory statements with the Secretary.

(B) Last day for financial estimate committee to file financial estimates and estimate of fiscal effects, if necessary, as provided in ORS 250.125.

(b) November 2, 2009:

(A) Last day for an elector dissatisfied with any of the ballot titles to petition the Oregon Supreme Court for a different ballot title.

(B) Last day for a person dissatisfied with any of the explanatory statements to petition the Oregon Supreme Court for a different explanatory statement.

(C) Last day for a person alleging that the procedures for preparing, filing or certifying an estimate described in ORS 250.125 were not followed to petition the Oregon Supreme Court for review.

(c) November 19, 2009:

(A) Last day to file measure arguments to be included in the state voters' pamphlet.

(B) Last day for Legislative Assembly to submit arguments in support of any measures, as provided in ORS 250.245.

(d) November 25, 2009: Measure arguments become available for public inspection (ORS 251.145).

(e) December 1, 2009: Last day for Secretary of State to certify the ballot to the county election officials.

(f) December 12, 2009: Last day for county election officials to mail ballots to long term absent electors (overseas and military).

(g) December 28, 2009: First day for county election officials to mail out-of-state ballots.

(h) January 8, 2010 to January 12, 2010: County election officials mail ballots to electors other than long-term and out-of-state absent electors.

(i) January 16, 2010: Last day to distribute state voters' pamphlet to each post office mailing address in Oregon.

Stat. Auth.: ORS 246.150 & 2009 OL Ch. 714 (HB 2414)

Stats. Implemented: 2009 OL Ch. 714 (HB 2414)

Hist.: ELECT 15-2009(Temp), f. & cert. ef. 7-30-09 thru 1-26-10

Rule Caption: Adoption of Amendments to the 2008 Campaign Finance Manual.

Adm. Order No.: ELECT 16-2009

Filed with Sec. of State: 7-30-2009

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Certified to be Effective: 7-30-09

Notice Publication Date: 7-1-2009

Rules Amended: 165-012-0005

Subject: This amendment revises the 2008 Campaign Finance Manual by adopting updated penalties for filing late or insufficient transactions. It applies to all civil penalties for violations that occurred after July 1, 2007. The amendment creates a new maximum civil penalty of 10% of the late or insufficient transaction amount. It provides that no penalty be imposed if a change is made to the amount of a previously reported expenditure made by an agent. It clarifies that liability for payment of civil penalties rests with the treasurer of record, along with the candidate, if applicable, even if the transaction was filed by an Alternate Transaction Filer. The amendment states that no violation will be found if the late or insufficient case penalty is less than \$50, and defines "case" for purposes of this calculation.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-012-0005

Designating the Campaign Finance Manual and Forms; Examination of Transactions

(1) Pursuant to ORS 260.156, the Secretary of State designates the 2008 *Campaign Finance Manual* and associated forms as the procedures and guidelines to be used for compliance with Oregon campaign finance regulations.

(2) The following amendments to the 2008 *Campaign Finance Manual* will apply to all ORESTAR late and insufficient transactions, with the exception of the references to late penalties for cash balance adjustment transactions. All references to the cash balance adjustment transactions will go into effect on the adoption date of this amended rule.

(a) Pg 71 right column, heading Late and Insufficient Penalty Cases (ORS 260.232): If the Secretary of State determines that a committee is in violation of Oregon election law for a late or insufficient filing, the treasurer, and candidate, if applicable, of the committee is sent a notice of proposed civil penalty that informs them of the potential penalty and provides them with an opportunity to request a hearing. This notice is sent by both certified and regular mail to the committee treasurer or, in the case of a candidate committee, by certified mail to the candidate with a copy by regular mail to the treasurer. Late and insufficient violations will be processed by calendar month. Each case for a given month will include late violations (transactions that are filed late in that particular month) and insufficient violations (transactions that are not sufficiently corrected by the exam response due date in that particular month.) For example, a transaction is due on April 15, 2009. The transaction isn't filed until May 1, 2009; this violation will be part of the May case. A transaction is identified as insufficient on an exam letter, with a response due date of May 10, 2009. The transaction isn't corrected until May 15, 2009, this violation will also be part of the May case.

(b) Pg 73 left column heading Penalties for Late Transactions: The treasurer responsible for a late filing transaction is the treasurer required to file the transaction (the treasurer of record at the time the transaction is due). If the late transaction is filed by a different treasurer, both treasurers shall be jointly liable, along with the candidate, if applicable. The liability for the civil penalty remains with the treasurer, and the candidate, if applicable, even if the late transaction is filed by the designated Alternate Transaction Filer.

(c) Pg 73 left column heading Penalties for Insufficient Transactions: The treasurer responsible for an insufficient filing penalty is the treasurer who filed the original transaction that was insufficient. The liability for the civil penalty remains with the treasurer, and the candidate, if applicable, even if the insufficient transaction is filed by the designated Alternate Transaction Filer.

(d) Pg 73 top right column: Penalties for Cash Balance Adjustment Transactions — The treasurer responsible for a cash balance adjustment transaction, is the treasurer who filed the cash balance adjustment transaction. The liability for the civil penalty remains with the treasurer, and the candidate, if applicable, even if the cash balance adjustment transaction is filed by the designated Alternate Transaction Filer. Penalties for Late Statement of Independent Expenditures (PC 10) — The individual responsible for filing a late Statement of Independent Expenditures is the individual who signed the PC 10.

(e) Penalty Matrix Late Filings- Penalties may be assessed for any contribution or expenditure transaction that is filed late or any cash balance

adjustment transaction. A transaction is considered late in any of the following circumstances:

(A) A transaction is not filed by the due date for the transaction.

(B) A change is made to the name of the contributor or payee after the transaction due date, resulting in an entirely different contributor or payee being associated with the transaction (the transaction is considered late from the transaction due date to the date the amended transaction changing the contributor or payee is filed).

(C) A change is made to the date of the transaction resulting in a due date that is prior to the date the transaction was originally filed (the transaction is considered late from the date the transaction should have been filed to the date the transaction was originally filed).

(D) A change (increase or decrease) is made to the amount of a previously reported transaction after the transaction due date (the amount of the change is late from the transaction due date to the date the amended transaction changing the amount is filed) – no penalty will be imposed for a change in the amount of an expenditure made by an agent transaction.

(E) A previously reported transaction is deleted after the transaction due date (the transaction is considered late from the transaction due date to the date the transaction deletion is filed).

(F) A cash balance adjustment transaction is filed because the committee is unable to reconcile the calculated cash balance based on transactions filed with the Secretary of State with the committee's bank balance.

(G) A change (increase or decrease) is made to the amount of a previously reported cash balance adjustment; or

(H) A cash balance adjustment transaction is deleted after it has been filed.

(I) Warning: Criminal penalties may apply if transactions verified as true by the candidate or treasurer are knowingly submitted with false information. ORS 260.715(1).

(J) Penalties: The penalty for a late transaction is $\frac{1}{2}\%$ of the amount of the transaction multiplied by the number of business days the transaction is filed late. The penalty for a late Certificate of Contributions and Expenditures (PC 7) is \$10 for each business day the Certificate is late. The penalty for a late Statement of Independent Expenditures (PC 10) is $\frac{1}{2}\%$ of the total expenditures multiplied by the number of business days the PC 10 is filed late. The penalty for a cash balance adjustment transaction is 10% of the amount of the transaction.

(K) Maximum Penalties: The maximum penalty for each late transaction is 10% of the amount of the transaction, not to exceed \$10,000. The maximum penalty for a late Certificate of Limited Contributions and Expenditures is \$100.

(L) Waiver of Penalty and Violation: If a transaction is late as a direct result of an error by the Elections Division, the violation is waived and no penalty is assessed. If the total penalty for a case is less than \$50, a proposed penalty notice will not be issued and there will be no violation found.

(f) Penalty Matrix Late Filings of Contributions Received During a Legislative Session- Penalties may be assessed for any contribution transaction that is filed late during a legislative session. A transaction is considered late in any of the following circumstances:

(A) A transaction is not filed by the due date for the transaction.

(B) A change is made to the name of the contributor after the transaction due date, resulting in an entirely different contributor being associated with the transaction (the transaction is considered late from the transaction due date to the date the amended transaction changing the contributor is filed).

(C) A change is made to the date of the transaction resulting in a due date that is prior to the date the transaction was originally filed (the transaction is considered late from the date the transaction should have been filed to the date the transaction was originally filed).

(D) A change (increase or decrease) is made to the amount of a previously reported transaction after the transaction due date (the amount of the change is late from the transaction due date to the date the amended transaction changing the amount is filed).

(E) A previously reported transaction is deleted after the transaction due date (the transaction is considered late from the transaction due date to the date the transaction deletion is filed).

(F) Warning: Criminal penalties may apply if transactions verified as true by the candidate or treasurer are knowingly submitted with false information. ORS 260.715(1).

(G) Penalties: The penalty for filing a late contribution during a legislative session is $\frac{1}{2}\%$ of the amount of the late transaction multiplied by the number of business days the transaction is filed late.

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(H) Maximum Penalties: The maximum penalty for each late contribution transaction is 10% of the amount of the transaction, not to exceed \$10,000.

(I) Waiver of Penalty of Violation: If the transaction is late as a direct result of an error by the Elections Division, the violation is waived and no penalty is assessed. If a transaction is late and should have been filed during the 3 business day grace period for filing an original Statement of Organization, the violation is waived and no penalty is assessed if the transaction is filed within 5 business days from receiving the contribution. If the total penalty for a case is less than \$50, a proposed penalty notice will not be issued and there will be no violation found.

(g) Penalty Matrix Insufficient Filings: An insufficiency results when a contribution (cash, in-kind, loan received or pledge) or expenditure (cash, loan payment, personal expenditure, account payable or expenditure made by an agent) is missing one of the following items of required information or an item of information provided is not sufficient: contributor's name; contributor's address (not including zip code); contributor's occupational information; name of payee; payee's address; purpose of expenditure; or terms of loan made or received.

(A) After the deadline for submitting a campaign transaction or after a transaction is filed, whichever is later, the Elections Division has 10 business days to review the transaction and determine if the transaction does not include all of the information required by law. The treasurer, and any person designated by the treasurer or candidate to receive notices sent under ORS Chapters 246–260, is sent an exam letter via email that either indicates the transaction is sufficient or identifies any of the transaction's insufficiencies that need to be corrected. The letter includes a deadline for providing amendments to correct any insufficient information; the deadline is 14 days from the date of the exam letter or the due date for a transaction, whichever is later.

(B) If the requested information is filed by the amendment deadline provided in the exam letter and is deemed sufficient, the transaction is considered sufficient and there is no penalty. If the treasurer fails to provide the information requested in the exam letter by the amendment deadline, the committee will be subject to a penalty.

(C) Exam letters are not issued for amended transactions. If an amended transaction is filed and is determined to be insufficient, that transaction is subject to a civil penalty.

(D) Penalties: For all missing or insufficient items, other than those listed below \$10 per item; Failure to provide detail of expenditures made by an agent 1% of agent expenditure; Failure to provide detail of personal expenditures 5% of personal expenditures; Failure to provide the terms of the loan 1% of the loan.

(E) Omitted or insufficient information submitted after the amendment deadline but prior to the deadline for a candidate or treasurer to request a hearing will result in a 50% per item reduction of the penalty, if the information is deemed sufficient. If a public hearing is requested, the omitted or insufficient information may be submitted up to the date of the hearing and if deemed sufficient will result in a 50% per item reduction of the penalty.

(F) Maximum Penalty: The maximum penalty for each insufficient transaction is 10% of the amount of the transaction, not to exceed \$10,000.

(G) Waiver of Penalty and Violation: If an insufficiency is the direct result of an error by the Elections Division, the violation is waived and no penalty is assessed. If the total penalty for a case is less than \$50, a proposed penalty notice will not be issued and there will be no violation found.

(H) Warning: Criminal penalties may apply if transactions verified as true by the candidate or treasurer are knowingly submitted with false information. ORS 260.715(1).

[Publications: Publications and Forms referenced are available from the agency.]

Stat. Auth.: ORS 246.120, 246.150, 260.156 & 260.200

Stats. Implemented: ORS 246.120, 246.150, 260.156 & 260.200

Hist.: SD 101, f. & ef. 12-3-75; SD 120, f. & ef. 12-21-77; SD 34-1980, f. & ef. 3-6-80; SD 28-1983, f. & ef. 12-20-83; SD 3-1986, f. & ef. 2-26-86; ELECT 32-1988(Temp), f. & cert. ef. 8-26-88; ELECT 22-1989(Temp), f. & cert. ef. 11-9-89; ELECT 19-1990, f. & cert. ef. 6-4-90; ELECT 14-1992 (Temp), f. & cert. ef. 6-10-92; ELECT 37-1992, f. & cert. ef. 12-15-92; ELECT 34-1993, f. & cert. ef. 11-1-93; ELECT 1-1995(Temp), f. & cert. ef. 2-23-95; ELECT 15-1995, f. & cert. ef. 12-18-95; ELECT 9-1996, f. & cert. ef. 7-26-96; ELECT 5-1997, f. & cert. ef. 3-24-97; ELECT 6-1997(Temp), f. & cert. ef. 4-18-97; ELECT 15-1997, f. & cert. ef. 12-31-97; ELECT 5-1998, f. & cert. ef. 2-26-98; ELECT 8-1998, f. & cert. ef. 6-2-98; ELECT 9-1998, f. & cert. ef. 9-11-98; ELECT 13-1998(Temp), f. & cert. ef. 12-15-98 thru 6-13-99; ELECT 2-1999(Temp), f. & cert. ef. 1-15-99 thru 7-14-99; ELECT 3-1999, f. & cert. ef. 3-1-99; ELECT 1-2000, f. & cert. ef. 1-3-00; ELECT 3-2002, f. & cert. ef. 3-13-02; ELECT 23-2003, f. & cert. ef. 12-12-03; ELECT 13-2005, f. & cert. ef. 12-30-05; ELECT 1-2007, f. & cert. ef. 1-5-07; ELECT 2-2007(Temp), f. & cert. ef. 5-29-07 thru 10-29-07; ELECT 4-2007(Temp), f. & cert. ef. 7-16-07 thru 12-31-07; ELECT 13-2007, f. & cert. ef. 12-31-07; ELECT 8-2009, f. & cert. ef. 5-4-09; ELECT 16-2009, f. & cert. ef. 7-30-09

Water Resources Department Chapter 690

Rule Caption: Requirements for recording exempt groundwater use with the Oregon Water Resources Department.

Adm. Order No.: WRD 3-2009(Temp)

Filed with Sec. of State: 7-30-2009

Certified to be Effective: 7-30-09 thru 12-27-09

Notice Publication Date:

Rules Adopted: 690-180-0005, 690-180-0010, 690-180-0100, 690-180-0200, 690-180-0300

Subject: Pursuant to the passage of SB 788 (75th Oregon Legislative Assembly), owners of land on which a well is drilled for a purpose exempt under ORS 537.545 are required to record the exempt groundwater use with the Oregon Water Resources Department (Department) in accordance with standards established by the Department. SB 788 contains an emergency clause making it effective July 1, 2009. Affected landowners are required to record the exempt groundwater use with the Department no later than 30 days after the well is completed. These temporary rules provide the guidance and standards necessary for landowners to meet the deadline for recording the exempt groundwater use before standards can be established by the Department via permanent rulemaking. The Department has initiated an administrative process for adoption of permanent rules. The effective date of the temporary rules is July 1, 2009.

Rules Coordinator: Ruben Ochoa—(503) 986-0874

690-180-0005

Purpose and Applicability

(1) These rules describe the requirements under which the Oregon Water Resources Department will administer and enforce the provisions of ORS 537.545 as amended by SB 788 (75th Oregon Legislative Assembly). Funds collected will be used to assist the state in evaluating groundwater supplies, conduct groundwater studies, carry out groundwater monitoring and process groundwater data.

(2) These rules apply to:

(a) An owner of land on which a well is drilled to allow groundwater use for a purpose that is exempt under ORS 537.545.

(b) A well that is drilled to allow groundwater use for a purpose that is exempt under ORS 537.545 on or after the effective date of these rules. This includes construction of a new well and converting an existing well.

Stat. Auth.: ORS 536.027

Stats. Implemented: ORS 537.545

Hist.: WRD 3-2009(Temp), f. & cert. ef. 7-30-09 thru 12-27-09

690-180-0010

Definitions

(1) "Converting" means changing the use of an existing well or hole not previously used to withdraw water such that the well or hole can be used to seek or withdraw water.

(2) "Department" means the Water Resources Department.

(3) "Director" means the Director of the Water Resources Department.

(4) "Recording fee" means the fee, in the amount established under ORS 537.545, as amended by SB 788 (75th Oregon Legislative Assembly), that shall accompany the filing of an exempt groundwater use with the Department.

(5) "Landowner" means the owner of land at the time a well that is subject to these rules is completed.

(6) "Well completion" means the end of construction date reported on the water supply well report.

Stat. Auth.: ORS 536.027

Stats. Implemented: ORS 537.545

Hist.: WRD 3-2009(Temp), f. & cert. ef. 7-30-09 thru 12-27-09

690-180-0100

Recording Requirements

Landowners shall submit the following information and recording fee to the Department no later than 30 days after well completion:

(1) A map showing the location of the completed well, that includes:

(a) Tax lot map with map reference number or Department approved electronic mapping program.

(b) Location of the well(s) with distances indicated from an identified property or survey corner.

(c) The direction of north marked on the map.

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- (d) Identify each well by Well Identification Number.
- (e) Location of well(s) in relation to driveways, access roads and nearest structures.
- (f) Street address of well site if available.
- (2) A recording fee in the amount established under ORS 537.545, as amended by SB 788 (75th Oregon Legislative Assembly).
- (3) Any other information that the Department deems appropriate for recording purposes.

Stat. Auth.: ORS 536.027
Stats. Implemented: ORS 537.545
Hist.: WRD 3-2009(Temp), f. & cert. ef. 7-30-09 thru 12-27-09

690-180-0200

Compliance and Enforcement

- (1) If the Department determines that a landowner has not met the requirements of these rules, the Department shall notify the landowner of the specific nature of the requirements that have not been met.

- (2) Failure to meet the requirements of these rules may result in formal enforcement action(s). These action(s) include:
 - (a) Establishing a specified time for bringing the landowner into compliance,
 - (b) Assessment of a civil penalty following procedures outlined in OAR 690-260 rules. Violations under these rules are considered as Class III Minor violations, or
 - (c) Any other action authorized by law.

Stat. Auth.: ORS 536.027 & 536.900
Stats. Implemented: ORS 537.545
Hist.: WRD 3-2009(Temp), f. & cert. ef. 7-30-09 thru 12-27-09

690-180-0300

Rule Effective Date

The effective date of these rules is July 1, 2009.
Stat. Auth.: ORS 536.027
Stats. Implemented: ORS 537.545
Hist.: WRD 3-2009(Temp), f. & cert. ef. 7-30-09 thru 12-27-09

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123-500-0040	5-1-2009	Adopt	6-1-2009	137-055-2140	5-7-2009	Amend(T)	6-1-2009
123-500-0050	5-1-2009	Adopt	6-1-2009	137-055-2165	5-7-2009	Amend(T)	6-1-2009
123-500-0060	5-1-2009	Adopt	6-1-2009	137-055-3020	4-1-2009	Amend	5-1-2009
123-500-0070	5-1-2009	Adopt	6-1-2009	137-055-3080	4-1-2009	Amend	5-1-2009
125-045-0205	7-21-2009	Amend	9-1-2009	137-055-3100	4-1-2009	Amend	5-1-2009
125-045-0225	7-21-2009	Amend	9-1-2009	137-055-3420	1-2-2009	Amend	2-1-2009
125-045-0235	1-23-2009	Amend(T)	3-1-2009	137-055-3420	5-7-2009	Amend(T)	6-1-2009
125-045-0235	7-21-2009	Amend	9-1-2009	137-055-3420(T)	1-2-2009	Repeal	2-1-2009
125-075-0015	1-6-2009	Amend	2-1-2009	137-055-3430	5-7-2009	Amend(T)	6-1-2009
125-090-0000	7-1-2009	Amend	8-1-2009	137-055-3430	5-14-2009	Amend(T)	6-1-2009
125-090-0002	7-1-2009	Adopt	8-1-2009	137-055-3430(T)	5-14-2009	Suspend	6-1-2009
125-090-0005	7-1-2009	Amend	8-1-2009	137-055-3460	4-1-2009	Amend	5-1-2009
125-090-0010	7-1-2009	Amend	8-1-2009	137-055-5520	7-1-2009	Amend	8-1-2009
125-090-0020	7-1-2009	Amend	8-1-2009	137-055-6210	1-2-2009	Amend	2-1-2009
125-090-0030	7-1-2009	Amend	8-1-2009	137-055-6210(T)	1-2-2009	Repeal	2-1-2009
125-090-0040	7-1-2009	Repeal	8-1-2009	137-060-0150	7-24-2009	Amend	8-1-2009
125-090-0050	7-1-2009	Repeal	8-1-2009	137-060-0160	7-24-2009	Amend	8-1-2009
125-090-0060	7-1-2009	Amend	8-1-2009	137-060-0350	7-24-2009	Amend	8-1-2009
125-090-0070	7-1-2009	Amend	8-1-2009	137-060-0360	7-24-2009	Amend	8-1-2009
125-090-0080	7-1-2009	Amend	8-1-2009	141-001-0000	12-10-2008	Amend	1-1-2009
125-090-0090	7-1-2009	Amend	8-1-2009	141-001-0005	12-10-2008	Amend	1-1-2009
125-090-0100	7-1-2009	Amend	8-1-2009	141-001-0010	12-10-2008	Amend	1-1-2009
125-090-0110	7-1-2009	Amend	8-1-2009	141-001-0020	12-10-2008	Amend	1-1-2009
125-090-0120	7-1-2009	Amend	8-1-2009	141-040-0020	1-1-2009	Amend	1-1-2009
125-090-0130	7-1-2009	Amend	8-1-2009	141-040-0030	1-1-2009	Amend	1-1-2009
125-090-0135	7-1-2009	Adopt	8-1-2009	141-040-0035	1-1-2009	Repeal	1-1-2009
125-090-0140	7-1-2009	Amend	8-1-2009	141-040-0040	1-1-2009	Repeal	1-1-2009
125-090-0150	7-1-2009	Adopt	8-1-2009	141-040-0211	1-1-2009	Amend	1-1-2009
125-090-0160	7-1-2009	Adopt	8-1-2009	141-040-0212	1-1-2009	Amend	1-1-2009
125-125-0540	5-11-2009	Amend	6-1-2009	141-040-0213	1-1-2009	Adopt	1-1-2009
125-125-0700	1-26-2009	Adopt	3-1-2009	141-040-0214	1-1-2009	Amend	1-1-2009
125-160-0010	1-23-2009	Amend	3-1-2009	141-045-0010	1-1-2009	Amend	1-1-2009
125-160-0010(T)	1-23-2009	Repeal	3-1-2009	141-045-0021	1-1-2009	Amend	1-1-2009
125-160-0020	1-23-2009	Adopt	3-1-2009	141-045-0031	1-1-2009	Amend	1-1-2009
125-160-0020(T)	1-23-2009	Repeal	3-1-2009	141-045-0041	1-1-2009	Amend	1-1-2009
125-247-0280	2-13-2009	Amend(T)	3-1-2009	141-045-0061	1-1-2009	Amend	1-1-2009
125-247-0280	8-11-2009	Amend	9-1-2009	141-045-0100	1-1-2009	Amend	1-1-2009
125-249-0150	2-13-2009	Amend(T)	3-1-2009	141-045-0115	1-1-2009	Amend	1-1-2009
125-249-0150	8-11-2009	Amend	9-1-2009	141-045-0126	1-1-2009	Amend	1-1-2009
137-045-0050	2-26-2009	Amend(T)	4-1-2009	141-045-0130	1-1-2009	Amend	1-1-2009
137-045-0050	7-6-2009	Amend	8-1-2009	141-050-0500	12-10-2008	Amend	1-1-2009
137-045-0050(T)	7-6-2009	Repeal	8-1-2009	141-050-0530	12-10-2008	Repeal	1-1-2009
137-045-0052	7-6-2009	Adopt	8-1-2009	141-050-0535	12-10-2008	Repeal	1-1-2009
137-050-0320	5-7-2009	Amend(T)	6-1-2009	141-050-0890	12-10-2008	Renumber	1-1-2009
137-050-0330	5-7-2009	Amend(T)	6-1-2009	141-050-0900	12-10-2008	Amend	1-1-2009
137-050-0340	5-7-2009	Amend(T)	6-1-2009	141-050-0905	12-10-2008	Amend	1-1-2009
137-050-0360	5-7-2009	Amend(T)	6-1-2009	141-050-0910	12-10-2008	Repeal	1-1-2009
137-050-0360	5-12-2009	Amend(T)	6-1-2009	141-050-0920	12-10-2008	Amend	1-1-2009
137-050-0360(T)	5-12-2009	Suspend	6-1-2009	141-050-0940	12-10-2008	Amend	1-1-2009
137-050-0420	5-7-2009	Amend(T)	6-1-2009	141-050-0945	12-10-2008	Repeal	1-1-2009

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141-050-0972	12-10-2008	Amend	1-1-2009	141-085-0131	3-1-2009	Repeal	3-1-2009
141-050-0976	12-10-2008	Amend	1-1-2009	141-085-0136	3-1-2009	Repeal	3-1-2009
141-050-0982	12-10-2008	Amend	1-1-2009	141-085-0141	3-5-2009	Repeal	4-1-2009
141-067-0130	7-1-2009	Amend	8-1-2009	141-085-0146	3-1-2009	Repeal	3-1-2009
141-067-0140	7-1-2009	Repeal	8-1-2009	141-085-0151	3-1-2009	Repeal	3-1-2009
141-067-0150	7-1-2009	Amend	8-1-2009	141-085-0156	3-1-2009	Repeal	3-1-2009
141-067-0155	7-1-2009	Adopt	8-1-2009	141-085-0161	3-1-2009	Repeal	3-1-2009
141-067-0160	7-1-2009	Amend	8-1-2009	141-085-0166	3-1-2009	Repeal	3-1-2009
141-067-0165	7-1-2009	Adopt	8-1-2009	141-085-0171	3-1-2009	Repeal	3-1-2009
141-067-0170	7-1-2009	Amend	8-1-2009	141-085-0176	3-1-2009	Repeal	3-1-2009
141-067-0180	7-1-2009	Amend	8-1-2009	141-085-0240	3-1-2009	Repeal	3-1-2009
141-067-0190	7-1-2009	Amend	8-1-2009	141-085-0244	3-1-2009	Repeal	3-1-2009
141-067-0195	7-1-2009	Adopt	8-1-2009	141-085-0246	3-1-2009	Repeal	3-1-2009
141-067-0200	7-1-2009	Amend	8-1-2009	141-085-0248	3-1-2009	Repeal	3-1-2009
141-067-0210	7-1-2009	Repeal	8-1-2009	141-085-0250	3-1-2009	Repeal	3-1-2009
141-067-0215	7-1-2009	Adopt	8-1-2009	141-085-0252	3-1-2009	Repeal	3-1-2009
141-067-0220	7-1-2009	Amend	8-1-2009	141-085-0254	3-1-2009	Repeal	3-1-2009
141-067-0230	7-1-2009	Amend	8-1-2009	141-085-0256	3-1-2009	Repeal	3-1-2009
141-067-0240	7-1-2009	Repeal	8-1-2009	141-085-0257	3-1-2009	Repeal	3-1-2009
141-067-0250	7-1-2009	Amend	8-1-2009	141-085-0262	3-1-2009	Repeal	3-1-2009
141-067-0270	7-1-2009	Amend	8-1-2009	141-085-0263	3-1-2009	Repeal	3-1-2009
141-067-0280	7-1-2009	Repeal	8-1-2009	141-085-0264	3-1-2009	Repeal	3-1-2009
141-067-0290	7-1-2009	Repeal	8-1-2009	141-085-0266	3-1-2009	Repeal	3-1-2009
141-067-0300	7-1-2009	Amend	8-1-2009	141-085-0400	3-1-2009	Repeal	3-1-2009
141-067-0310	7-1-2009	Amend	8-1-2009	141-085-0406	3-1-2009	Repeal	3-1-2009
141-067-0320	7-1-2009	Amend	8-1-2009	141-085-0410	3-1-2009	Repeal	3-1-2009
141-067-0330	7-1-2009	Amend	8-1-2009	141-085-0421	3-1-2009	Repeal	3-1-2009
141-067-0340	7-1-2009	Amend	8-1-2009	141-085-0425	3-1-2009	Repeal	3-1-2009
141-085-0005	3-1-2009	Repeal	3-1-2009	141-085-0430	3-1-2009	Repeal	3-1-2009
141-085-0006	3-1-2009	Repeal	3-1-2009	141-085-0436	3-1-2009	Repeal	3-1-2009
141-085-0010	3-1-2009	Repeal	3-1-2009	141-085-0440	3-1-2009	Repeal	3-1-2009
141-085-0015	3-1-2009	Repeal	3-1-2009	141-085-0445	3-1-2009	Repeal	3-1-2009
141-085-0018	3-1-2009	Repeal	3-1-2009	141-085-0450	3-1-2009	Repeal	3-1-2009
141-085-0020	3-1-2009	Repeal	3-1-2009	141-085-0500	3-1-2009	Adopt	3-1-2009
141-085-0022	3-1-2009	Repeal	3-1-2009	141-085-0506	3-1-2009	Adopt	3-1-2009
141-085-0023	3-1-2009	Repeal	3-1-2009	141-085-0510	3-1-2009	Adopt	3-1-2009
141-085-0024	3-1-2009	Repeal	3-1-2009	141-085-0515	3-1-2009	Adopt	3-1-2009
141-085-0025	3-1-2009	Repeal	3-1-2009	141-085-0520	3-1-2009	Adopt	3-1-2009
141-085-0027	3-1-2009	Repeal	3-1-2009	141-085-0525	3-1-2009	Adopt	3-1-2009
141-085-0028	3-1-2009	Repeal	3-1-2009	141-085-0530	3-1-2009	Adopt	3-1-2009
141-085-0029	3-1-2009	Repeal	3-1-2009	141-085-0535	3-1-2009	Adopt	3-1-2009
141-085-0031	3-1-2009	Repeal	3-1-2009	141-085-0540	3-1-2009	Adopt	3-1-2009
141-085-0034	3-1-2009	Repeal	3-1-2009	141-085-0545	3-1-2009	Adopt	3-1-2009
141-085-0036	3-1-2009	Repeal	3-1-2009	141-085-0550	3-1-2009	Adopt	3-1-2009
141-085-0064	3-1-2009	Repeal	3-1-2009	141-085-0555	3-1-2009	Adopt	3-1-2009
141-085-0066	3-1-2009	Repeal	3-1-2009	141-085-0560	3-1-2009	Adopt	3-1-2009
141-085-0068	3-1-2009	Repeal	3-1-2009	141-085-0565	3-1-2009	Adopt	3-1-2009
141-085-0070	3-1-2009	Repeal	3-1-2009	141-085-0570	3-1-2009	Adopt	3-1-2009
141-085-0075	3-1-2009	Repeal	3-1-2009	141-085-0575	3-1-2009	Adopt	3-1-2009
141-085-0079	3-1-2009	Repeal	3-1-2009	141-085-0580	3-1-2009	Adopt	3-1-2009
141-085-0080	3-1-2009	Repeal	3-1-2009	141-085-0585	3-1-2009	Adopt	3-1-2009
141-085-0085	3-1-2009	Repeal	3-1-2009	141-085-0590	3-1-2009	Adopt	3-1-2009
141-085-0090	3-1-2009	Repeal	3-1-2009	141-085-0595	3-1-2009	Adopt	3-1-2009
141-085-0095	3-1-2009	Repeal	3-1-2009	141-085-0610	3-1-2009	Repeal	3-1-2009
141-085-0096	3-1-2009	Repeal	3-1-2009	141-085-0620	3-1-2009	Repeal	3-1-2009
141-085-0115	3-1-2009	Repeal	3-1-2009	141-085-0630	3-1-2009	Repeal	3-1-2009
141-085-0121	3-1-2009	Repeal	3-1-2009	141-085-0640	3-1-2009	Repeal	3-1-2009

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141-085-0660	3-1-2009	Repeal	3-1-2009	141-089-0185	3-1-2009	Amend	3-1-2009
141-085-0665	3-1-2009	Adopt	3-1-2009	141-089-0190	3-1-2009	Amend	3-1-2009
141-085-0670	3-1-2009	Adopt	3-1-2009	141-089-0200	3-1-2009	Amend	3-1-2009
141-085-0675	3-1-2009	Adopt	3-1-2009	141-089-0205	3-1-2009	Amend	3-1-2009
141-085-0680	3-1-2009	Adopt	3-1-2009	141-089-0210	3-1-2009	Amend	3-1-2009
141-085-0685	3-1-2009	Adopt	3-1-2009	141-089-0215	3-1-2009	Amend	3-1-2009
141-085-0690	3-1-2009	Adopt	3-1-2009	141-089-0220	3-1-2009	Amend	3-1-2009
141-085-0695	3-1-2009	Adopt	3-1-2009	141-089-0225	3-1-2009	Amend	3-1-2009
141-085-0700	3-1-2009	Adopt	3-1-2009	141-089-0230	3-1-2009	Amend	3-1-2009
141-085-0705	3-1-2009	Adopt	3-1-2009	141-089-0240	3-1-2009	Amend	3-1-2009
141-085-0710	3-1-2009	Adopt	3-1-2009	141-089-0245	3-1-2009	Amend	3-1-2009
141-085-0715	3-1-2009	Adopt	3-1-2009	141-089-0250	3-1-2009	Amend	3-1-2009
141-085-0720	3-1-2009	Adopt	3-1-2009	141-089-0255	3-1-2009	Amend	3-1-2009
141-085-0725	3-1-2009	Adopt	3-1-2009	141-089-0260	3-1-2009	Amend	3-1-2009
141-085-0730	3-1-2009	Adopt	3-1-2009	141-089-0265	3-1-2009	Amend	3-1-2009
141-085-0735	3-1-2009	Adopt	3-1-2009	141-089-0275	3-1-2009	Amend	3-1-2009
141-085-0740	3-1-2009	Adopt	3-1-2009	141-089-0280	3-1-2009	Amend	3-1-2009
141-085-0745	3-1-2009	Adopt	3-1-2009	141-089-0295	3-1-2009	Amend	3-1-2009
141-085-0750	3-1-2009	Adopt	3-1-2009	141-089-0300	3-1-2009	Amend	3-1-2009
141-085-0755	3-1-2009	Adopt	3-1-2009	141-089-0310	3-1-2009	Amend	3-1-2009
141-085-0760	3-1-2009	Adopt	3-1-2009	141-089-0350	3-1-2009	Amend	3-1-2009
141-085-0765	3-1-2009	Adopt	3-1-2009	141-089-0355	3-1-2009	Amend	3-1-2009
141-085-0770	3-1-2009	Adopt	3-1-2009	141-089-0370	3-1-2009	Amend	3-1-2009
141-085-0775	3-1-2009	Adopt	3-1-2009	141-089-0390	3-1-2009	Amend	3-1-2009
141-085-0780	3-1-2009	Adopt	3-1-2009	141-089-0400	3-1-2009	Amend	3-1-2009
141-085-0785	3-1-2009	Adopt	3-1-2009	141-089-0405	3-1-2009	Amend	3-1-2009
141-086-0185	1-1-2009	Amend	1-1-2009	141-089-0415	3-1-2009	Amend	3-1-2009
141-086-0190	1-1-2009	Repeal	1-1-2009	141-089-0420	3-1-2009	Amend	3-1-2009
141-086-0200	1-1-2009	Amend	1-1-2009	141-089-0430	3-1-2009	Amend	3-1-2009
141-086-0210	1-1-2009	Amend	1-1-2009	141-089-0500	3-1-2009	Amend	3-1-2009
141-086-0220	1-1-2009	Amend	1-1-2009	141-089-0505	3-1-2009	Amend	3-1-2009
141-086-0222	1-1-2009	Adopt	1-1-2009	141-089-0515	3-1-2009	Amend	3-1-2009
141-086-0225	1-1-2009	Amend	1-1-2009	141-089-0520	3-1-2009	Amend	3-1-2009
141-086-0228	1-1-2009	Amend	1-1-2009	141-089-0530	3-1-2009	Amend	3-1-2009
141-086-0230	1-1-2009	Amend	1-1-2009	141-089-0550	3-1-2009	Repeal	3-1-2009
141-086-0240	1-1-2009	Amend	1-1-2009	141-089-0555	3-1-2009	Repeal	3-1-2009
141-088-0000	6-23-2009	Amend	8-1-2009	141-089-0560	3-1-2009	Repeal	3-1-2009
141-088-0002	6-23-2009	Adopt	8-1-2009	141-089-0565	3-1-2009	Repeal	3-1-2009
141-088-0004	6-23-2009	Adopt	8-1-2009	141-089-0570	3-1-2009	Repeal	3-1-2009
141-088-0005	6-23-2009	Adopt	8-1-2009	141-089-0572	3-1-2009	Repeal	3-1-2009
141-088-0006	6-23-2009	Adopt	8-1-2009	141-089-0575	3-1-2009	Repeal	3-1-2009
141-088-0007	6-23-2009	Adopt	8-1-2009	141-089-0580	3-1-2009	Repeal	3-1-2009
141-088-0008	6-23-2009	Adopt	8-1-2009	141-089-0585	3-1-2009	Amend	3-1-2009
141-088-0009	6-23-2009	Adopt	8-1-2009	141-089-0600	3-1-2009	Amend	3-1-2009
141-089-0100	3-1-2009	Amend	3-1-2009	141-089-0605	3-1-2009	Amend	3-1-2009
141-089-0105	3-1-2009	Amend	3-1-2009	141-089-0615	3-1-2009	Amend	3-1-2009
141-089-0110	3-1-2009	Amend	3-1-2009	141-091-0005	12-10-2008	Amend	1-1-2009
141-089-0115	3-1-2009	Amend	3-1-2009	141-091-0015	12-10-2008	Amend	1-1-2009
141-089-0120	3-1-2009	Amend	3-1-2009	141-100-0000	3-1-2009	Amend	3-1-2009
141-089-0130	3-1-2009	Amend	3-1-2009	141-100-0020	3-1-2009	Amend	3-1-2009
141-089-0135	3-1-2009	Amend	3-1-2009	141-100-0030	3-1-2009	Amend	3-1-2009
141-089-0145	3-1-2009	Amend	3-1-2009	141-100-0040	3-1-2009	Amend	3-1-2009
141-089-0150	3-1-2009	Amend	3-1-2009	141-100-0050	3-1-2009	Amend	3-1-2009
141-089-0155	3-1-2009	Amend	3-1-2009	141-100-0055	3-1-2009	Amend	3-1-2009
141-089-0157	3-1-2009	Repeal	3-1-2009	141-100-0060	3-1-2009	Amend	3-1-2009
141-089-0165	3-1-2009	Amend	3-1-2009	141-100-0070	3-1-2009	Amend	3-1-2009
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150-280.075	7-31-2009	Amend	9-1-2009	165-001-0005	5-22-2009	Amend	7-1-2009
150-294.435(1)-(A)	1-1-2009	Amend	2-1-2009	165-005-0050	5-4-2009	Amend	6-1-2009
150-294.435(1)-(B)	1-1-2009	Repeal	2-1-2009	165-007-0130	5-4-2009	Amend	6-1-2009
150-294.480	7-31-2009	Amend	9-1-2009	165-007-2010	7-30-2009	Adopt(T)	9-1-2009
150-305.220(1)	1-1-2009	Amend	2-1-2009	165-012-0005	5-4-2009	Amend	6-1-2009
150-305.220(2)	1-1-2009	Amend	2-1-2009	165-012-0005	7-30-2009	Amend	9-1-2009
150-306.132	7-31-2009	Amend	9-1-2009	165-013-0020	5-4-2009	Amend	6-1-2009
150-307.140	1-1-2009	Amend	2-1-2009	165-014-0031	5-4-2009	Repeal	6-1-2009
150-307.250(1)(c)	7-31-2009	Amend	9-1-2009	165-014-0032	5-4-2009	Amend	6-1-2009
150-307.455	1-1-2009	Adopt	2-1-2009	165-020-0050	6-30-2009	Amend	8-1-2009
150-308.146(5)(a)	7-31-2009	Amend	9-1-2009	165-020-0055	6-30-2009	Amend	8-1-2009
150-308.156(5)-(C)	7-31-2009	Amend	9-1-2009	165-020-0060	6-30-2009	Amend	8-1-2009
150-308.515(1)(h)	1-1-2009	Adopt	2-1-2009	165-020-0430	5-4-2009	Repeal	6-1-2009
150-308.550(2)-(G)	7-31-2009	Amend	9-1-2009	165-020-2022	2-18-2009	Adopt(T)	4-1-2009
150-308A.056	1-1-2009	Amend	2-1-2009	165-020-2023	3-3-2009	Adopt(T)	4-1-2009
150-308A.059	1-1-2009	Repeal	2-1-2009	165-020-2024	3-5-2009	Adopt(T)	4-1-2009
150-309.026(2)-(A)	7-31-2009	Amend	9-1-2009	165-020-2025	3-16-2009	Adopt(T)	5-1-2009
150-309.110(1)-(B)	1-1-2009	Am. & Ren.	2-1-2009	165-020-2026	3-19-2009	Adopt(T)	5-1-2009
150-309.110(1)-(E)	1-1-2009	Am. & Ren.	2-1-2009	166-200-0005	12-10-2008	Amend	1-1-2009
150-310.630(8)(a)-(O)	7-31-2009	Amend	9-1-2009	166-200-0010	12-10-2008	Amend	1-1-2009
150-311.670(1)	1-1-2009	Adopt	2-1-2009	166-200-0010	6-24-2009	Amend	8-1-2009
150-311.706(1)	1-1-2009	Adopt	2-1-2009	166-200-0015	12-10-2008	Amend	1-1-2009
150-314.295	7-31-2009	Amend	9-1-2009	166-200-0020	12-10-2008	Amend	1-1-2009
150-314.402(1)	1-1-2009	Amend	2-1-2009	166-200-0025	12-10-2008	Amend	1-1-2009
150-314.402(4)(b)	1-1-2009	Amend	2-1-2009	166-200-0030	12-10-2008	Amend	1-1-2009
150-314.515(2)	1-1-2009	Amend	2-1-2009	166-200-0035	12-10-2008	Amend	1-1-2009
150-314.752	1-1-2009	Amend	2-1-2009	166-200-0040	12-10-2008	Amend	1-1-2009
150-315.104(1)	7-31-2009	Amend	9-1-2009	166-200-0045	12-10-2008	Amend	1-1-2009
150-315.104(10)	7-31-2009	Amend	9-1-2009	166-200-0050	12-10-2008	Amend	1-1-2009
150-315.104(9)	7-31-2009	Repeal	9-1-2009	166-200-0055	12-10-2008	Amend	1-1-2009
150-316.007-(B)	1-1-2009	Amend	2-1-2009	166-200-0060	12-10-2008	Amend	1-1-2009
150-316.007-(B)	1-5-2009	Amend	2-1-2009	166-200-0065	12-10-2008	Amend	1-1-2009
150-316.082(1)-(B)	1-1-2009	Amend	2-1-2009	166-200-0070	12-10-2008	Amend	1-1-2009
150-316.127-(9)	1-1-2009	Amend	2-1-2009	166-200-0075	12-10-2008	Amend	1-1-2009
150-316.127-(A)	7-31-2009	Amend	9-1-2009	166-200-0080	12-10-2008	Amend	1-1-2009
150-316.202(3)	1-1-2009	Amend	2-1-2009	166-200-0085	12-10-2008	Amend	1-1-2009
150-316.587(5)(d)	7-31-2009	Amend	9-1-2009	166-200-0090	12-10-2008	Amend	1-1-2009
150-316.587(8)-(B)	7-31-2009	Amend	9-1-2009	166-200-0095	12-10-2008	Amend	1-1-2009
150-316.791	1-1-2009	Adopt	2-1-2009	166-200-0100	12-10-2008	Amend	1-1-2009
150-317.705(3)(a)	7-31-2009	Amend	9-1-2009	166-200-0105	12-10-2008	Amend	1-1-2009
150-321.005(9)	7-31-2009	Amend	9-1-2009	166-200-0110	12-10-2008	Amend	1-1-2009
150-465.200(1)	7-31-2009	Repeal	9-1-2009	166-200-0115	12-10-2008	Amend	1-1-2009
150-465.517(2)	7-31-2009	Repeal	9-1-2009	166-200-0120	12-10-2008	Amend	1-1-2009
150-465.517(3)	7-31-2009	Repeal	9-1-2009	166-200-0125	12-10-2008	Amend	1-1-2009
150-465.517(5)	7-31-2009	Repeal	9-1-2009	166-200-0130	12-10-2008	Amend	1-1-2009
150-465.992	7-31-2009	Repeal	9-1-2009	166-200-0135	12-10-2008	Amend	1-1-2009
150-90.650	7-31-2009	Adopt	9-1-2009	166-200-0140	12-10-2008	Amend	1-1-2009
150.309.067(1)(b)	1-1-2009	Am. & Ren.	2-1-2009	166-200-0145	12-10-2008	Amend	1-1-2009
151-020-0030	2-5-2009	Amend(T)	3-1-2009	166-300-0025	2-19-2009	Amend	4-1-2009
161-002-0000	1-30-2009	Amend(T)	3-1-2009	166-400-0060	6-24-2009	Amend	8-1-2009
161-006-0025	7-1-2009	Amend(T)	6-1-2009	166-475-0010	6-29-2009	Amend	8-1-2009
161-010-0035	1-30-2009	Amend(T)	3-1-2009	166-475-0015	6-29-2009	Amend	8-1-2009
161-010-0045	1-30-2009	Amend(T)	3-1-2009	166-475-0020	6-29-2009	Amend	8-1-2009
161-010-0085	1-30-2009	Amend	3-1-2009	166-475-0025	6-29-2009	Amend	8-1-2009
161-020-0045	1-30-2009	Amend	3-1-2009	166-475-0030	6-29-2009	Amend	8-1-2009
161-020-0140	1-30-2009	Amend	3-1-2009	166-475-0035	6-29-2009	Amend	8-1-2009

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166-475-0045	6-29-2009	Amend	8-1-2009	177-045-0010	1-1-2009	Amend	2-1-2009
166-475-0050	6-29-2009	Amend	8-1-2009	177-045-0030	1-1-2009	Amend	2-1-2009
166-475-0055	6-29-2009	Amend	8-1-2009	177-045-0040	1-1-2009	Repeal	2-1-2009
166-475-0060	6-29-2009	Amend	8-1-2009	177-046-0020	11-23-2008	Amend(T)	1-1-2009
166-475-0065	6-29-2009	Amend	8-1-2009	177-046-0020	3-1-2009	Amend	4-1-2009
166-475-0070	6-29-2009	Amend	8-1-2009	177-046-0020(T)	3-1-2009	Repeal	4-1-2009
166-475-0075	6-29-2009	Amend	8-1-2009	177-046-0150	12-1-2008	Repeal	1-1-2009
166-475-0080	6-29-2009	Amend	8-1-2009	177-050-0025	12-1-2008	Amend	1-1-2009
166-475-0085	6-29-2009	Amend	8-1-2009	177-050-0027	12-1-2008	Amend	1-1-2009
166-475-0090	6-29-2009	Amend	8-1-2009	177-050-0100	12-1-2008	Adopt	1-1-2009
166-475-0095	6-29-2009	Amend	8-1-2009	177-050-0100	3-1-2009	Amend	4-1-2009
166-475-0100	6-29-2009	Amend	8-1-2009	177-069-0000	12-1-2008	Adopt	1-1-2009
166-475-0105	6-29-2009	Amend	8-1-2009	177-069-0010	12-1-2008	Adopt	1-1-2009
166-475-0110	6-29-2009	Amend	8-1-2009	177-069-0020	12-1-2008	Adopt	1-1-2009
166-500-0040	7-1-2009	Amend	8-1-2009	177-069-0030	12-1-2008	Adopt	1-1-2009
166-500-0050	7-1-2009	Amend	8-1-2009	177-069-0040	12-1-2008	Adopt	1-1-2009
166-500-0055	7-1-2009	Amend	8-1-2009	177-069-0050	12-1-2008	Adopt	1-1-2009
170-040-0020	4-10-2009	Amend	5-1-2009	177-075-0010	11-23-2008	Amend(T)	1-1-2009
170-040-0090	11-28-2008	Adopt	1-1-2009	177-075-0010	3-1-2009	Amend	4-1-2009
170-040-0100	11-28-2008	Adopt	1-1-2009	177-075-0010(T)	3-1-2009	Repeal	4-1-2009
170-055-0001	12-29-2008	Adopt	2-1-2009	177-081-0020	11-23-2008	Amend(T)	1-1-2009
170-055-0005	12-29-2008	Repeal	2-1-2009	177-081-0020	3-1-2009	Amend	4-1-2009
170-060-0001	12-29-2008	Adopt	2-1-2009	177-081-0020(T)	3-1-2009	Repeal	4-1-2009
170-060-0005	12-29-2008	Adopt	2-1-2009	177-083-0020	11-23-2008	Amend(T)	1-1-2009
170-060-1010	12-29-2008	Amend	2-1-2009	177-083-0020	3-1-2009	Amend	4-1-2009
170-061-0000	12-29-2008	Amend	2-1-2009	177-083-0020(T)	3-1-2009	Repeal	4-1-2009
170-061-0005	12-29-2008	Repeal	2-1-2009	177-083-0030	11-23-2008	Amend(T)	1-1-2009
170-061-0015	12-29-2008	Amend	2-1-2009	177-083-0030	3-1-2009	Amend	4-1-2009
170-061-0015	4-22-2009	Amend	6-1-2009	177-083-0030(T)	3-1-2009	Repeal	4-1-2009
170-061-0015	7-21-2009	Amend	9-1-2009	177-083-0040	11-23-2008	Amend(T)	1-1-2009
170-061-0020	12-29-2008	Amend	2-1-2009	177-083-0040	3-1-2009	Amend	4-1-2009
170-061-0100	12-29-2008	Amend	2-1-2009	177-083-0040(T)	3-1-2009	Repeal	4-1-2009
170-061-0200	12-29-2008	Amend	2-1-2009	177-085-0000	1-4-2009	Amend	1-1-2009
170-061-0300	12-29-2008	Adopt	2-1-2009	177-085-0005	1-4-2009	Amend	1-1-2009
170-061-0400	12-29-2008	Adopt	2-1-2009	177-085-0010	1-4-2009	Amend	1-1-2009
170-062-0000	12-29-2008	Amend	2-1-2009	177-085-0015	11-23-2008	Amend(T)	1-1-2009
170-063-0000	12-29-2008	Amend	2-1-2009	177-085-0015	1-4-2009	Amend	1-1-2009
170-071-0005	12-29-2008	Amend	2-1-2009	177-085-0015	3-1-2009	Amend	4-1-2009
171-010-0000	6-10-2009	Repeal	8-1-2009	177-085-0015(T)	3-1-2009	Repeal	4-1-2009
171-010-0005	6-10-2009	Repeal	8-1-2009	177-085-0020	1-4-2009	Amend	1-1-2009
171-010-0010	6-10-2009	Repeal	8-1-2009	177-085-0025	1-4-2009	Amend	1-1-2009
171-010-0015	6-10-2009	Repeal	8-1-2009	177-085-0030	1-4-2009	Amend	1-1-2009
171-010-0020	6-10-2009	Repeal	8-1-2009	177-085-0035	1-4-2009	Amend	1-1-2009
171-010-0025	6-10-2009	Repeal	8-1-2009	177-085-0040	1-4-2009	Amend	1-1-2009
171-010-0030	6-10-2009	Repeal	8-1-2009	177-085-0045	1-4-2009	Amend	1-1-2009
171-010-0035	6-10-2009	Repeal	8-1-2009	177-085-0050	1-4-2009	Amend	1-1-2009
171-010-0040	6-10-2009	Repeal	8-1-2009	177-085-0065	1-4-2009	Amend	1-1-2009
171-010-0045	6-10-2009	Repeal	8-1-2009	177-094-0020	11-23-2008	Amend(T)	1-1-2009
177-040-0001	1-1-2009	Amend	2-1-2009	177-094-0020	3-1-2009	Amend	4-1-2009
177-040-0005	1-1-2009	Amend	2-1-2009	177-094-0020(T)	3-1-2009	Repeal	4-1-2009
177-040-0017	2-1-2009	Amend	3-1-2009	213-003-0001	1-1-2010	Amend(T)	5-1-2009
177-040-0017(T)	2-1-2009	Repeal	3-1-2009	213-003-0001	1-1-2010	Amend(T)	5-1-2009
177-040-0030	1-1-2009	Amend	2-1-2009	213-017-0004	6-17-2009	Amend(T)	8-1-2009
177-040-0050	1-1-2009	Amend	2-1-2009	213-017-0004	1-1-2010	Amend(T)	5-1-2009
177-040-0052	1-1-2009	Amend	2-1-2009	213-017-0006	1-1-2009	Amend(T)	2-1-2009
177-040-0061	2-1-2009	Amend	3-1-2009	213-017-0006	6-17-2009	Amend(T)	8-1-2009
177-040-0061(T)	2-1-2009	Repeal	3-1-2009	213-017-0006	1-1-2010	Amend(T)	5-1-2009

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213-017-0009	1-1-2010	Amend(T)	5-1-2009	291-022-0162	11-25-2008	Adopt(T)	1-1-2009
250-018-0060	7-1-2009	Amend	8-1-2009	291-022-0162	5-23-2009	Adopt	7-1-2009
250-018-0090	7-1-2009	Amend	8-1-2009	291-039-0010	12-16-2008	Amend(T)	2-1-2009
250-018-0110	7-1-2009	Amend	8-1-2009	291-039-0010	7-14-2009	Amend	8-1-2009
250-020-0261	5-1-2009	Amend	5-1-2009	291-039-0015	12-16-2008	Amend(T)	2-1-2009
250-020-0290	5-1-2009	Repeal	5-1-2009	291-039-0015	7-14-2009	Amend	8-1-2009
255-032-0007	6-26-2009	Adopt(T)	8-1-2009	291-042-0005	1-22-2009	Amend	3-1-2009
255-070-0001	4-10-2009	Amend(T)	5-1-2009	291-042-0010	1-22-2009	Amend	3-1-2009
257-050-0020	8-6-2009	Amend(T)	9-1-2009	291-042-0011	1-22-2009	Amend	3-1-2009
257-050-0040	8-6-2009	Amend(T)	9-1-2009	291-042-0015	1-22-2009	Amend	3-1-2009
257-050-0050	8-6-2009	Amend(T)	9-1-2009	291-042-0025	1-22-2009	Amend	3-1-2009
257-050-0060	8-6-2009	Amend(T)	9-1-2009	291-042-0035	1-22-2009	Amend	3-1-2009
257-050-0070	8-6-2009	Amend(T)	9-1-2009	291-042-0045	1-22-2009	Repeal	3-1-2009
257-050-0090	8-6-2009	Amend(T)	9-1-2009	291-058-0010	5-29-2009	Amend	7-1-2009
257-050-0095	8-6-2009	Amend(T)	9-1-2009	291-058-0020	5-29-2009	Amend	7-1-2009
257-050-0100	8-6-2009	Amend(T)	9-1-2009	291-058-0030	5-29-2009	Amend	7-1-2009
257-050-0110	8-6-2009	Amend(T)	9-1-2009	291-058-0040	5-29-2009	Amend	7-1-2009
257-050-0115	8-6-2009	Amend(T)	9-1-2009	291-058-0045	5-29-2009	Amend	7-1-2009
257-050-0125	8-6-2009	Amend(T)	9-1-2009	291-058-0046	5-29-2009	Adopt	7-1-2009
257-050-0130	8-6-2009	Amend(T)	9-1-2009	291-058-0050	5-29-2009	Amend	7-1-2009
257-050-0140	8-6-2009	Amend(T)	9-1-2009	291-058-0060	5-29-2009	Amend	7-1-2009
257-050-0145	8-6-2009	Amend(T)	9-1-2009	291-058-0065	5-29-2009	Adopt	7-1-2009
257-050-0150	8-6-2009	Amend(T)	9-1-2009	291-062-0100	3-20-2009	Amend(T)	5-1-2009
257-050-0155	8-6-2009	Amend(T)	9-1-2009	291-062-0100	7-13-2009	Amend	8-1-2009
257-050-0157	8-6-2009	Amend(T)	9-1-2009	291-062-0100(T)	7-13-2009	Repeal	8-1-2009
257-050-0170	8-6-2009	Amend(T)	9-1-2009	291-062-0110	3-20-2009	Amend(T)	5-1-2009
257-050-0180	8-6-2009	Amend(T)	9-1-2009	291-062-0110	7-13-2009	Amend	8-1-2009
257-050-0200	8-6-2009	Amend(T)	9-1-2009	291-062-0110(T)	7-13-2009	Repeal	8-1-2009
259-001-0005	4-8-2009	Amend	5-1-2009	291-062-0120	3-20-2009	Amend(T)	5-1-2009
259-008-0010	1-1-2009	Amend	1-1-2009	291-062-0120	7-13-2009	Amend	8-1-2009
259-008-0011	1-1-2009	Amend	1-1-2009	291-062-0120(T)	7-13-2009	Repeal	8-1-2009
259-008-0011	7-13-2009	Amend	8-1-2009	291-062-0130	3-20-2009	Amend(T)	5-1-2009
259-008-0020	7-13-2009	Amend	8-1-2009	291-062-0130	7-13-2009	Amend	8-1-2009
259-008-0025	4-8-2009	Amend	5-1-2009	291-062-0130(T)	7-13-2009	Repeal	8-1-2009
259-008-0060	12-29-2008	Amend	2-1-2009	291-062-0140	3-20-2009	Amend(T)	5-1-2009
259-008-0060	4-8-2009	Amend	5-1-2009	291-062-0140	7-13-2009	Amend	8-1-2009
259-008-0065	4-8-2009	Amend	5-1-2009	291-062-0140(T)	7-13-2009	Repeal	8-1-2009
259-008-0068	6-26-2009	Amend(T)	8-1-2009	291-062-0150	3-20-2009	Amend(T)	5-1-2009
259-008-0068	7-13-2009	Amend	8-1-2009	291-062-0150	7-13-2009	Amend	8-1-2009
259-008-0068(T)	7-13-2009	Repeal	8-1-2009	291-062-0150(T)	7-13-2009	Repeal	8-1-2009
259-008-0070	1-1-2009	Amend	1-1-2009	291-062-0160	3-20-2009	Amend(T)	5-1-2009
259-009-0005	7-13-2009	Amend	8-1-2009	291-062-0160	7-13-2009	Amend	8-1-2009
259-009-0059	7-13-2009	Amend	8-1-2009	291-062-0160(T)	7-13-2009	Repeal	8-1-2009
259-009-0062	7-13-2009	Amend	8-1-2009	291-062-0170	3-20-2009	Adopt(T)	5-1-2009
259-009-0070	7-13-2009	Amend	8-1-2009	291-062-0170	7-13-2009	Adopt	8-1-2009
259-020-0010	12-29-2008	Amend(T)	2-1-2009	291-062-0170(T)	7-13-2009	Repeal	8-1-2009
259-020-0010	2-2-2009	Amend	3-1-2009	291-070-0120	12-16-2008	Amend(T)	2-1-2009
259-020-0010(T)	2-2-2009	Repeal	3-1-2009	291-070-0120	7-14-2009	Amend	8-1-2009
259-020-0015	2-2-2009	Amend	3-1-2009	291-077-0033	7-1-2009	Amend	8-1-2009
259-020-0020	2-2-2009	Amend	3-1-2009	291-084-0010	7-2-2009	Suspend	8-1-2009
259-020-0025	2-2-2009	Amend	3-1-2009	291-084-0020	7-2-2009	Suspend	8-1-2009
291-019-0130	5-22-2009	Amend	7-1-2009	291-084-0030	7-2-2009	Suspend	8-1-2009
291-022-0115	11-25-2008	Amend(T)	1-1-2009	291-084-0040	7-2-2009	Suspend	8-1-2009
291-022-0115	5-23-2009	Amend	7-1-2009	291-097-0005	3-10-2009	Amend	4-1-2009
291-022-0160	11-25-2008	Amend(T)	1-1-2009	291-097-0010	3-10-2009	Amend	4-1-2009
291-022-0160	5-23-2009	Amend	7-1-2009	291-097-0015	3-10-2009	Amend	4-1-2009
291-022-0161	11-25-2008	Adopt(T)	1-1-2009	291-097-0020	3-10-2009	Amend	4-1-2009

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291-097-0050	3-10-2009	Amend	4-1-2009	331-030-0020	6-1-2009	Amend	7-1-2009
291-097-0060	3-10-2009	Amend	4-1-2009	331-030-0025	6-1-2009	Adopt	7-1-2009
291-097-0070	3-10-2009	Amend	4-1-2009	331-030-0030	6-1-2009	Am. & Ren.	7-1-2009
291-097-0080	3-10-2009	Amend	4-1-2009	331-030-0040	6-1-2009	Adopt	7-1-2009
291-097-0100	3-10-2009	Amend	4-1-2009	331-810-0038	12-1-2008	Adopt	1-1-2009
291-097-0110	3-10-2009	Am. & Ren.	4-1-2009	332-015-0070	4-1-2009	Amend	5-1-2009
291-097-0120	3-10-2009	Amend	4-1-2009	332-020-0010	4-1-2009	Amend	5-1-2009
291-105-0015	7-1-2009	Amend	8-1-2009	333-004-0010	3-2-2009	Amend	4-1-2009
291-127-0240	5-15-2009	Amend	6-1-2009	333-004-0020	3-2-2009	Amend	4-1-2009
291-127-0260	12-16-2008	Amend(T)	2-1-2009	333-004-0030	3-2-2009	Amend	4-1-2009
291-127-0260	5-15-2009	Amend	6-1-2009	333-004-0040	3-2-2009	Amend	4-1-2009
291-127-0260(T)	5-15-2009	Repeal	6-1-2009	333-004-0050	3-2-2009	Amend	4-1-2009
291-158-0005	12-26-2008	Amend	2-1-2009	333-004-0060	3-2-2009	Amend	4-1-2009
291-158-0010	12-26-2008	Amend	2-1-2009	333-004-0070	3-2-2009	Amend	4-1-2009
291-158-0015	12-26-2008	Amend	2-1-2009	333-004-0080	3-2-2009	Amend	4-1-2009
291-158-0025	12-26-2008	Amend	2-1-2009	333-004-0090	3-2-2009	Repeal	4-1-2009
291-158-0035	12-26-2008	Amend	2-1-2009	333-004-0100	3-2-2009	Amend	4-1-2009
291-158-0045	12-26-2008	Amend	2-1-2009	333-004-0110	3-2-2009	Amend	4-1-2009
291-158-0055	12-26-2008	Amend	2-1-2009	333-004-0120	3-2-2009	Amend	4-1-2009
291-158-0065	12-26-2008	Amend	2-1-2009	333-004-0140	3-2-2009	Amend	4-1-2009
291-158-0075	12-26-2008	Amend	2-1-2009	333-004-0150	3-2-2009	Amend	4-1-2009
291-203-0020	5-15-2009	Amend(T)	6-1-2009	333-004-0160	3-2-2009	Amend	4-1-2009
291-203-0040	5-15-2009	Amend(T)	6-1-2009	333-010-0200	2-13-2009	Adopt	3-1-2009
291-203-0050	5-15-2009	Amend(T)	6-1-2009	333-010-0205	2-13-2009	Adopt	3-1-2009
309-040-0410	8-6-2009	Amend(T)	9-1-2009	333-010-0210	2-13-2009	Adopt	3-1-2009
309-114-0005	1-23-2009	Amend(T)	3-1-2009	333-010-0215	2-13-2009	Adopt	3-1-2009
309-114-0005	4-2-2009	Amend(T)	5-1-2009	333-010-0220	2-13-2009	Adopt	3-1-2009
309-114-0005	6-26-2009	Amend	8-1-2009	333-010-0225	2-13-2009	Adopt	3-1-2009
309-114-0005(T)	4-2-2009	Suspend	5-1-2009	333-010-0230	2-13-2009	Adopt	3-1-2009
309-114-0005(T)	6-26-2009	Repeal	8-1-2009	333-010-0235	2-13-2009	Adopt	3-1-2009
309-114-0010	1-23-2009	Amend(T)	3-1-2009	333-010-0240	2-13-2009	Adopt	3-1-2009
309-114-0010	6-26-2009	Amend	8-1-2009	333-010-0245	2-13-2009	Adopt	3-1-2009
309-114-0010(T)	6-26-2009	Repeal	8-1-2009	333-010-0250	2-13-2009	Adopt	3-1-2009
309-114-0020	1-23-2009	Amend(T)	3-1-2009	333-010-0255	2-13-2009	Adopt	3-1-2009
309-114-0020	6-26-2009	Amend	8-1-2009	333-010-0260	2-13-2009	Adopt	3-1-2009
309-114-0020(T)	6-26-2009	Repeal	8-1-2009	333-010-0265	2-13-2009	Adopt	3-1-2009
309-114-0025	6-26-2009	Amend	8-1-2009	333-010-0270	2-13-2009	Adopt	3-1-2009
325-005-0015	6-26-2009	Amend	8-1-2009	333-010-0275	2-13-2009	Adopt	3-1-2009
330-001-0020	7-27-2009	Adopt(T)	9-1-2009	333-010-0280	2-13-2009	Adopt	3-1-2009
330-061-0005	12-5-2008	Amend	1-1-2009	333-010-0285	2-13-2009	Adopt	3-1-2009
330-061-0025	12-5-2008	Amend	1-1-2009	333-010-0290	2-13-2009	Adopt	3-1-2009
330-061-0030	12-5-2008	Amend	1-1-2009	333-012-0500	7-20-2009	Amend(T)	9-1-2009
331-001-0000	6-1-2009	Amend	7-1-2009	333-054-0010	6-1-2009	Amend	7-1-2009
331-001-0010	6-1-2009	Amend	7-1-2009	333-054-0020	6-1-2009	Amend	7-1-2009
331-010-0000	6-1-2009	Amend	7-1-2009	333-054-0025	6-1-2009	Amend	7-1-2009
331-010-0020	6-1-2009	Amend	7-1-2009	333-054-0027	6-1-2009	Adopt	7-1-2009
331-010-0030	6-1-2009	Amend	7-1-2009	333-054-0030	6-1-2009	Amend	7-1-2009
331-010-0040	6-1-2009	Amend	7-1-2009	333-054-0035	6-1-2009	Adopt	7-1-2009
331-020-0030	6-1-2009	Amend	7-1-2009	333-054-0040	6-1-2009	Amend	7-1-2009
331-020-0040	6-1-2009	Amend	7-1-2009	333-054-0050	6-1-2009	Amend	7-1-2009
331-020-0060	6-1-2009	Amend	7-1-2009	333-054-0055	6-1-2009	Adopt	7-1-2009
331-020-0070	6-1-2009	Amend	7-1-2009	333-054-0060	6-1-2009	Amend	7-1-2009
331-030-0000	12-1-2008	Amend(T)	1-1-2009	333-054-0065	6-1-2009	Adopt	7-1-2009
331-030-0000	6-1-2009	Amend	7-1-2009	333-054-0070	6-1-2009	Amend	7-1-2009
331-030-0004	6-1-2009	Adopt	7-1-2009	333-060-0125	6-17-2009	Amend(T)	8-1-2009
331-030-0005	12-1-2008	Adopt(T)	1-1-2009	333-060-0127	6-17-2009	Adopt(T)	8-1-2009

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333-060-0510	6-17-2009	Amend(T)	8-1-2009	334-020-0015	3-1-2009	Amend	3-1-2009
333-061-0020	5-18-2009	Amend	7-1-2009	334-020-0020	3-1-2009	Repeal	3-1-2009
333-061-0025	5-18-2009	Amend	7-1-2009	334-020-0025	3-1-2009	Repeal	3-1-2009
333-061-0030	5-18-2009	Amend	7-1-2009	334-020-0030	3-1-2009	Repeal	3-1-2009
333-061-0031	5-18-2009	Amend	7-1-2009	334-020-0035	3-1-2009	Repeal	3-1-2009
333-061-0032	5-18-2009	Amend	7-1-2009	334-020-0040	3-1-2009	Repeal	3-1-2009
333-061-0034	5-18-2009	Amend	7-1-2009	334-020-0045	3-1-2009	Repeal	3-1-2009
333-061-0036	5-18-2009	Amend	7-1-2009	334-020-0050	3-1-2009	Amend	3-1-2009
333-061-0040	5-18-2009	Amend	7-1-2009	334-020-0050	7-2-2009	Amend	8-1-2009
333-061-0042	5-18-2009	Amend	7-1-2009	334-020-0055	3-1-2009	Amend	3-1-2009
333-061-0043	5-18-2009	Amend	7-1-2009	334-020-0060	3-1-2009	Repeal	3-1-2009
333-061-0045	5-18-2009	Amend	7-1-2009	334-020-0065	3-1-2009	Repeal	3-1-2009
333-061-0050	5-18-2009	Amend	7-1-2009	334-020-0070	3-1-2009	Repeal	3-1-2009
333-061-0058	5-18-2009	Amend	7-1-2009	334-020-0075	3-1-2009	Repeal	3-1-2009
333-061-0060	5-18-2009	Amend	7-1-2009	334-020-0080	3-1-2009	Repeal	3-1-2009
333-061-0064	5-18-2009	Amend	7-1-2009	334-020-0085	3-1-2009	Repeal	3-1-2009
333-061-0065	5-18-2009	Amend	7-1-2009	334-020-0090	3-1-2009	Repeal	3-1-2009
333-061-0070	5-18-2009	Amend	7-1-2009	334-030-0001	3-1-2009	Amend	3-1-2009
333-061-0071	5-18-2009	Amend	7-1-2009	334-030-0002	3-1-2009	Repeal	3-1-2009
333-061-0076	5-18-2009	Amend	7-1-2009	334-030-0005	3-1-2009	Amend	3-1-2009
333-061-0077	5-18-2009	Amend	7-1-2009	334-030-0010	3-1-2009	Repeal	3-1-2009
333-061-0090	5-18-2009	Amend	7-1-2009	334-030-0025	3-1-2009	Am. & Ren.	3-1-2009
333-061-0097	5-18-2009	Amend	7-1-2009	334-040-0001	3-1-2009	Adopt	3-1-2009
333-061-0220	5-18-2009	Amend	7-1-2009	335-005-0010	7-1-2009	Amend	7-1-2009
333-061-0225	5-18-2009	Amend	7-1-2009	335-005-0020	7-1-2009	Amend	7-1-2009
333-061-0270	5-18-2009	Amend	7-1-2009	335-005-0025	7-1-2009	Amend	7-1-2009
333-062-0100	6-17-2009	Amend(T)	8-1-2009	335-060-0010	7-1-2009	Amend	7-1-2009
333-062-0102	6-17-2009	Adopt(T)	8-1-2009	335-060-0020	7-1-2009	Amend	7-1-2009
333-565-0000	1-1-2009	Amend	2-1-2009	335-070-0055	7-1-2009	Amend	7-1-2009
333-565-0010	4-20-2009	Adopt	6-1-2009	335-070-0060	7-1-2009	Amend	7-1-2009
333-675-0050	1-1-2009	Amend	2-1-2009	335-070-0075	7-1-2009	Amend	7-1-2009
334-001-0000	3-1-2009	Amend	3-1-2009	335-070-0080	7-1-2009	Amend	7-1-2009
334-001-0012	7-2-2009	Amend	8-1-2009	335-070-0085	7-1-2009	Amend	7-1-2009
334-001-0035	3-1-2009	Amend	3-1-2009	335-095-0010	7-1-2009	Amend	7-1-2009
334-001-0045	3-1-2009	Amend	3-1-2009	335-095-0030	7-1-2009	Amend	7-1-2009
334-001-0051	6-26-2009	Adopt(T)	8-1-2009	335-095-0050	7-1-2009	Amend	7-1-2009
334-001-0060	3-1-2009	Amend	3-1-2009	335-095-0060	7-1-2009	Amend	7-1-2009
334-001-0060	7-2-2009	Amend	8-1-2009	339-010-0023	1-1-2009	Amend	1-1-2009
334-010-0005	3-1-2009	Amend	3-1-2009	339-010-0035	1-1-2009	Amend	1-1-2009
334-010-0005	7-2-2009	Amend	8-1-2009	339-010-0050	1-1-2009	Amend	1-1-2009
334-010-0010	3-1-2009	Amend	3-1-2009	339-020-0015	1-1-2009	Adopt	1-1-2009
334-010-0010	7-2-2009	Amend	8-1-2009	340-054-0024	5-1-2009	Amend(T)	6-1-2009
334-010-0012	3-1-2009	Amend	3-1-2009	340-054-0025	5-1-2009	Amend(T)	6-1-2009
334-010-0015	3-1-2009	Amend	3-1-2009	340-054-0035	5-1-2009	Amend(T)	6-1-2009
334-010-0016	3-1-2009	Repeal	3-1-2009	340-054-0098	5-1-2009	Adopt(T)	6-1-2009
334-010-0017	3-1-2009	Amend	3-1-2009	340-054-0100	5-1-2009	Adopt(T)	6-1-2009
334-010-0017	7-2-2009	Amend	8-1-2009	340-054-0102	5-1-2009	Adopt(T)	6-1-2009
334-010-0025	3-1-2009	Amend	3-1-2009	340-054-0104	5-1-2009	Adopt(T)	6-1-2009
334-010-0031	3-1-2009	Repeal	3-1-2009	340-054-0106	5-1-2009	Adopt(T)	6-1-2009
334-010-0033	3-1-2009	Amend	3-1-2009	340-054-0108	5-1-2009	Adopt(T)	6-1-2009
334-010-0033	7-2-2009	Amend	8-1-2009	340-100-0002	6-25-2009	Amend	8-1-2009
334-010-0041	3-1-2009	Am. & Ren.	3-1-2009	340-102-0060	6-25-2009	Repeal	8-1-2009
334-010-0046	3-1-2009	Amend	3-1-2009	340-102-0065	6-25-2009	Amend	8-1-2009
334-010-0046	7-2-2009	Amend	8-1-2009	340-104-0021	6-25-2009	Adopt	8-1-2009
334-010-0047	3-1-2009	Amend	3-1-2009	340-105-0140	6-25-2009	Adopt	8-1-2009
334-010-0050	3-1-2009	Amend	3-1-2009	340-200-0040	12-31-2008	Amend	2-1-2009
334-010-0050	7-2-2009	Amend	8-1-2009	340-200-0040	6-30-2009	Amend	8-1-2009

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340-216-0060	12-31-2008	Amend	2-1-2009	340-228-0666	12-31-2008	Repeal	2-1-2009
340-223-0010	6-30-2009	Adopt	8-1-2009	340-228-0668	12-31-2008	Repeal	2-1-2009
340-223-0020	6-30-2009	Adopt	8-1-2009	340-228-0670	12-31-2008	Repeal	2-1-2009
340-223-0030	6-30-2009	Adopt	8-1-2009	340-228-0671	12-31-2008	Repeal	2-1-2009
340-223-0040	6-30-2009	Adopt	8-1-2009	340-228-0672	12-31-2008	Repeal	2-1-2009
340-223-0050	6-30-2009	Adopt	8-1-2009	340-228-0673	12-31-2008	Repeal	2-1-2009
340-228-0600	12-31-2008	Amend	2-1-2009	340-228-0674	12-31-2008	Repeal	2-1-2009
340-228-0601	12-31-2008	Adopt	2-1-2009	340-228-0676	12-31-2008	Repeal	2-1-2009
340-228-0602	12-31-2008	Amend	2-1-2009	340-228-0678	12-31-2008	Repeal	2-1-2009
340-228-0603	12-31-2008	Amend	2-1-2009	340-230-0300	12-31-2008	Amend	2-1-2009
340-228-0604	12-31-2008	Repeal	2-1-2009	340-230-0310	12-31-2008	Amend	2-1-2009
340-228-0605	12-31-2008	Repeal	2-1-2009	340-230-0320	12-31-2008	Amend	2-1-2009
340-228-0606	12-31-2008	Amend	2-1-2009	340-230-0330	12-31-2008	Amend	2-1-2009
340-228-0606	6-30-2009	Amend	8-1-2009	340-230-0335	12-31-2008	Adopt	2-1-2009
340-228-0608	12-31-2008	Repeal	2-1-2009	340-230-0340	12-31-2008	Amend	2-1-2009
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340-228-0610	12-31-2008	Repeal	2-1-2009	340-230-0359	12-31-2008	Adopt	2-1-2009
340-228-0611	12-31-2008	Adopt	2-1-2009	340-232-0070	12-31-2008	Repeal	2-1-2009
340-228-0612	12-31-2008	Repeal	2-1-2009	340-238-0040	12-31-2008	Amend	2-1-2009
340-228-0613	12-31-2008	Adopt	2-1-2009	340-238-0050	12-31-2008	Repeal	2-1-2009
340-228-0614	12-31-2008	Repeal	2-1-2009	340-238-0060	12-31-2008	Amend	2-1-2009
340-228-0615	12-31-2008	Adopt	2-1-2009	340-238-0090	12-31-2008	Amend	2-1-2009
340-228-0616	12-31-2008	Repeal	2-1-2009	340-242-0520	12-31-2008	Amend	2-1-2009
340-228-0617	12-31-2008	Adopt	2-1-2009	340-244-0020	12-31-2008	Amend	2-1-2009
340-228-0618	12-31-2008	Repeal	2-1-2009	340-244-0030	12-31-2008	Amend	2-1-2009
340-228-0619	12-31-2008	Adopt	2-1-2009	340-244-0100	12-31-2008	Amend	2-1-2009
340-228-0620	12-31-2008	Repeal	2-1-2009	340-244-0110	12-31-2008	Repeal	2-1-2009
340-228-0621	12-31-2008	Adopt	2-1-2009	340-244-0120	12-31-2008	Repeal	2-1-2009
340-228-0622	12-31-2008	Repeal	2-1-2009	340-244-0130	12-31-2008	Repeal	2-1-2009
340-228-0623	12-31-2008	Adopt	2-1-2009	340-244-0140	12-31-2008	Repeal	2-1-2009
340-228-0624	12-31-2008	Repeal	2-1-2009	340-244-0150	12-31-2008	Repeal	2-1-2009
340-228-0625	12-31-2008	Adopt	2-1-2009	340-244-0160	12-31-2008	Repeal	2-1-2009
340-228-0626	12-31-2008	Repeal	2-1-2009	340-244-0170	12-31-2008	Repeal	2-1-2009
340-228-0627	12-31-2008	Adopt	2-1-2009	340-244-0180	12-31-2008	Repeal	2-1-2009
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340-228-0629	12-31-2008	Adopt	2-1-2009	340-244-0220	12-31-2008	Amend	2-1-2009
340-228-0630	12-31-2008	Repeal	2-1-2009	340-244-0232	12-31-2008	Adopt	2-1-2009
340-228-0631	12-31-2008	Adopt	2-1-2009	340-244-0234	12-31-2008	Adopt	2-1-2009
340-228-0632	12-31-2008	Repeal	2-1-2009	340-244-0236	12-31-2008	Adopt	2-1-2009
340-228-0633	12-31-2008	Adopt	2-1-2009	340-244-0238	12-31-2008	Adopt	2-1-2009
340-228-0634	12-31-2008	Repeal	2-1-2009	340-244-0240	12-31-2008	Adopt	2-1-2009
340-228-0635	12-31-2008	Adopt	2-1-2009	340-244-0242	12-31-2008	Adopt	2-1-2009
340-228-0636	12-31-2008	Repeal	2-1-2009	340-244-0244	12-31-2008	Adopt	2-1-2009
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340-228-0638	12-31-2008	Repeal	2-1-2009	340-244-0248	12-31-2008	Adopt	2-1-2009
340-228-0640	12-31-2008	Repeal	2-1-2009	340-244-0250	12-31-2008	Adopt	2-1-2009
340-228-0642	12-31-2008	Repeal	2-1-2009	340-244-0252	12-31-2008	Adopt	2-1-2009
340-228-0644	12-31-2008	Repeal	2-1-2009	350-040-0020	1-14-2009	Amend(T)	2-1-2009
340-228-0646	12-31-2008	Repeal	2-1-2009	350-040-0020	5-1-2009	Amend	5-1-2009
340-228-0648	12-31-2008	Repeal	2-1-2009	350-040-0040	1-14-2009	Amend(T)	2-1-2009
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340-228-0652	12-31-2008	Repeal	2-1-2009	350-050-0020	1-14-2009	Amend(T)	2-1-2009
340-228-0654	12-31-2008	Repeal	2-1-2009	350-050-0020	5-1-2009	Amend	5-1-2009
340-228-0656	12-31-2008	Repeal	2-1-2009	350-050-0060	1-14-2009	Amend(T)	2-1-2009
340-228-0658	12-31-2008	Repeal	2-1-2009	350-050-0060	5-1-2009	Amend	5-1-2009
340-228-0660	12-31-2008	Repeal	2-1-2009	407-001-0000	12-5-2008	Amend	1-1-2009
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407-007-0200	4-1-2009	Amend	5-1-2009	407-120-0360	12-27-2008	Amend	2-1-2009
407-007-0210	1-1-2009	Amend	2-1-2009	407-120-0360(T)	12-27-2008	Repeal	2-1-2009
407-007-0210	4-1-2009	Amend	5-1-2009	407-120-0370	12-27-2008	Amend	2-1-2009
407-007-0220	1-1-2009	Amend	2-1-2009	407-120-0370(T)	12-27-2008	Repeal	2-1-2009
407-007-0220	4-1-2009	Amend	5-1-2009	407-120-0380	12-27-2008	Amend	2-1-2009
407-007-0230	1-1-2009	Amend	2-1-2009	407-120-0380(T)	12-27-2008	Repeal	2-1-2009
407-007-0230	4-1-2009	Amend	5-1-2009	407-120-0400	1-12-2009	Adopt(T)	2-1-2009
407-007-0240	1-1-2009	Amend	2-1-2009	407-120-0400	7-10-2009	Adopt	8-1-2009
407-007-0240	4-1-2009	Amend	5-1-2009	407-120-0400(T)	7-10-2009	Repeal	8-1-2009
407-007-0250	1-1-2009	Amend	2-1-2009	409-023-0000	7-1-2009	Amend	8-1-2009
407-007-0250	4-1-2009	Amend	5-1-2009	409-023-0010	7-1-2009	Amend	8-1-2009
407-007-0260	1-1-2009	Repeal	2-1-2009	409-023-0012	7-1-2009	Adopt	8-1-2009
407-007-0270	1-1-2009	Repeal	2-1-2009	409-023-0013	7-1-2009	Adopt	8-1-2009
407-007-0280	1-1-2009	Amend	2-1-2009	409-023-0015	7-1-2009	Amend	8-1-2009
407-007-0280	4-1-2009	Amend	5-1-2009	410-014-0000	7-1-2009	Am. & Ren.	8-1-2009
407-007-0290	1-1-2009	Amend	2-1-2009	410-014-0010	7-1-2009	Am. & Ren.	8-1-2009
407-007-0290	4-1-2009	Amend	5-1-2009	410-014-0020	7-1-2009	Am. & Ren.	8-1-2009
407-007-0300	1-1-2009	Amend	2-1-2009	410-014-0030	7-1-2009	Am. & Ren.	8-1-2009
407-007-0310	1-1-2009	Repeal	2-1-2009	410-014-0040	7-1-2009	Am. & Ren.	8-1-2009
407-007-0320	1-1-2009	Amend	2-1-2009	410-014-0050	7-1-2009	Am. & Ren.	8-1-2009
407-007-0320	4-1-2009	Amend	5-1-2009	410-014-0060	7-1-2009	Am. & Ren.	8-1-2009
407-007-0330	1-1-2009	Amend	2-1-2009	410-014-0070	7-1-2009	Am. & Ren.	8-1-2009
407-007-0330	4-1-2009	Amend	5-1-2009	410-050-0861	7-1-2009	Amend	8-1-2009
407-007-0340	1-1-2009	Amend	2-1-2009	410-050-0861	7-15-2009	Amend(T)	8-1-2009
407-007-0340	4-1-2009	Amend	5-1-2009	410-120-0000	12-1-2008	Amend	1-1-2009
407-007-0350	1-1-2009	Amend	2-1-2009	410-120-0000	7-1-2009	Amend	7-1-2009
407-007-0350	4-1-2009	Amend	5-1-2009	410-120-0027	1-12-2009	Adopt(T)	2-1-2009
407-007-0355	1-1-2009	Adopt	2-1-2009	410-120-0027	1-16-2009	Amend(T)	3-1-2009
407-007-0355	4-1-2009	Amend	5-1-2009	410-120-0027	5-1-2009	Amend(T)	6-1-2009
407-007-0360	1-1-2009	Repeal	2-1-2009	410-120-0027	6-12-2009	Amend	7-1-2009
407-007-0370	1-1-2009	Amend	2-1-2009	410-120-0027(T)	1-16-2009	Suspend	3-1-2009
407-007-0380	1-1-2009	Repeal	2-1-2009	410-120-0027(T)	5-1-2009	Suspend	6-1-2009
407-045-0250	5-1-2009	Amend	6-1-2009	410-120-0027(T)	6-12-2009	Repeal	7-1-2009
407-045-0260	5-1-2009	Amend	6-1-2009	410-120-1140	12-1-2008	Amend	1-1-2009
407-045-0270	5-1-2009	Repeal	6-1-2009	410-120-1180	12-1-2008	Amend	1-1-2009
407-045-0280	5-1-2009	Amend	6-1-2009	410-120-1195	12-1-2008	Amend	1-1-2009
407-045-0290	5-1-2009	Amend	6-1-2009	410-120-1260	12-1-2008	Amend	1-1-2009
407-045-0300	5-1-2009	Amend	6-1-2009	410-120-1280	12-1-2008	Amend	1-1-2009
407-045-0310	5-1-2009	Amend	6-1-2009	410-120-1340	12-1-2008	Amend	1-1-2009
407-045-0320	5-1-2009	Amend	6-1-2009	410-120-1340	1-1-2009	Amend	1-1-2009
407-045-0330	5-1-2009	Amend	6-1-2009	410-120-1560	7-1-2009	Amend	7-1-2009
407-045-0340	5-1-2009	Amend	6-1-2009	410-120-1570	7-1-2009	Amend	7-1-2009
407-045-0350	5-1-2009	Amend	6-1-2009	410-120-1580	7-1-2009	Amend	7-1-2009
407-045-0360	5-1-2009	Amend	6-1-2009	410-120-1600	7-1-2009	Amend	7-1-2009
407-120-0300	12-27-2008	Amend	2-1-2009	410-120-1680	7-1-2009	Repeal	7-1-2009
407-120-0300(T)	12-27-2008	Repeal	2-1-2009	410-120-1700	7-1-2009	Repeal	7-1-2009
407-120-0310	12-27-2008	Amend	2-1-2009	410-121-0000	1-1-2009	Amend	1-1-2009
407-120-0310(T)	12-27-2008	Repeal	2-1-2009	410-121-0000	7-1-2009	Amend	7-1-2009
407-120-0320	12-27-2008	Amend	2-1-2009	410-121-0030	1-1-2009	Amend	1-1-2009
407-120-0320(T)	12-27-2008	Repeal	2-1-2009	410-121-0032	1-1-2009	Amend	1-1-2009
407-120-0325	12-27-2008	Adopt	2-1-2009	410-121-0032	7-1-2009	Amend	7-1-2009
407-120-0325(T)	12-27-2008	Repeal	2-1-2009	410-121-0040	12-1-2008	Amend	1-1-2009
407-120-0330	12-27-2008	Amend	2-1-2009	410-121-0040	7-1-2009	Amend	7-1-2009
407-120-0330(T)	12-27-2008	Repeal	2-1-2009	410-121-0060	12-1-2008	Amend	1-1-2009
407-120-0340	12-27-2008	Amend	2-1-2009	410-121-0060	1-1-2009	Amend	1-1-2009
407-120-0340(T)	12-27-2008	Repeal	2-1-2009	410-121-0140	12-1-2008	Amend	1-1-2009

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410-121-0150	12-1-2008	Amend	1-1-2009	410-123-1600	7-1-2009	Amend	7-1-2009
410-121-0150	7-1-2009	Amend	7-1-2009	410-123-1620	1-1-2009	Amend	1-1-2009
410-121-0155	4-1-2009	Amend(T)	5-1-2009	410-123-1620	7-1-2009	Amend	7-1-2009
410-121-0155	7-1-2009	Amend	7-1-2009	410-123-1670	1-1-2009	Amend	1-1-2009
410-121-0157	12-1-2008	Amend	1-1-2009	410-123-1670	7-1-2009	Amend	7-1-2009
410-121-0185	1-1-2009	Amend	1-1-2009	410-125-0020	1-1-2009	Amend	1-1-2009
410-121-0200	12-1-2008	Amend	1-1-2009	410-125-0041	1-1-2009	Amend	1-1-2009
410-121-0300	1-1-2009	Amend	1-1-2009	410-125-0045	1-1-2009	Amend	1-1-2009
410-121-0320	12-1-2008	Amend	1-1-2009	410-125-0080	1-1-2009	Amend	1-1-2009
410-121-0625	1-1-2009	Amend	1-1-2009	410-125-0080	7-1-2009	Amend	7-1-2009
410-122-0040	12-1-2008	Amend	1-1-2009	410-125-0085	1-1-2009	Amend	1-1-2009
410-122-0080	7-1-2009	Amend	7-1-2009	410-125-0125	12-1-2008	Amend	1-1-2009
410-122-0180	7-1-2009	Amend	7-1-2009	410-125-0141	5-1-2009	Amend(T)	6-1-2009
410-122-0182	1-1-2009	Amend	1-1-2009	410-125-0155	1-1-2009	Amend	1-1-2009
410-122-0186	7-1-2009	Amend	7-1-2009	410-125-0181	1-1-2009	Amend	1-1-2009
410-122-0200	1-1-2009	Amend	1-1-2009	410-125-0195	1-1-2009	Amend	1-1-2009
410-122-0202	1-1-2009	Amend(T)	2-1-2009	410-125-0195	5-1-2009	Amend(T)	6-1-2009
410-122-0202	6-1-2009	Amend	7-1-2009	410-125-0210	12-1-2008	Amend	1-1-2009
410-122-0202(T)	6-1-2009	Repeal	7-1-2009	410-125-0220	12-1-2008	Amend	1-1-2009
410-122-0203	1-1-2009	Amend	1-1-2009	410-125-0360	12-1-2008	Amend	1-1-2009
410-122-0204	1-1-2009	Amend	1-1-2009	410-125-0400	12-1-2008	Amend	1-1-2009
410-122-0205	7-1-2009	Amend	7-1-2009	410-125-0600	12-1-2008	Amend	1-1-2009
410-122-0208	7-1-2009	Amend	7-1-2009	410-125-0640	12-1-2008	Amend	1-1-2009
410-122-0211	1-1-2009	Adopt	1-1-2009	410-125-0720	12-1-2008	Amend	1-1-2009
410-122-0320	7-1-2009	Amend	7-1-2009	410-125-1020	1-1-2009	Amend	1-1-2009
410-122-0325	7-1-2009	Amend	7-1-2009	410-125-1070	12-1-2008	Amend	1-1-2009
410-122-0330	1-1-2009	Amend	1-1-2009	410-127-0080	12-1-2008	Amend	1-1-2009
410-122-0340	1-1-2009	Amend	1-1-2009	410-129-0080	12-1-2008	Amend	1-1-2009
410-122-0340	7-1-2009	Amend	7-1-2009	410-130-0163	7-1-2009	Amend	7-1-2009
410-122-0365	1-1-2009	Amend	1-1-2009	410-130-0180	12-1-2008	Amend	1-1-2009
410-122-0375	7-1-2009	Amend	7-1-2009	410-130-0180	7-1-2009	Amend	7-1-2009
410-122-0400	7-1-2009	Amend	7-1-2009	410-130-0200	7-1-2009	Amend	7-1-2009
410-122-0420	7-1-2009	Amend	7-1-2009	410-130-0220	7-1-2009	Amend	7-1-2009
410-122-0500	7-1-2009	Amend	7-1-2009	410-130-0240	7-1-2009	Amend	7-1-2009
410-122-0520	7-1-2009	Amend	7-1-2009	410-130-0255	7-1-2009	Amend	7-1-2009
410-122-0560	1-1-2009	Amend	1-1-2009	410-130-0365	7-1-2009	Amend	7-1-2009
410-122-0580	1-1-2009	Amend	1-1-2009	410-130-0595	7-1-2009	Amend	7-1-2009
410-122-0580	7-1-2009	Amend	7-1-2009	410-132-0100	12-1-2008	Amend	1-1-2009
410-122-0590	7-1-2009	Amend	7-1-2009	410-133-0000	7-1-2009	Amend	7-1-2009
410-122-0600	7-1-2009	Amend	7-1-2009	410-133-0040	12-28-2008	Amend	2-1-2009
410-122-0620	7-1-2009	Amend	7-1-2009	410-133-0040	7-1-2009	Amend	7-1-2009
410-122-0630	1-1-2009	Amend	1-1-2009	410-133-0060	7-1-2009	Amend	7-1-2009
410-122-0655	1-1-2009	Amend	1-1-2009	410-133-0080	7-1-2009	Amend	7-1-2009
410-122-0700	7-1-2009	Amend	7-1-2009	410-133-0090	12-28-2008	Amend	2-1-2009
410-122-0720	7-1-2009	Amend	7-1-2009	410-133-0090	7-1-2009	Amend	7-1-2009
410-123-1060	7-1-2009	Amend	7-1-2009	410-133-0100	12-28-2008	Amend	2-1-2009
410-123-1085	1-1-2009	Amend	1-1-2009	410-133-0100	7-1-2009	Amend	7-1-2009
410-123-1100	7-1-2009	Amend	7-1-2009	410-133-0120	7-1-2009	Amend	7-1-2009
410-123-1160	1-1-2009	Amend	1-1-2009	410-133-0140	12-28-2008	Amend	2-1-2009
410-123-1160	7-1-2009	Amend	7-1-2009	410-133-0140	7-1-2009	Amend	7-1-2009
410-123-1220	1-1-2009	Amend	1-1-2009	410-133-0160	7-1-2009	Amend	7-1-2009
410-123-1220	7-1-2009	Amend	7-1-2009	410-133-0180	7-1-2009	Amend	7-1-2009
410-123-1230	1-1-2009	Amend	1-1-2009	410-133-0200	7-1-2009	Amend	7-1-2009
410-123-1240	1-1-2009	Amend	1-1-2009	410-133-0220	12-28-2008	Amend	2-1-2009
410-123-1260	1-1-2009	Amend	1-1-2009	410-133-0220	7-1-2009	Amend	7-1-2009
410-123-1260	7-1-2009	Amend	7-1-2009	410-133-0245	7-1-2009	Amend	7-1-2009
410-123-1490	1-1-2009	Amend	1-1-2009	410-133-0280	12-28-2008	Amend	2-1-2009

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410-133-0280	7-1-2009	Amend	7-1-2009	410-146-0440	12-1-2008	Amend	1-1-2009
410-133-0320	7-1-2009	Amend	7-1-2009	410-147-0020	12-1-2008	Amend	1-1-2009
410-136-0240	12-1-2008	Amend	1-1-2009	410-147-0040	1-1-2009	Amend	1-1-2009
410-136-0240	4-1-2009	Amend(T)	5-1-2009	410-147-0060	12-1-2008	Amend	1-1-2009
410-136-0260	12-1-2008	Amend	1-1-2009	410-147-0120	12-1-2008	Amend	1-1-2009
410-136-0300	12-1-2008	Amend	1-1-2009	410-147-0120	7-1-2009	Amend	7-1-2009
410-136-0300	4-1-2009	Amend(T)	5-1-2009	410-147-0125	12-1-2008	Amend	1-1-2009
410-137-0080	7-1-2009	Repeal	7-1-2009	410-147-0125	7-1-2009	Amend	7-1-2009
410-138-0000	12-28-2008	Amend	2-1-2009	410-147-0140	12-1-2008	Amend	1-1-2009
410-138-0005	12-28-2008	Adopt	2-1-2009	410-147-0140	7-1-2009	Amend	7-1-2009
410-138-0007	12-28-2008	Adopt	2-1-2009	410-147-0160	12-1-2008	Amend	1-1-2009
410-138-0009	12-28-2008	Adopt	2-1-2009	410-147-0180	12-1-2008	Amend	1-1-2009
410-138-0020	12-28-2008	Amend	2-1-2009	410-147-0200	12-1-2008	Amend	1-1-2009
410-138-0080	12-28-2008	Amend	2-1-2009	410-147-0220	12-1-2008	Amend	1-1-2009
410-138-0300	12-28-2008	Amend	2-1-2009	410-147-0320	12-1-2008	Amend	1-1-2009
410-138-0320	12-28-2008	Amend	2-1-2009	410-147-0340	12-1-2008	Amend	1-1-2009
410-138-0380	12-28-2008	Amend	2-1-2009	410-147-0360	12-1-2008	Amend	1-1-2009
410-138-0500	12-28-2008	Amend	2-1-2009	410-147-0460	12-1-2008	Amend	1-1-2009
410-138-0520	12-28-2008	Amend	2-1-2009	410-147-0480	12-1-2008	Amend	1-1-2009
410-138-0560	12-28-2008	Amend	2-1-2009	410-147-0540	12-1-2008	Amend	1-1-2009
410-138-0600	12-28-2008	Amend	2-1-2009	410-147-0560	12-1-2008	Amend	1-1-2009
410-138-0620	12-28-2008	Amend	2-1-2009	410-147-0610	12-1-2008	Amend	1-1-2009
410-138-0680	12-28-2008	Amend	2-1-2009	410-147-0620	12-1-2008	Amend	1-1-2009
410-138-0700	12-28-2008	Amend	2-1-2009	410-148-0100	7-1-2009	Amend	7-1-2009
410-138-0720	12-28-2008	Amend	2-1-2009	410-148-0140	7-1-2009	Amend	7-1-2009
410-138-0740	12-28-2008	Amend	2-1-2009	410-148-0260	7-1-2009	Amend	7-1-2009
410-138-0780	12-28-2008	Amend	2-1-2009	411-001-0010	3-3-2009	Repeal	4-1-2009
410-140-0140	7-1-2009	Amend	7-1-2009	411-030-0002	1-1-2009	Amend	2-1-2009
410-140-0160	7-1-2009	Amend	7-1-2009	411-030-0020	1-1-2009	Amend	2-1-2009
410-141-0000	12-1-2008	Amend	1-1-2009	411-030-0033	1-1-2009	Amend	2-1-2009
410-141-0020	12-1-2008	Amend	1-1-2009	411-030-0040	1-1-2009	Amend	2-1-2009
410-141-0120	1-1-2009	Amend	1-1-2009	411-030-0050	1-1-2009	Amend	2-1-2009
410-141-0220	12-1-2008	Amend	1-1-2009	411-030-0055	1-1-2009	Amend	2-1-2009
410-141-0266	1-1-2009	Amend	1-1-2009	411-030-0070	1-1-2009	Amend	2-1-2009
410-141-0425	1-5-2009	Adopt(T)	2-1-2009	411-030-0080	1-1-2009	Amend	2-1-2009
410-141-0520	1-1-2009	Amend	1-1-2009	411-030-0090	1-1-2009	Amend	2-1-2009
410-141-0520	1-30-2009	Amend(T)	3-1-2009	411-030-0100	1-1-2009	Amend	2-1-2009
410-141-0520	4-1-2009	Amend(T)	5-1-2009	411-050-0499	7-1-2009	Adopt	8-1-2009
410-141-0520	4-17-2009	Amend(T)	6-1-2009	411-054-0005	1-1-2009	Amend	2-1-2009
410-141-0520	8-5-2009	Amend	9-1-2009	411-054-0008	1-1-2009	Repeal	2-1-2009
410-141-0520(T)	1-1-2009	Repeal	1-1-2009	411-054-0012	1-1-2009	Amend	2-1-2009
410-141-0520(T)	4-1-2009	Suspend	5-1-2009	411-054-0105	1-1-2009	Amend	2-1-2009
410-141-0520(T)	4-17-2009	Suspend	6-1-2009	411-054-0125	3-3-2009	Adopt	4-1-2009
410-141-0520(T)	8-5-2009	Repeal	9-1-2009	411-054-0125(T)	3-3-2009	Repeal	4-1-2009
410-146-0021	12-1-2008	Amend	1-1-2009	411-070-0005	7-1-2009	Amend(T)	8-1-2009
410-146-0040	1-1-2009	Amend	1-1-2009	411-070-0442	7-1-2009	Amend(T)	8-1-2009
410-146-0060	12-1-2008	Amend	1-1-2009	411-300-0100	8-1-2009	Amend	9-1-2009
410-146-0080	12-1-2008	Amend	1-1-2009	411-300-0110	8-1-2009	Amend	9-1-2009
410-146-0085	12-1-2008	Amend	1-1-2009	411-300-0120	8-1-2009	Amend	9-1-2009
410-146-0085	7-1-2009	Amend	7-1-2009	411-300-0130	8-1-2009	Amend	9-1-2009
410-146-0086	12-1-2008	Amend	1-1-2009	411-300-0140	8-1-2009	Amend	9-1-2009
410-146-0100	12-1-2008	Amend	1-1-2009	411-300-0150	8-1-2009	Amend	9-1-2009
410-146-0120	12-1-2008	Amend	1-1-2009	411-300-0155	8-1-2009	Adopt	9-1-2009
410-146-0130	12-1-2008	Amend	1-1-2009	411-300-0160	8-1-2009	Repeal	9-1-2009
410-146-0140	12-1-2008	Amend	1-1-2009	411-300-0170	8-1-2009	Amend	9-1-2009
410-146-0340	12-1-2008	Amend	1-1-2009	411-300-0180	8-1-2009	Repeal	9-1-2009
410-146-0380	12-1-2008	Amend	1-1-2009	411-300-0190	8-1-2009	Amend	9-1-2009
410-146-0380	7-1-2009	Amend	7-1-2009	411-300-0200	8-1-2009	Amend	9-1-2009

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411-300-0210	8-1-2009	Amend	9-1-2009	411-340-0010	7-1-2009	Amend	8-1-2009
411-300-0220	8-1-2009	Amend	9-1-2009	411-340-0020	7-1-2009	Amend	8-1-2009
411-305-0010	6-1-2009	Amend	7-1-2009	411-340-0030	7-1-2009	Amend	8-1-2009
411-305-0020	6-1-2009	Amend	7-1-2009	411-340-0040	7-1-2009	Amend	8-1-2009
411-305-0030	6-1-2009	Amend	7-1-2009	411-340-0050	7-1-2009	Amend	8-1-2009
411-305-0040	6-1-2009	Repeal	7-1-2009	411-340-0060	7-1-2009	Amend	8-1-2009
411-305-0050	6-1-2009	Amend	7-1-2009	411-340-0070	7-1-2009	Amend	8-1-2009
411-305-0060	6-1-2009	Am. & Ren.	7-1-2009	411-340-0080	7-1-2009	Amend	8-1-2009
411-305-0070	6-1-2009	Am. & Ren.	7-1-2009	411-340-0090	7-1-2009	Amend	8-1-2009
411-305-0080	6-1-2009	Amend	7-1-2009	411-340-0100	7-1-2009	Amend	8-1-2009
411-305-0080	7-28-2009	Amend(T)	9-1-2009	411-340-0110	7-1-2009	Amend	8-1-2009
411-305-0090	6-1-2009	Amend	7-1-2009	411-340-0120	7-1-2009	Amend	8-1-2009
411-305-0100	6-1-2009	Am. & Ren.	7-1-2009	411-340-0130	7-1-2009	Amend	8-1-2009
411-305-0110	6-1-2009	Amend	7-1-2009	411-340-0140	7-1-2009	Amend	8-1-2009
411-305-0120	6-1-2009	Amend	7-1-2009	411-340-0150	7-1-2009	Amend	8-1-2009
411-305-0130	6-1-2009	Am. & Ren.	7-1-2009	411-340-0160	7-1-2009	Amend	8-1-2009
411-305-0140	6-1-2009	Amend	7-1-2009	411-340-0170	7-1-2009	Amend	8-1-2009
411-305-0150	6-1-2009	Am. & Ren.	7-1-2009	411-340-0180	7-1-2009	Amend	8-1-2009
411-305-0160	6-1-2009	Amend	7-1-2009	411-350-0010	3-1-2009	Amend	4-1-2009
411-305-0170	6-1-2009	Amend	7-1-2009	411-350-0020	3-1-2009	Amend	4-1-2009
411-305-0180	6-1-2009	Amend	7-1-2009	411-350-0030	3-1-2009	Amend	4-1-2009
411-308-0010	7-1-2009	Adopt(T)	8-1-2009	411-350-0040	3-1-2009	Amend	4-1-2009
411-308-0020	7-1-2009	Adopt(T)	8-1-2009	411-350-0050	3-1-2009	Amend	4-1-2009
411-308-0030	7-1-2009	Adopt(T)	8-1-2009	411-350-0060	3-1-2009	Am. & Ren.	4-1-2009
411-308-0040	7-1-2009	Adopt(T)	8-1-2009	411-350-0070	3-1-2009	Repeal	4-1-2009
411-308-0050	7-1-2009	Adopt(T)	8-1-2009	411-350-0080	3-1-2009	Amend	4-1-2009
411-308-0060	7-1-2009	Adopt(T)	8-1-2009	411-350-0090	3-1-2009	Repeal	4-1-2009
411-308-0070	7-1-2009	Adopt(T)	8-1-2009	411-350-0100	3-1-2009	Amend	4-1-2009
411-308-0080	7-1-2009	Adopt(T)	8-1-2009	411-350-0110	3-1-2009	Amend	4-1-2009
411-308-0090	7-1-2009	Adopt(T)	8-1-2009	411-350-0115	3-1-2009	Adopt	4-1-2009
411-308-0100	7-1-2009	Adopt(T)	8-1-2009	411-350-0120	3-1-2009	Amend	4-1-2009
411-308-0110	7-1-2009	Adopt(T)	8-1-2009	413-010-0500	7-1-2009	Amend(T)	8-1-2009
411-308-0120	7-1-2009	Adopt(T)	8-1-2009	413-010-0500	7-1-2009	Amend(T)	8-1-2009
411-308-0130	7-1-2009	Adopt(T)	8-1-2009	413-010-0505	8-12-2009	Adopt(T)	9-1-2009
411-308-0140	7-1-2009	Adopt(T)	8-1-2009	413-010-0505(T)	8-12-2009	Suspend	9-1-2009
411-308-0150	7-1-2009	Adopt(T)	8-1-2009	413-010-0510	7-1-2009	Adopt(T)	8-1-2009
411-320-0010	7-13-2009	Amend	8-1-2009	413-010-0515	7-1-2009	Adopt(T)	8-1-2009
411-320-0020	7-13-2009	Amend	8-1-2009	413-010-0515	8-12-2009	Adopt(T)	9-1-2009
411-320-0030	7-13-2009	Amend	8-1-2009	413-010-0515(T)	8-12-2009	Suspend	9-1-2009
411-320-0040	7-13-2009	Amend	8-1-2009	413-010-0520	7-1-2009	Adopt(T)	8-1-2009
411-320-0045	7-13-2009	Adopt	8-1-2009	413-010-0525	7-1-2009	Adopt(T)	8-1-2009
411-320-0050	7-13-2009	Amend	8-1-2009	413-010-0530	7-1-2009	Adopt(T)	8-1-2009
411-320-0060	7-13-2009	Amend	8-1-2009	413-010-0535	7-1-2009	Adopt(T)	8-1-2009
411-320-0070	7-13-2009	Amend	8-1-2009	413-015-0470	8-3-2009	Amend	9-1-2009
411-320-0080	7-13-2009	Amend	8-1-2009	413-020-0200	7-1-2009	Amend(T)	8-1-2009
411-320-0090	7-13-2009	Amend	8-1-2009	413-020-0210	7-1-2009	Amend(T)	8-1-2009
411-320-0100	7-13-2009	Amend	8-1-2009	413-020-0230	7-1-2009	Amend(T)	8-1-2009
411-320-0110	7-13-2009	Amend	8-1-2009	413-020-0233	7-1-2009	Amend(T)	8-1-2009
411-320-0120	7-13-2009	Amend	8-1-2009	413-020-0236	7-1-2009	Amend(T)	8-1-2009
411-320-0130	7-13-2009	Amend	8-1-2009	413-020-0240	7-1-2009	Amend(T)	8-1-2009
411-320-0140	7-13-2009	Amend	8-1-2009	413-020-0245	7-1-2009	Amend(T)	8-1-2009
411-320-0150	7-13-2009	Amend	8-1-2009	413-020-0255	7-1-2009	Amend(T)	8-1-2009
411-320-0160	7-13-2009	Amend	8-1-2009	413-040-0005	7-1-2009	Amend(T)	8-1-2009
411-320-0170	7-13-2009	Amend	8-1-2009	413-040-0006	7-1-2009	Amend(T)	8-1-2009
411-320-0175	7-13-2009	Adopt	8-1-2009	413-040-0010	7-1-2009	Amend(T)	8-1-2009
411-320-0180	7-13-2009	Amend	8-1-2009	413-040-0011	7-1-2009	Amend(T)	8-1-2009
411-320-0190	7-13-2009	Amend	8-1-2009	413-040-0013	7-1-2009	Amend(T)	8-1-2009

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413-040-0024	7-1-2009	Amend(T)	8-1-2009	413-070-0980	7-1-2009	Suspend	8-1-2009
413-050-0000	3-19-2009	Amend	4-1-2009	413-070-0981	3-31-2009	Suspend	5-1-2009
413-050-0005	3-19-2009	Amend	4-1-2009	413-070-0982	7-1-2009	Amend(T)	8-1-2009
413-050-0010	3-19-2009	Amend	4-1-2009	413-080-0000	7-1-2009	Amend(T)	8-1-2009
413-050-0020	3-19-2009	Amend	4-1-2009	413-080-0010	7-1-2009	Amend(T)	8-1-2009
413-050-0030	3-19-2009	Amend	4-1-2009	413-080-0020	7-1-2009	Amend(T)	8-1-2009
413-050-0040	3-19-2009	Amend	4-1-2009	413-080-0030	7-1-2009	Amend(T)	8-1-2009
413-050-0050	3-19-2009	Amend	4-1-2009	413-080-0040	7-1-2009	Amend(T)	8-1-2009
413-070-0620	7-1-2009	Amend(T)	8-1-2009	413-080-0050	7-1-2009	Amend(T)	8-1-2009
413-070-0625	7-1-2009	Amend(T)	8-1-2009	413-080-0055	7-1-2009	Amend(T)	8-1-2009
413-070-0630	7-1-2009	Amend(T)	8-1-2009	413-080-0059	7-1-2009	Amend(T)	8-1-2009
413-070-0640	7-1-2009	Amend(T)	8-1-2009	413-080-0063	7-1-2009	Amend(T)	8-1-2009
413-070-0900	3-31-2009	Amend(T)	5-1-2009	413-090-0000	7-1-2009	Amend(T)	8-1-2009
413-070-0900	7-1-2009	Amend(T)	8-1-2009	413-090-0000	8-12-2009	Amend(T)	9-1-2009
413-070-0900(T)	7-1-2009	Suspend	8-1-2009	413-090-0000(T)	8-12-2009	Suspend	9-1-2009
413-070-0905	3-31-2009	Amend(T)	5-1-2009	413-090-0005	7-1-2009	Amend(T)	8-1-2009
413-070-0905	7-1-2009	Amend(T)	8-1-2009	413-090-0010	7-1-2009	Amend(T)	8-1-2009
413-070-0905(T)	7-1-2009	Suspend	8-1-2009	413-090-0010	8-12-2009	Amend(T)	9-1-2009
413-070-0910	3-31-2009	Suspend	5-1-2009	413-090-0010(T)	8-12-2009	Suspend	9-1-2009
413-070-0915	3-31-2009	Amend(T)	5-1-2009	413-090-0021	7-1-2009	Adopt(T)	8-1-2009
413-070-0915	7-1-2009	Amend(T)	8-1-2009	413-090-0030	7-1-2009	Amend(T)	8-1-2009
413-070-0915(T)	7-1-2009	Suspend	8-1-2009	413-090-0030	8-12-2009	Amend(T)	9-1-2009
413-070-0917	3-31-2009	Amend(T)	5-1-2009	413-090-0030(T)	8-12-2009	Suspend	9-1-2009
413-070-0917	7-1-2009	Amend(T)	8-1-2009	413-090-0040	7-1-2009	Amend(T)	8-1-2009
413-070-0917(T)	7-1-2009	Suspend	8-1-2009	413-090-0050	7-1-2009	Amend(T)	8-1-2009
413-070-0920	3-31-2009	Amend(T)	5-1-2009	413-090-0100	7-1-2009	Amend(T)	8-1-2009
413-070-0920	7-1-2009	Amend(T)	8-1-2009	413-090-0110	7-1-2009	Amend(T)	8-1-2009
413-070-0920(T)	7-1-2009	Suspend	8-1-2009	413-090-0120	7-1-2009	Amend(T)	8-1-2009
413-070-0925	3-31-2009	Amend(T)	5-1-2009	413-090-0130	7-1-2009	Amend(T)	8-1-2009
413-070-0925	7-1-2009	Amend(T)	8-1-2009	413-090-0130	8-12-2009	Amend(T)	9-1-2009
413-070-0925(T)	7-1-2009	Suspend	8-1-2009	413-090-0130(T)	8-12-2009	Suspend	9-1-2009
413-070-0930	3-31-2009	Amend(T)	5-1-2009	413-090-0135	7-1-2009	Adopt(T)	8-1-2009
413-070-0930	7-1-2009	Amend(T)	8-1-2009	413-090-0135	8-12-2009	Adopt(T)	9-1-2009
413-070-0930(T)	7-1-2009	Suspend	8-1-2009	413-090-0135(T)	8-12-2009	Suspend	9-1-2009
413-070-0935	3-31-2009	Amend(T)	5-1-2009	413-090-0140	7-1-2009	Amend(T)	8-1-2009
413-070-0935	7-1-2009	Amend(T)	8-1-2009	413-090-0150	7-1-2009	Amend(T)	8-1-2009
413-070-0935(T)	7-1-2009	Suspend	8-1-2009	413-090-0150	8-12-2009	Amend(T)	9-1-2009
413-070-0937	3-31-2009	Amend(T)	5-1-2009	413-090-0150(T)	8-12-2009	Suspend	9-1-2009
413-070-0937	7-1-2009	Amend(T)	8-1-2009	413-090-0160	7-1-2009	Suspend	8-1-2009
413-070-0937(T)	7-1-2009	Suspend	8-1-2009	413-090-0170	7-1-2009	Suspend	8-1-2009
413-070-0940	3-31-2009	Amend(T)	5-1-2009	413-090-0180	7-1-2009	Suspend	8-1-2009
413-070-0940	7-1-2009	Amend(T)	8-1-2009	413-090-0190	7-1-2009	Suspend	8-1-2009
413-070-0940(T)	7-1-2009	Suspend	8-1-2009	413-090-0200	7-1-2009	Suspend	8-1-2009
413-070-0945	3-31-2009	Amend(T)	5-1-2009	413-090-0210	7-1-2009	Amend(T)	8-1-2009
413-070-0945	7-1-2009	Amend(T)	8-1-2009	413-120-0400	2-2-2009	Amend	3-1-2009
413-070-0945(T)	7-1-2009	Suspend	8-1-2009	413-120-0400(T)	2-2-2009	Repeal	3-1-2009
413-070-0950	3-31-2009	Suspend	5-1-2009	413-120-0410	2-2-2009	Repeal	3-1-2009
413-070-0955	3-31-2009	Amend(T)	5-1-2009	413-120-0420	2-2-2009	Amend	3-1-2009
413-070-0955	7-1-2009	Amend(T)	8-1-2009	413-120-0420(T)	2-2-2009	Repeal	3-1-2009
413-070-0955(T)	7-1-2009	Suspend	8-1-2009	413-120-0440	2-2-2009	Amend	3-1-2009
413-070-0960	3-31-2009	Amend(T)	5-1-2009	413-120-0440(T)	2-2-2009	Repeal	3-1-2009
413-070-0960	7-1-2009	Amend(T)	8-1-2009	413-120-0450	2-2-2009	Amend	3-1-2009
413-070-0960(T)	7-1-2009	Suspend	8-1-2009	413-120-0450(T)	2-2-2009	Repeal	3-1-2009
413-070-0965	3-31-2009	Amend(T)	5-1-2009	413-120-0455	2-2-2009	Amend	3-1-2009
413-070-0965	7-1-2009	Suspend	8-1-2009	413-120-0455(T)	2-2-2009	Repeal	3-1-2009
413-070-0970	3-31-2009	Amend(T)	5-1-2009	413-120-0460	2-2-2009	Amend	3-1-2009
413-070-0970	7-1-2009	Suspend	8-1-2009	413-120-0460(T)	2-2-2009	Repeal	3-1-2009

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413-120-0470(T)	2-2-2009	Repeal	3-1-2009	413-200-0396	2-2-2009	Amend	3-1-2009
413-130-0000	7-1-2009	Amend(T)	8-1-2009	416-340-0010	4-17-2009	Amend	5-1-2009
413-130-0010	7-1-2009	Amend(T)	8-1-2009	416-340-0020	4-17-2009	Amend	5-1-2009
413-130-0020	7-1-2009	Amend(T)	8-1-2009	416-340-0030	4-17-2009	Amend	5-1-2009
413-130-0030	7-1-2009	Amend(T)	8-1-2009	416-340-0040	4-17-2009	Amend	5-1-2009
413-130-0040	7-1-2009	Amend(T)	8-1-2009	416-340-0060	4-17-2009	Amend	5-1-2009
413-130-0045	7-1-2009	Adopt(T)	8-1-2009	416-340-0070	4-17-2009	Amend	5-1-2009
413-130-0050	7-1-2009	Amend(T)	8-1-2009	416-440-0015	7-27-2009	Amend	9-1-2009
413-130-0060	7-1-2009	Amend(T)	8-1-2009	416-440-0020	7-27-2009	Amend	9-1-2009
413-130-0070	7-1-2009	Amend(T)	8-1-2009	416-440-0035	7-27-2009	Amend	9-1-2009
413-130-0075	7-1-2009	Amend(T)	8-1-2009	416-530-0070	2-2-2009	Amend	3-1-2009
413-130-0080	7-1-2009	Amend(T)	8-1-2009	423-001-0006	12-12-2008	Amend(T)	1-1-2009
413-130-0090	7-1-2009	Amend(T)	8-1-2009	423-001-0006	6-24-2009	Amend	8-1-2009
413-130-0100	7-1-2009	Amend(T)	8-1-2009	423-010-0023	12-12-2008	Amend	1-1-2009
413-130-0110	7-1-2009	Amend(T)	8-1-2009	436-009-0004	7-1-2009	Amend	7-1-2009
413-130-0115	7-1-2009	Amend(T)	8-1-2009	436-009-0005	1-1-2009	Amend	1-1-2009
413-130-0120	7-1-2009	Amend(T)	8-1-2009	436-009-0008	1-1-2009	Amend	1-1-2009
413-130-0125	7-1-2009	Amend(T)	8-1-2009	436-009-0010	7-1-2009	Amend	7-1-2009
413-130-0127	7-1-2009	Suspend	8-1-2009	436-009-0015	7-1-2009	Amend	7-1-2009
413-130-0130	7-1-2009	Amend(T)	8-1-2009	436-009-0018	1-1-2009	Adopt	1-1-2009
413-200-0270	2-2-2009	Amend	3-1-2009	436-009-0018	7-1-2009	Amend	7-1-2009
413-200-0272	2-2-2009	Amend	3-1-2009	436-009-0020	1-1-2009	Amend	1-1-2009
413-200-0272(T)	2-2-2009	Repeal	3-1-2009	436-009-0020	7-1-2009	Amend	7-1-2009
413-200-0274	2-2-2009	Amend	3-1-2009	436-009-0022	1-1-2009	Amend	1-1-2009
413-200-0274(T)	2-2-2009	Repeal	3-1-2009	436-009-0022	7-1-2009	Amend	7-1-2009
413-200-0276	2-2-2009	Amend	3-1-2009	436-009-0030	1-1-2009	Amend	1-1-2009
413-200-0278	2-2-2009	Amend	3-1-2009	436-009-0030	7-1-2009	Amend	7-1-2009
413-200-0278(T)	2-2-2009	Repeal	3-1-2009	436-009-0035	1-1-2009	Amend	1-1-2009
413-200-0281	2-2-2009	Amend	3-1-2009	436-009-0040	1-1-2009	Amend	1-1-2009
413-200-0281(T)	2-2-2009	Repeal	3-1-2009	436-009-0040	7-1-2009	Amend	7-1-2009
413-200-0283	2-2-2009	Amend	3-1-2009	436-009-0050	7-1-2009	Amend	7-1-2009
413-200-0283(T)	2-2-2009	Repeal	3-1-2009	436-009-0060	7-1-2009	Amend	7-1-2009
413-200-0287	2-2-2009	Amend	3-1-2009	436-009-0070	1-1-2009	Amend	1-1-2009
413-200-0287(T)	2-2-2009	Repeal	3-1-2009	436-009-0080	1-1-2009	Amend	1-1-2009
413-200-0292	2-2-2009	Amend	3-1-2009	436-009-0090	1-1-2009	Amend	1-1-2009
413-200-0292(T)	2-2-2009	Repeal	3-1-2009	436-009-0090	7-1-2009	Amend	7-1-2009
413-200-0296	2-2-2009	Amend	3-1-2009	436-009-0095	1-1-2009	Adopt	1-1-2009
413-200-0301	2-2-2009	Amend	3-1-2009	436-009-0100	1-1-2009	Amend	1-1-2009
413-200-0305	2-2-2009	Amend	3-1-2009	436-010-0230	7-1-2009	Amend	7-1-2009
413-200-0306	2-2-2009	Amend	3-1-2009	436-010-0275	7-1-2009	Amend	7-1-2009
413-200-0306(T)	2-2-2009	Repeal	3-1-2009	436-015-0007	1-1-2009	Adopt	1-1-2009
413-200-0308	2-2-2009	Amend	3-1-2009	436-015-0120	1-1-2009	Amend	1-1-2009
413-200-0314	2-2-2009	Amend	3-1-2009	436-060-0005	1-1-2009	Amend	1-1-2009
413-200-0314(T)	2-2-2009	Repeal	3-1-2009	436-060-0009	1-1-2009	Amend	1-1-2009
413-200-0335	2-2-2009	Amend	3-1-2009	436-060-0010	1-1-2009	Amend	1-1-2009
413-200-0354	2-2-2009	Amend	3-1-2009	436-060-0015	1-1-2009	Amend	1-1-2009
413-200-0358	2-2-2009	Amend	3-1-2009	436-060-0017	1-1-2009	Amend	1-1-2009
413-200-0362	2-2-2009	Amend	3-1-2009	436-060-0018	1-1-2009	Amend	1-1-2009
413-200-0371	2-2-2009	Amend	3-1-2009	436-060-0020	1-1-2009	Amend	1-1-2009
413-200-0371(T)	2-2-2009	Repeal	3-1-2009	436-060-0025	1-1-2009	Amend	1-1-2009
413-200-0379	2-2-2009	Amend	3-1-2009	436-060-0035	1-1-2009	Amend	1-1-2009
413-200-0383	2-2-2009	Amend	3-1-2009	436-060-0060	1-1-2009	Amend	1-1-2009
413-200-0383(T)	2-2-2009	Repeal	3-1-2009	436-060-0105	1-1-2009	Amend	1-1-2009
413-200-0386	2-2-2009	Amend	3-1-2009	436-060-0135	1-1-2009	Amend	1-1-2009
413-200-0388	2-2-2009	Amend	3-1-2009	436-060-0137	1-1-2009	Amend	1-1-2009
413-200-0390	2-2-2009	Amend	3-1-2009	436-060-0147	1-1-2009	Amend	1-1-2009
413-200-0393	2-2-2009	Amend	3-1-2009	436-060-0150	1-1-2009	Amend	1-1-2009

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436-060-0155	1-1-2009	Amend	1-1-2009	441-730-0270	6-2-2009	Repeal	7-1-2009
436-060-0500	1-1-2009	Amend	1-1-2009	441-730-0271	6-2-2009	Adopt	7-1-2009
437-001-0015	2-3-2009	Amend	3-1-2009	441-730-0272	6-2-2009	Adopt	7-1-2009
437-001-0160	2-3-2009	Amend	3-1-2009	441-730-0275	6-2-2009	Amend	7-1-2009
437-001-0205	2-3-2009	Amend	3-1-2009	441-730-0280	6-2-2009	Amend	7-1-2009
437-001-0760	2-3-2009	Amend	3-1-2009	441-730-0310	6-2-2009	Amend	7-1-2009
437-001-1015	2-3-2009	Amend	3-1-2009	441-730-0320	6-2-2009	Amend	7-1-2009
437-001-1020	2-3-2009	Amend	3-1-2009	441-865-0025	12-10-2008	Adopt	1-1-2009
437-002-0005	5-29-2009	Amend	7-1-2009	441-910-0000	8-14-2009	Amend(T)	9-1-2009
437-002-0067	4-17-2009	Repeal	5-1-2009	441-910-0092	8-14-2009	Suspend	9-1-2009
437-002-0069	4-17-2009	Repeal	5-1-2009	441-910-0095	8-14-2009	Suspend	9-1-2009
437-002-0071	4-17-2009	Repeal	5-1-2009	441-910-9000	8-14-2009	Adopt(T)	9-1-2009
437-002-0072	4-17-2009	Adopt	5-1-2009	441-910-9001	8-14-2009	Adopt(T)	9-1-2009
437-002-0073	4-17-2009	Repeal	5-1-2009	442-001-0000	1-1-2009	Amend	2-1-2009
437-002-0074	4-17-2009	Adopt	5-1-2009	442-001-0005	1-1-2009	Amend	2-1-2009
437-002-0075	4-17-2009	Repeal	5-1-2009	442-001-0010	1-1-2009	Repeal	2-1-2009
437-002-0076	4-17-2009	Adopt	5-1-2009	442-001-0015	1-1-2009	Repeal	2-1-2009
437-002-0080	5-29-2009	Amend	7-1-2009	442-001-0050	1-1-2009	Adopt	2-1-2009
437-002-0120	5-29-2009	Amend	7-1-2009	442-001-0060	1-1-2009	Adopt	2-1-2009
437-002-0180	5-29-2009	Amend	7-1-2009	442-001-0070	1-1-2009	Adopt	2-1-2009
437-002-0182	10-1-2009	Amend	8-1-2009	442-001-0080	1-1-2009	Adopt	2-1-2009
437-002-0187	12-31-2008	Amend	2-1-2009	442-001-0090	1-1-2009	Adopt	2-1-2009
437-002-0256	7-21-2009	Amend	8-1-2009	442-001-0100	1-1-2009	Adopt	2-1-2009
437-002-0320	4-17-2009	Amend	5-1-2009	442-001-0110	1-1-2009	Adopt	2-1-2009
437-002-0360	5-29-2009	Amend	7-1-2009	442-001-0120	1-1-2009	Adopt	2-1-2009
437-003-0001	5-29-2009	Amend	7-1-2009	442-001-0130	1-1-2009	Adopt	2-1-2009
437-004-1120	1-26-2009	Amend	3-1-2009	442-001-0140	1-1-2009	Adopt	2-1-2009
437-005-0001	5-29-2009	Amend	7-1-2009	442-001-0150	1-1-2009	Adopt	2-1-2009
437-005-0002	5-29-2009	Amend	7-1-2009	442-001-0160	1-1-2009	Adopt	2-1-2009
437-005-0002	6-5-2009	Amend	7-1-2009	443-002-0070	2-12-2009	Amend(T)	3-1-2009
437-005-0003	5-29-2009	Amend	7-1-2009	443-002-0070	4-15-2009	Amend	5-1-2009
437-005-0003	6-5-2009	Amend	7-1-2009	443-002-0070(T)	4-15-2009	Repeal	5-1-2009
441-025-0060	2-3-2009	Adopt	3-1-2009	443-002-0180	4-15-2009	Amend	5-1-2009
441-500-0020	2-3-2009	Amend	3-1-2009	459-005-0001	2-12-2009	Amend	3-1-2009
441-505-3070	8-7-2009	Adopt	9-1-2009	459-005-0055	7-21-2009	Amend	9-1-2009
441-505-3075	8-7-2009	Adopt	9-1-2009	459-005-0058	7-21-2009	Repeal	9-1-2009
441-505-3080	8-7-2009	Adopt	9-1-2009	459-005-0060	7-21-2009	Amend	9-1-2009
441-505-3085	8-7-2009	Adopt	9-1-2009	459-005-0250	7-21-2009	Amend	9-1-2009
441-730-0010	6-2-2009	Amend	7-1-2009	459-005-0525	11-26-2008	Amend	1-1-2009
441-730-0015	6-2-2009	Amend	7-1-2009	459-005-0535	11-26-2008	Amend	1-1-2009
441-730-0025	6-2-2009	Amend	7-1-2009	459-005-0545	11-26-2008	Amend	1-1-2009
441-730-0030	2-3-2009	Amend	3-1-2009	459-007-0001	4-6-2009	Amend	5-1-2009
441-730-0030	6-2-2009	Amend	7-1-2009	459-007-0005	4-6-2009	Amend	6-1-2009
441-730-0050	6-2-2009	Amend	7-1-2009	459-007-0015	4-6-2009	Amend	5-1-2009
441-730-0070	6-2-2009	Amend	7-1-2009	459-007-0020	4-6-2009	Amend	5-1-2009
441-730-0080	6-2-2009	Amend	7-1-2009	459-007-0025	4-6-2009	Amend	5-1-2009
441-730-0100	6-2-2009	Amend	7-1-2009	459-007-0050	4-6-2009	Amend	5-1-2009
441-730-0110	6-2-2009	Amend	7-1-2009	459-007-0060	4-6-2009	Amend	5-1-2009
441-730-0120	6-2-2009	Amend	7-1-2009	459-007-0080	4-6-2009	Amend	5-1-2009
441-730-0150	6-2-2009	Amend	7-1-2009	459-007-0110	4-6-2009	Amend	5-1-2009
441-730-0165	6-2-2009	Adopt	7-1-2009	459-007-0230	4-6-2009	Amend	5-1-2009
441-730-0170	6-2-2009	Amend	7-1-2009	459-007-0240	4-6-2009	Amend	5-1-2009
441-730-0180	6-2-2009	Amend	7-1-2009	459-007-0250	4-6-2009	Amend	5-1-2009
441-730-0200	6-2-2009	Amend	7-1-2009	459-007-0300	4-6-2009	Amend	5-1-2009
441-730-0205	6-2-2009	Amend	7-1-2009	459-007-0320	4-6-2009	Adopt	6-1-2009
441-730-0210	6-2-2009	Amend	7-1-2009	459-007-0330	4-6-2009	Adopt	6-1-2009
441-730-0250	6-2-2009	Amend	7-1-2009	459-007-0340	4-6-2009	Adopt	6-1-2009

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459-007-0420	4-6-2009	Adopt	6-1-2009	461-135-0010	5-6-2009	Amend(T)	6-1-2009
459-007-0900	4-6-2009	Amend	5-1-2009	461-135-0010(T)	5-6-2009	Suspend	6-1-2009
459-010-0010	11-26-2008	Amend	1-1-2009	461-135-0070	5-1-2009	Amend(T)	6-1-2009
459-010-0300	6-3-2009	Adopt	7-1-2009	461-135-0070	8-1-2009	Amend(T)	9-1-2009
459-011-0100	2-12-2009	Amend	3-1-2009	461-135-0070(T)	8-1-2009	Suspend	9-1-2009
459-011-0110	2-12-2009	Amend	3-1-2009	461-135-0075	1-1-2009	Amend	2-1-2009
459-013-0260	11-26-2008	Amend	1-1-2009	461-135-0075	7-1-2009	Amend	8-1-2009
459-015-0001	2-12-2009	Amend	3-1-2009	461-135-0075	7-1-2009	Amend(T)	8-1-2009
459-017-0060	4-6-2009	Amend	5-1-2009	461-135-0075	7-1-2009	Amend(T)	8-1-2009
459-030-0011	2-12-2009	Amend	3-1-2009	461-135-0075(T)	1-1-2009	Repeal	2-1-2009
459-030-0025	2-12-2009	Amend	3-1-2009	461-135-0075(T)	7-1-2009	Repeal	8-1-2009
459-030-0030	2-12-2009	Amend	3-1-2009	461-135-0082	5-1-2009	Amend(T)	6-1-2009
459-050-0037	11-26-2008	Amend	1-1-2009	461-135-0085	1-1-2009	Amend	2-1-2009
459-050-0075	2-12-2009	Amend	3-1-2009	461-135-0089	1-1-2009	Amend	2-1-2009
459-070-0001	2-12-2009	Amend	3-1-2009	461-135-0400	4-1-2009	Amend(T)	4-1-2009
459-075-0060	7-21-2009	Adopt	9-1-2009	461-135-0400	4-1-2009	Amend(T)	5-1-2009
459-075-0175	11-26-2008	Adopt	1-1-2009	461-135-0400(T)	4-1-2009	Suspend	5-1-2009
459-075-0300	7-21-2009	Adopt	9-1-2009	461-135-0405	5-1-2009	Amend(T)	6-1-2009
459-076-0001	2-12-2009	Amend	3-1-2009	461-135-0415	7-1-2009	Amend	8-1-2009
459-080-0060	7-21-2009	Adopt	9-1-2009	461-135-0475	4-1-2009	Amend(T)	5-1-2009
459-080-0100	2-12-2009	Amend	3-1-2009	461-135-0475	7-1-2009	Amend(T)	8-1-2009
459-080-0200	4-6-2009	Amend	6-1-2009	461-135-0475(T)	7-1-2009	Suspend	8-1-2009
459-080-0250	4-6-2009	Amend	6-1-2009	461-135-0730	1-1-2009	Amend	2-1-2009
459-080-0300	7-21-2009	Adopt	9-1-2009	461-135-0745	1-1-2009	Amend	2-1-2009
461-001-0000	1-1-2009	Amend	2-1-2009	461-135-0780	1-1-2009	Amend	2-1-2009
461-001-0000	4-1-2009	Amend	5-1-2009	461-135-0832	1-1-2009	Amend	2-1-2009
461-001-0000	7-1-2009	Amend	8-1-2009	461-135-0900	5-1-2009	Amend(T)	6-1-2009
461-001-0025	1-1-2009	Amend	2-1-2009	461-135-1102	1-1-2009	Amend	2-1-2009
461-001-0030	7-1-2009	Amend	8-1-2009	461-135-1110	7-1-2009	Amend	8-1-2009
461-101-0010	1-1-2009	Amend	2-1-2009	461-135-1175	4-1-2009	Amend	5-1-2009
461-110-0330	1-1-2009	Amend	2-1-2009	461-135-1175	6-1-2009	Amend(T)	7-1-2009
461-110-0330	5-1-2009	Amend(T)	6-1-2009	461-135-1195	1-1-2009	Amend	2-1-2009
461-110-0350	1-1-2009	Amend	2-1-2009	461-135-1195	7-1-2009	Amend(T)	8-1-2009
461-110-0350	4-1-2009	Amend	5-1-2009	461-135-1230	4-1-2009	Amend	5-1-2009
461-110-0370	4-1-2009	Amend	5-1-2009	461-135-1250	1-1-2009	Amend(T)	2-1-2009
461-110-0530	5-1-2009	Amend(T)	6-1-2009	461-135-1250	4-1-2009	Amend	5-1-2009
461-110-0530	7-1-2009	Amend	8-1-2009	461-135-1250(T)	4-1-2009	Repeal	5-1-2009
461-110-0530	7-1-2009	Amend(T)	8-1-2009	461-140-0040	4-1-2009	Amend	5-1-2009
461-110-0530(T)	7-1-2009	Repeal	8-1-2009	461-145-0080	7-1-2009	Amend(T)	8-1-2009
461-110-0630	7-1-2009	Amend	8-1-2009	461-145-0143	3-3-2009	Adopt(T)	4-1-2009
461-115-0050	1-1-2009	Amend	2-1-2009	461-145-0330	7-29-2009	Amend(T)	9-1-2009
461-115-0050	7-1-2009	Amend	8-1-2009	461-145-0380	1-1-2009	Amend	2-1-2009
461-115-0050	8-1-2009	Amend(T)	9-1-2009	461-145-0380	7-1-2009	Amend	8-1-2009
461-115-0530	1-1-2009	Amend	2-1-2009	461-145-0380	7-29-2009	Amend(T)	9-1-2009
461-115-0705	5-6-2009	Amend(T)	6-1-2009	461-145-0455	4-1-2009	Amend	5-1-2009
461-120-0110	4-1-2009	Amend(T)	4-1-2009	461-145-0460	4-1-2009	Amend	5-1-2009
461-120-0110	4-1-2009	Amend(T)	5-1-2009	461-145-0540	1-1-2009	Amend	2-1-2009
461-120-0110(T)	4-1-2009	Suspend	5-1-2009	461-145-0550	3-3-2009	Amend(T)	4-1-2009
461-120-0125	1-1-2009	Amend(T)	2-1-2009	461-145-0580	4-1-2009	Amend	5-1-2009
461-120-0125	4-1-2009	Amend	5-1-2009	461-145-0820	1-1-2009	Amend	2-1-2009
461-120-0125	5-1-2009	Amend(T)	6-1-2009	461-145-0830	1-1-2009	Amend	2-1-2009
461-120-0125(T)	4-1-2009	Repeal	5-1-2009	461-145-0840	1-1-2009	Repeal	2-1-2009
461-120-0310	7-1-2009	Amend(T)	8-1-2009	461-150-0020	7-1-2009	Amend	8-1-2009
461-120-0340	7-1-2009	Amend(T)	8-1-2009	461-150-0030	7-1-2009	Amend	8-1-2009
461-125-0170	8-1-2009	Amend(T)	9-1-2009	461-150-0042	7-1-2009	Amend	8-1-2009
461-130-0335	1-1-2009	Amend	2-1-2009	461-150-0047	7-1-2009	Repeal	8-1-2009

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461-150-0049	1-1-2009	Amend	2-1-2009	461-160-0551	4-1-2009	Amend	5-1-2009
461-150-0049	7-1-2009	Repeal	8-1-2009	461-160-0551	7-1-2009	Amend	8-1-2009
461-150-0050	1-1-2009	Amend	2-1-2009	461-160-0551(T)	4-1-2009	Repeal	5-1-2009
461-150-0050	7-1-2009	Amend	8-1-2009	461-160-0580	1-1-2009	Amend	2-1-2009
461-150-0055	7-1-2009	Amend	8-1-2009	461-160-0620	1-1-2009	Amend	2-1-2009
461-150-0060	7-1-2009	Amend	8-1-2009	461-160-0620	7-1-2009	Amend	8-1-2009
461-150-0070	7-1-2009	Amend	8-1-2009	461-165-0010	7-1-2009	Amend	8-1-2009
461-150-0080	7-1-2009	Amend	8-1-2009	461-165-0030	1-1-2009	Amend	2-1-2009
461-150-0090	7-1-2009	Amend	8-1-2009	461-165-0060	4-1-2009	Amend	5-1-2009
461-150-0100	7-1-2009	Amend	8-1-2009	461-165-0060	4-1-2009	Amend(T)	5-1-2009
461-155-0030	5-1-2009	Amend(T)	6-1-2009	461-165-0060	7-1-2009	Amend	8-1-2009
461-155-0150	4-1-2009	Amend(T)	4-1-2009	461-165-0060(T)	4-1-2009	Repeal	5-1-2009
461-155-0180	1-27-2009	Amend	3-1-2009	461-165-0060(T)	7-1-2009	Repeal	8-1-2009
461-155-0190	4-1-2009	Amend(T)	5-1-2009	461-165-0130	7-1-2009	Amend	8-1-2009
461-155-0190	7-1-2009	Amend	8-1-2009	461-165-0140	7-1-2009	Amend	8-1-2009
461-155-0190(T)	7-1-2009	Repeal	8-1-2009	461-165-0180	4-1-2009	Amend	5-1-2009
461-155-0235	1-27-2009	Amend	3-1-2009	461-165-0410	4-1-2009	Amend	5-1-2009
461-155-0250	1-1-2009	Amend	2-1-2009	461-165-0420	4-1-2009	Amend	5-1-2009
461-155-0250	3-1-2009	Amend(T)	4-1-2009	461-170-0010	1-1-2009	Amend	2-1-2009
461-155-0250	7-1-2009	Amend	8-1-2009	461-170-0011	4-1-2009	Amend	5-1-2009
461-155-0250(T)	7-1-2009	Repeal	8-1-2009	461-170-0015	1-1-2009	Am. & Ren.	2-1-2009
461-155-0270	1-1-2009	Amend	2-1-2009	461-170-0020	1-1-2009	Am. & Ren.	2-1-2009
461-155-0290	4-1-2009	Amend(T)	5-1-2009	461-170-0025	1-1-2009	Am. & Ren.	2-1-2009
461-155-0290	7-1-2009	Amend	8-1-2009	461-170-0030	1-1-2009	Am. & Ren.	2-1-2009
461-155-0290(T)	7-1-2009	Repeal	8-1-2009	461-170-0035	1-1-2009	Am. & Ren.	2-1-2009
461-155-0291	4-1-2009	Amend(T)	5-1-2009	461-170-0100	1-1-2009	Amend	2-1-2009
461-155-0291	7-1-2009	Amend	8-1-2009	461-170-0101	1-1-2009	Amend	2-1-2009
461-155-0291(T)	7-1-2009	Repeal	8-1-2009	461-170-0101	4-1-2009	Amend	5-1-2009
461-155-0295	1-1-2009	Amend	2-1-2009	461-170-0102	1-1-2009	Amend	2-1-2009
461-155-0295	4-1-2009	Amend(T)	5-1-2009	461-170-0102	4-1-2009	Amend	5-1-2009
461-155-0295	7-1-2009	Amend	8-1-2009	461-170-0103	4-1-2009	Amend	5-1-2009
461-155-0295(T)	7-1-2009	Repeal	8-1-2009	461-170-0104	4-1-2009	Amend	5-1-2009
461-155-0300	1-1-2009	Amend	2-1-2009	461-170-0120	1-1-2009	Amend	2-1-2009
461-155-0320	1-1-2009	Amend	2-1-2009	461-170-0150	1-1-2009	Amend	2-1-2009
461-155-0500	1-1-2009	Amend	2-1-2009	461-170-0150	4-1-2009	Amend	5-1-2009
461-155-0500(T)	1-1-2009	Repeal	2-1-2009	461-170-0150	7-1-2009	Amend	8-1-2009
461-155-0526	1-1-2009	Amend	2-1-2009	461-170-0160	1-1-2009	Amend	2-1-2009
461-155-0526(T)	1-1-2009	Repeal	2-1-2009	461-170-0160	4-1-2009	Amend	5-1-2009
461-155-0600	1-1-2009	Amend	2-1-2009	461-170-0170	1-1-2009	Repeal	2-1-2009
461-155-0600(T)	1-1-2009	Repeal	2-1-2009	461-170-0200	1-1-2009	Amend	2-1-2009
461-155-0610	1-1-2009	Amend	2-1-2009	461-175-0220	1-1-2009	Amend	2-1-2009
461-155-0610(T)	1-1-2009	Repeal	2-1-2009	461-175-0240	1-1-2009	Amend	2-1-2009
461-155-0660	7-1-2009	Amend	8-1-2009	461-175-0270	1-1-2009	Amend	2-1-2009
461-155-0700	1-1-2009	Adopt	2-1-2009	461-175-0280	1-1-2009	Amend	2-1-2009
461-155-0700(T)	1-1-2009	Repeal	2-1-2009	461-175-0280	4-1-2009	Amend	5-1-2009
461-155-0710	1-1-2009	Adopt	2-1-2009	461-175-0305	1-1-2009	Amend	2-1-2009
461-155-0710(T)	1-1-2009	Repeal	2-1-2009	461-180-0005	1-1-2009	Amend	2-1-2009
461-160-0040	4-1-2009	Amend(T)	4-1-2009	461-180-0006	4-1-2009	Amend	5-1-2009
461-160-0060	4-1-2009	Amend	5-1-2009	461-180-0070	4-1-2009	Amend	5-1-2009
461-160-0100	1-1-2009	Amend	2-1-2009	461-180-0090	1-1-2009	Amend	2-1-2009
461-160-0300	7-1-2009	Amend	8-1-2009	461-180-0125	1-1-2009	Amend	2-1-2009
461-160-0410	1-1-2009	Amend	2-1-2009	461-190-0360	5-1-2009	Amend(T)	6-1-2009
461-160-0410	4-1-2009	Amend	5-1-2009	461-193-0000	4-1-2009	Amend	5-1-2009
461-160-0550	1-1-2009	Amend(T)	2-1-2009	461-193-0001	4-1-2009	Repeal	5-1-2009
461-160-0550	4-1-2009	Amend	5-1-2009	461-193-0005	4-1-2009	Repeal	5-1-2009
461-160-0550	7-1-2009	Amend	8-1-2009	461-193-0007	4-1-2009	Repeal	5-1-2009
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461-193-0026	4-1-2009	Repeal	5-1-2009	471-031-0205	12-1-2008	Adopt	1-1-2009
461-193-0031	4-1-2009	Amend	5-1-2009	471-031-0210	12-1-2008	Adopt	1-1-2009
461-193-0031	5-1-2009	Amend(T)	6-1-2009	471-031-0215	12-1-2008	Adopt	1-1-2009
461-193-0040	4-1-2009	Repeal	5-1-2009	471-031-0220	12-1-2008	Adopt	1-1-2009
461-193-0042	4-1-2009	Amend	5-1-2009	471-031-0225	12-1-2008	Adopt	1-1-2009
461-193-0046	4-1-2009	Repeal	5-1-2009	471-031-0230	12-1-2008	Adopt	1-1-2009
461-193-0130	4-1-2009	Amend	5-1-2009	543-060-0000	3-2-2009	Amend	4-1-2009
461-193-0185	4-1-2009	Amend	5-1-2009	543-060-0010	3-2-2009	Amend	4-1-2009
461-193-0190	4-1-2009	Amend	5-1-2009	543-060-0020	3-2-2009	Amend	4-1-2009
461-193-0221	4-1-2009	Amend	5-1-2009	543-060-0030	3-2-2009	Amend	4-1-2009
461-193-0240	4-1-2009	Amend	5-1-2009	543-060-0040	3-2-2009	Amend	4-1-2009
461-193-0246	4-1-2009	Amend	5-1-2009	543-060-0060	3-2-2009	Amend	4-1-2009
461-193-0470	4-1-2009	Amend	5-1-2009	543-060-0070	3-2-2009	Adopt	4-1-2009
461-193-0560	4-1-2009	Amend	5-1-2009	571-060-0005	7-1-2009	Amend	6-1-2009
461-193-0610	4-1-2009	Repeal	5-1-2009	571-060-0005	7-1-2009	Amend	8-1-2009
461-193-0640	4-1-2009	Repeal	5-1-2009	573-040-0005	6-15-2009	Amend	7-1-2009
461-193-0650	4-1-2009	Amend	5-1-2009	573-075-0000	8-14-2009	Repeal	9-1-2009
461-193-0650	7-1-2009	Repeal	8-1-2009	573-075-0010	8-14-2009	Repeal	9-1-2009
461-193-0660	4-1-2009	Repeal	5-1-2009	573-075-0020	8-14-2009	Repeal	9-1-2009
461-193-0670	4-1-2009	Amend	5-1-2009	573-075-0030	8-14-2009	Repeal	9-1-2009
461-193-0690	4-1-2009	Amend	5-1-2009	573-075-0040	8-14-2009	Repeal	9-1-2009
461-193-0890	4-1-2009	Amend	5-1-2009	573-075-0050	8-14-2009	Repeal	9-1-2009
461-193-0940	4-1-2009	Amend	5-1-2009	573-075-0060	8-14-2009	Repeal	9-1-2009
461-193-0960	4-1-2009	Amend	5-1-2009	573-075-0070	8-14-2009	Repeal	9-1-2009
461-193-1200	4-1-2009	Amend	5-1-2009	573-075-0080	8-14-2009	Repeal	9-1-2009
461-193-1230	4-1-2009	Amend	5-1-2009	573-075-0090	8-14-2009	Repeal	9-1-2009
461-193-1310	4-1-2009	Repeal	5-1-2009	573-075-0100	8-14-2009	Repeal	9-1-2009
461-195-0501	7-1-2009	Amend	8-1-2009	573-075-0110	8-14-2009	Repeal	9-1-2009
461-195-0521	4-1-2009	Amend(T)	5-1-2009	573-075-0130	8-14-2009	Repeal	9-1-2009
461-195-0521	7-1-2009	Amend	8-1-2009	573-075-0140	8-14-2009	Repeal	9-1-2009
461-195-0521(T)	7-1-2009	Repeal	8-1-2009	573-075-0150	8-14-2009	Repeal	9-1-2009
461-195-0621	7-1-2009	Amend	8-1-2009	573-075-0160	8-14-2009	Repeal	9-1-2009
462-210-0030	7-1-2009	Amend	6-1-2009	573-075-0170	8-14-2009	Repeal	9-1-2009
462-220-0030	7-1-2009	Amend	6-1-2009	573-075-0180	8-14-2009	Repeal	9-1-2009
462-220-0070	7-1-2009	Amend	6-1-2009	573-075-0190	8-14-2009	Repeal	9-1-2009
471-007-0200	8-5-2009	Adopt(T)	9-1-2009	573-075-0200	8-14-2009	Amend	9-1-2009
471-007-0210	8-5-2009	Adopt(T)	9-1-2009	573-075-0210	8-14-2009	Repeal	9-1-2009
471-007-0220	8-5-2009	Adopt(T)	9-1-2009	573-075-0220	8-14-2009	Repeal	9-1-2009
471-007-0230	8-5-2009	Adopt(T)	9-1-2009	573-076-0000	8-14-2009	Adopt	9-1-2009
471-007-0240	8-5-2009	Adopt(T)	9-1-2009	573-076-0010	8-14-2009	Adopt	9-1-2009
471-007-0250	8-5-2009	Adopt(T)	9-1-2009	573-076-0020	8-14-2009	Adopt	9-1-2009
471-007-0260	8-5-2009	Adopt(T)	9-1-2009	573-076-0030	8-14-2009	Adopt	9-1-2009
471-007-0270	8-5-2009	Adopt(T)	9-1-2009	573-076-0040	8-14-2009	Adopt	9-1-2009
471-007-0280	8-5-2009	Adopt(T)	9-1-2009	573-076-0050	8-14-2009	Adopt	9-1-2009
471-007-0285	8-5-2009	Adopt(T)	9-1-2009	573-076-0060	8-14-2009	Adopt	9-1-2009
471-007-0290	8-5-2009	Adopt(T)	9-1-2009	573-076-0070	8-14-2009	Adopt	9-1-2009
471-007-0300	8-5-2009	Adopt(T)	9-1-2009	573-076-0080	8-14-2009	Adopt	9-1-2009
471-007-0310	8-5-2009	Adopt(T)	9-1-2009	573-076-0090	8-14-2009	Adopt	9-1-2009
471-010-0025	12-1-2008	Adopt	1-1-2009	573-076-0100	8-14-2009	Adopt	9-1-2009
471-010-0045	12-1-2008	Adopt	1-1-2009	573-076-0110	8-14-2009	Adopt	9-1-2009
471-030-0012	7-1-2009	Adopt(T)	8-1-2009	573-076-0120	8-14-2009	Adopt	9-1-2009
471-030-0038	6-29-2009	Amend(T)	8-1-2009	573-076-0130	8-14-2009	Adopt	9-1-2009
471-030-0150	6-29-2009	Amend(T)	8-1-2009	574-031-0000	7-29-2009	Amend	9-1-2009
471-031-0072	12-1-2008	Amend	1-1-2009	574-031-0030	7-29-2009	Amend	9-1-2009
471-031-0151	12-1-2008	Amend	1-1-2009	574-031-0040	7-29-2009	Amend	9-1-2009
471-031-0190	12-1-2008	Adopt	1-1-2009	574-032-0020	7-29-2009	Amend	9-1-2009
471-031-0195	12-1-2008	Adopt	1-1-2009	574-032-0030	7-29-2009	Amend	9-1-2009

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574-032-0150	7-29-2009	Amend	9-1-2009	577-031-0131	9-28-2009	Amend	9-1-2009
574-050-0005	2-13-2009	Amend	3-1-2009	577-031-0132	9-28-2009	Amend	9-1-2009
574-050-0005	7-29-2009	Amend	9-1-2009	577-031-0133	9-28-2009	Amend	9-1-2009
576-003-0000	6-9-2009	Adopt(T)	7-1-2009	577-031-0135	9-28-2009	Amend	9-1-2009
576-003-0000	8-12-2009	Adopt	9-1-2009	577-031-0136	9-28-2009	Amend	9-1-2009
576-003-0000(T)	8-12-2009	Repeal	9-1-2009	577-031-0137	9-28-2009	Amend	9-1-2009
576-003-0005	6-9-2009	Adopt(T)	7-1-2009	577-031-0138	9-28-2009	Adopt	9-1-2009
576-003-0005	8-12-2009	Adopt	9-1-2009	577-031-0139	9-28-2009	Adopt	9-1-2009
576-003-0005(T)	8-12-2009	Repeal	9-1-2009	577-031-0140	9-28-2009	Amend	9-1-2009
576-003-0010	6-9-2009	Adopt(T)	7-1-2009	577-031-0141	9-28-2009	Amend	9-1-2009
576-003-0010	8-12-2009	Adopt	9-1-2009	577-031-0142	9-28-2009	Amend	9-1-2009
576-003-0010(T)	8-12-2009	Repeal	9-1-2009	577-031-0143	9-28-2009	Amend	9-1-2009
576-003-0020	6-9-2009	Adopt(T)	7-1-2009	577-031-0144	9-28-2009	Adopt	9-1-2009
576-003-0020	8-12-2009	Adopt	9-1-2009	577-031-0145	9-28-2009	Amend	9-1-2009
576-003-0020(T)	8-12-2009	Repeal	9-1-2009	577-031-0146	9-28-2009	Amend	9-1-2009
576-003-0040	6-9-2009	Adopt(T)	7-1-2009	577-031-0147	9-28-2009	Amend	9-1-2009
576-003-0040	8-12-2009	Adopt	9-1-2009	577-031-0148	9-28-2009	Amend	9-1-2009
576-003-0040(T)	8-12-2009	Repeal	9-1-2009	577-060-0020	5-14-2009	Amend(T)	6-1-2009
576-003-0050	6-9-2009	Adopt(T)	7-1-2009	577-060-0020	8-1-2009	Amend	8-1-2009
576-003-0050	8-12-2009	Adopt	9-1-2009	577-070-0005	9-15-2009	Amend	9-1-2009
576-003-0050(T)	8-12-2009	Repeal	9-1-2009	577-070-0010	9-15-2009	Amend	9-1-2009
576-003-0060	6-9-2009	Adopt(T)	7-1-2009	577-070-0015	9-15-2009	Amend	9-1-2009
576-003-0060	8-12-2009	Adopt	9-1-2009	577-070-0020	9-15-2009	Amend	9-1-2009
576-003-0060(T)	8-12-2009	Repeal	9-1-2009	577-070-0025	9-15-2009	Amend	9-1-2009
576-003-0070	6-9-2009	Adopt(T)	7-1-2009	577-070-0030	9-15-2009	Amend	9-1-2009
576-003-0070	8-12-2009	Adopt	9-1-2009	577-070-0035	9-15-2009	Amend	9-1-2009
576-003-0070(T)	8-12-2009	Repeal	9-1-2009	577-070-0040	9-15-2009	Amend	9-1-2009
576-003-0080	6-9-2009	Adopt(T)	7-1-2009	577-070-0045	9-15-2009	Amend	9-1-2009
576-003-0080	8-12-2009	Adopt	9-1-2009	577-070-0050	9-15-2009	Amend	9-1-2009
576-003-0080(T)	8-12-2009	Repeal	9-1-2009	577-072-0030	1-1-10	Adopt	9-1-2009
576-003-0090	6-9-2009	Adopt(T)	7-1-2009	579-020-0006	3-12-2009	Amend	4-1-2009
576-003-0090	8-12-2009	Adopt	9-1-2009	579-020-0006	8-14-2009	Amend	9-1-2009
576-003-0090(T)	8-12-2009	Repeal	9-1-2009	580-021-0027	3-13-2009	Adopt(T)	4-1-2009
576-003-0100	6-9-2009	Adopt(T)	7-1-2009	580-040-0035	1-22-2009	Amend	3-1-2009
576-003-0100	8-12-2009	Adopt	9-1-2009	580-040-0040	2-20-2009	Amend(T)	4-1-2009
576-003-0100(T)	8-12-2009	Repeal	9-1-2009	580-040-0040	3-13-2009	Amend(T)	4-1-2009
576-003-0110	6-9-2009	Adopt(T)	7-1-2009	580-040-0040	7-20-2009	Amend(T)	9-1-2009
576-003-0110	8-12-2009	Adopt	9-1-2009	580-040-0040(T)	3-13-2009	Suspend	4-1-2009
576-003-0110(T)	8-12-2009	Repeal	9-1-2009	581-001-0100	12-19-2008	Amend	2-1-2009
576-003-0120	6-9-2009	Adopt(T)	7-1-2009	581-011-0050	6-29-2009	Amend	8-1-2009
576-003-0120	8-12-2009	Adopt	9-1-2009	581-011-0052	6-29-2009	Amend	8-1-2009
576-003-0120(T)	8-12-2009	Repeal	9-1-2009	581-011-0055	6-29-2009	Amend	8-1-2009
576-010-0000	7-1-2009	Amend	8-1-2009	581-011-0060	6-29-2009	Amend	8-1-2009
576-030-0015	7-1-2009	Amend	8-1-2009	581-011-0065	6-29-2009	Amend	8-1-2009
576-030-0020	7-1-2009	Amend	8-1-2009	581-011-0066	6-29-2009	Amend	8-1-2009
576-030-0025	7-1-2009	Amend	8-1-2009	581-011-0067	6-29-2009	Amend	8-1-2009
576-030-0030	7-1-2009	Repeal	8-1-2009	581-011-0070	6-29-2009	Amend	8-1-2009
576-030-0035	7-1-2009	Amend	8-1-2009	581-011-0071	6-29-2009	Amend	8-1-2009
576-030-0040	7-1-2009	Amend	8-1-2009	581-011-0072	6-29-2009	Repeal	8-1-2009
576-030-0045	7-1-2009	Amend	8-1-2009	581-011-0073	6-29-2009	Repeal	8-1-2009
576-030-0050	7-1-2009	Amend	8-1-2009	581-011-0074	6-29-2009	Repeal	8-1-2009
576-030-0055	7-1-2009	Amend	8-1-2009	581-011-0075	6-29-2009	Amend	8-1-2009
576-030-0060	7-1-2009	Amend	8-1-2009	581-011-0076	6-29-2009	Repeal	8-1-2009
576-030-0070	7-1-2009	Amend	8-1-2009	581-011-0077	6-29-2009	Repeal	8-1-2009
576-030-0090	7-1-2009	Amend	8-1-2009	581-011-0078	6-29-2009	Repeal	8-1-2009
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581-011-0087	6-29-2009	Adopt	8-1-2009	582-010-0025	2-11-2009	Suspend	3-1-2009
581-011-0090	6-29-2009	Amend	8-1-2009	582-010-0030	2-11-2009	Suspend	3-1-2009
581-011-0095	6-29-2009	Amend	8-1-2009	582-050-0000	3-27-2009	Amend	5-1-2009
581-011-0114	6-29-2009	Adopt	8-1-2009	582-070-0010	2-11-2009	Amend(T)	3-1-2009
581-011-0117	6-29-2009	Amend	8-1-2009	582-070-0020	2-11-2009	Amend(T)	3-1-2009
581-011-0118	6-29-2009	Repeal	8-1-2009	582-080-0010	2-11-2009	Amend(T)	3-1-2009
581-011-0119	6-29-2009	Repeal	8-1-2009	582-080-0020	2-11-2009	Amend(T)	3-1-2009
581-011-0120	6-29-2009	Repeal	8-1-2009	582-080-0030	2-11-2009	Amend(T)	3-1-2009
581-011-0125	6-29-2009	Repeal	8-1-2009	582-080-0040	2-11-2009	Amend(T)	3-1-2009
581-011-0130	6-29-2009	Repeal	8-1-2009	582-080-0050	2-11-2009	Amend(T)	3-1-2009
581-011-0131	6-29-2009	Repeal	8-1-2009	582-085-0004	2-11-2009	Suspend	3-1-2009
581-011-0135	6-29-2009	Repeal	8-1-2009	582-100-0040	12-19-2008	Amend(T)	2-1-2009
581-011-0136	2-24-2009	Adopt(T)	4-1-2009	582-100-0040	3-27-2009	Amend	5-1-2009
581-011-0140	6-29-2009	Repeal	8-1-2009	582-100-0040(T)	3-27-2009	Repeal	5-1-2009
581-011-0142	2-24-2009	Adopt(T)	4-1-2009	584-005-0005	5-15-2009	Amend(T)	6-1-2009
581-011-0145	6-29-2009	Repeal	8-1-2009	584-021-0105	5-15-2009	Amend(T)	6-1-2009
581-011-0210	6-29-2009	Repeal	8-1-2009	584-021-0140	5-15-2009	Amend(T)	6-1-2009
581-022-0610	12-19-2008	Amend	2-1-2009	584-021-0150	5-15-2009	Amend(T)	6-1-2009
581-022-0711	12-19-2008	Adopt	2-1-2009	584-021-0210	5-15-2009	Amend(T)	6-1-2009
581-022-1060	6-29-2009	Amend	8-1-2009	584-036-0010	3-12-2009	Amend	4-1-2009
581-022-1130	6-30-2009	Amend(T)	8-1-2009	584-036-0015	3-12-2009	Amend	4-1-2009
581-022-1131	4-23-2009	Amend	6-1-2009	584-036-0055	2-27-2009	Amend(T)	4-1-2009
581-022-1310	6-29-2009	Amend	8-1-2009	584-036-0080	3-12-2009	Amend	4-1-2009
581-022-1330	6-29-2009	Amend	8-1-2009	584-036-0083	3-12-2009	Adopt	4-1-2009
581-022-1622	6-29-2009	Amend	8-1-2009	584-040-0005	5-15-2009	Amend(T)	6-1-2009
581-022-1640	6-29-2009	Amend	8-1-2009	584-048-0006	5-15-2009	Amend(T)	6-1-2009
581-022-1650	6-29-2009	Amend	8-1-2009	584-048-0010	5-15-2009	Suspend	6-1-2009
581-045-0190	6-29-2009	Amend	8-1-2009	584-048-0015	5-15-2009	Suspend	6-1-2009
581-045-0500	6-29-2009	Amend	8-1-2009	584-048-0020	5-15-2009	Suspend	6-1-2009
581-045-0505	6-29-2009	Amend	8-1-2009	584-048-0025	5-15-2009	Amend(T)	6-1-2009
581-045-0515	6-29-2009	Amend	8-1-2009	584-048-0030	5-15-2009	Amend(T)	6-1-2009
581-045-0522	6-29-2009	Adopt	8-1-2009	584-048-0035	5-15-2009	Amend(T)	6-1-2009
581-045-0525	6-29-2009	Amend	8-1-2009	584-048-0067	5-15-2009	Suspend	6-1-2009
581-045-0530	6-29-2009	Amend	8-1-2009	584-048-0070	5-15-2009	Amend(T)	6-1-2009
581-045-0535	6-29-2009	Amend	8-1-2009	584-048-0085	5-15-2009	Amend(T)	6-1-2009
581-045-0538	6-29-2009	Adopt	8-1-2009	584-048-0090	5-15-2009	Suspend	6-1-2009
581-045-0545	6-29-2009	Amend	8-1-2009	584-048-0095	5-15-2009	Amend(T)	6-1-2009
581-045-0550	6-29-2009	Amend	8-1-2009	584-048-0105	5-15-2009	Suspend	6-1-2009
581-045-0555	6-29-2009	Amend	8-1-2009	584-048-0110	5-15-2009	Amend(T)	6-1-2009
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581-045-0570	6-29-2009	Amend	8-1-2009	584-050-0004	3-12-2009	Am. & Ren.	4-1-2009
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581-053-0517	6-29-2009	Amend	8-1-2009	584-050-0042	3-12-2009	Am. & Ren.	4-1-2009
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582-001-0003(T)	3-27-2009	Repeal	5-1-2009	584-052-0027	3-12-2009	Amend	4-1-2009
582-001-0005	12-19-2008	Amend(T)	2-1-2009	584-052-0030	3-12-2009	Amend	4-1-2009
582-001-0005	3-27-2009	Amend	5-1-2009	584-052-0031	3-12-2009	Amend	4-1-2009
582-001-0005(T)	3-27-2009	Repeal	5-1-2009	584-052-0032	3-12-2009	Amend	4-1-2009
582-001-0010	12-19-2008	Amend(T)	2-1-2009	584-052-0033	3-12-2009	Amend	4-1-2009
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582-001-0010(T)	3-27-2009	Repeal	5-1-2009	584-060-0012	5-15-2009	Amend(T)	6-1-2009
582-010-0005	2-11-2009	Suspend	3-1-2009	584-060-0013	5-15-2009	Amend(T)	6-1-2009
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584-060-0091	3-12-2009	Repeal	4-1-2009	603-027-0490	7-24-2009	Amend(T)	9-1-2009
584-060-0171	3-12-2009	Amend	4-1-2009	603-052-0129	2-13-2009	Amend	3-1-2009
584-060-0171	5-15-2009	Amend(T)	6-1-2009	603-052-0153	2-13-2009	Amend	3-1-2009
584-060-0181	3-12-2009	Amend	4-1-2009	603-052-0160	2-13-2009	Amend	3-1-2009
584-060-0182	3-12-2009	Adopt	4-1-2009	603-052-0201	2-13-2009	Amend	3-1-2009
584-060-0210	3-12-2009	Amend	4-1-2009	603-052-0265	2-13-2009	Amend	3-1-2009
584-070-0012	5-15-2009	Amend(T)	6-1-2009	603-052-0360	2-13-2009	Amend	3-1-2009
584-070-0014	5-15-2009	Amend(T)	6-1-2009	603-052-1020	4-9-2009	Amend	5-1-2009
584-070-0022	5-15-2009	Amend(T)	6-1-2009	603-052-1230	4-9-2009	Amend	5-1-2009
584-070-0211	5-15-2009	Amend(T)	6-1-2009	603-052-1250	4-9-2009	Amend	5-1-2009
584-070-0221	5-15-2009	Amend(T)	6-1-2009	603-057-0110	7-15-2009	Amend	8-1-2009
584-070-0310	5-15-2009	Amend(T)	6-1-2009	603-057-0145	7-15-2009	Amend	8-1-2009
584-080-0002	5-15-2009	Amend(T)	6-1-2009	603-057-0160	7-15-2009	Adopt	8-1-2009
584-080-0012	5-15-2009	Amend(T)	6-1-2009	603-057-0180	7-15-2009	Adopt	8-1-2009
584-080-0022	5-15-2009	Amend(T)	6-1-2009	603-057-0500	1-23-2009	Amend(T)	3-1-2009
584-080-0031	5-15-2009	Amend(T)	6-1-2009	603-057-0500	5-7-2009	Amend	6-1-2009
584-080-0161	5-15-2009	Amend(T)	6-1-2009	603-057-0500(T)	5-7-2009	Repeal	6-1-2009
584-100-0006	3-12-2009	Amend	4-1-2009	603-057-0502	1-23-2009	Adopt(T)	3-1-2009
585-005-0015	6-11-2009	Adopt	7-1-2009	603-057-0502	5-7-2009	Adopt	6-1-2009
585-005-0020	6-11-2009	Adopt	7-1-2009	603-057-0502(T)	5-7-2009	Repeal	6-1-2009
585-005-0025	6-11-2009	Adopt	7-1-2009	603-057-0510	1-23-2009	Amend(T)	3-1-2009
585-005-0030	6-11-2009	Adopt	7-1-2009	603-057-0510	5-7-2009	Amend	6-1-2009
585-005-0035	6-11-2009	Adopt	7-1-2009	603-057-0510(T)	5-7-2009	Repeal	6-1-2009
585-005-0040	6-11-2009	Adopt	7-1-2009	603-057-0515	1-23-2009	Suspend	3-1-2009
585-005-0045	6-11-2009	Adopt	7-1-2009	603-057-0515	5-7-2009	Repeal	6-1-2009
585-005-0050	6-11-2009	Adopt	7-1-2009	603-057-0520	1-23-2009	Amend(T)	3-1-2009
585-005-0055	6-11-2009	Adopt	7-1-2009	603-057-0520	5-7-2009	Amend	6-1-2009
585-005-0060	6-11-2009	Adopt	7-1-2009	603-057-0520(T)	5-7-2009	Repeal	6-1-2009
585-005-0065	6-11-2009	Adopt	7-1-2009	603-057-0525	1-23-2009	Amend(T)	3-1-2009
585-005-0070	6-11-2009	Adopt	7-1-2009	603-057-0525	5-7-2009	Amend	6-1-2009
585-005-0075	6-11-2009	Adopt	7-1-2009	603-057-0525(T)	5-7-2009	Repeal	6-1-2009
585-010-0310	4-13-2009	Amend	5-1-2009	603-057-0530	1-23-2009	Amend(T)	3-1-2009
585-020-0005	4-13-2009	Amend	5-1-2009	603-057-0530	5-7-2009	Amend	6-1-2009
585-020-0010	8-7-2009	Amend	9-1-2009	603-057-0530(T)	5-7-2009	Repeal	6-1-2009
585-020-0015	8-7-2009	Amend	9-1-2009	603-057-0532	1-23-2009	Adopt(T)	3-1-2009
585-020-0020	4-13-2009	Amend	5-1-2009	603-057-0532	5-7-2009	Adopt	6-1-2009
585-020-0020	8-7-2009	Amend	9-1-2009	603-057-0532(T)	5-7-2009	Repeal	6-1-2009
585-020-0025	4-13-2009	Amend	5-1-2009	603-074-0080	1-30-2009	Amend	3-1-2009
585-020-0025	8-7-2009	Amend	9-1-2009	603-076-0100	6-30-2009	Adopt(T)	8-1-2009
585-020-0030	4-13-2009	Amend	5-1-2009	603-076-0105	6-30-2009	Adopt(T)	8-1-2009
585-020-0030	8-7-2009	Amend	9-1-2009	603-077-0101	7-15-2009	Amend(T)	8-1-2009
585-020-0040	4-13-2009	Amend	5-1-2009	603-077-0105	7-15-2009	Amend(T)	8-1-2009
585-020-0040	8-7-2009	Amend	9-1-2009	603-077-0110	7-15-2009	Amend(T)	8-1-2009
585-020-0045	4-13-2009	Amend	5-1-2009	603-077-0112	7-15-2009	Amend(T)	8-1-2009
585-020-0045	8-7-2009	Amend	9-1-2009	603-077-0113	7-15-2009	Amend(T)	8-1-2009
585-020-0050	8-7-2009	Amend	9-1-2009	603-077-0115	7-15-2009	Amend(T)	8-1-2009
585-020-0055	4-13-2009	Repeal	5-1-2009	603-077-0137	7-15-2009	Amend(T)	8-1-2009
585-020-0055	8-7-2009	Repeal	9-1-2009	603-077-0140	7-15-2009	Amend(T)	8-1-2009
585-020-0060	4-13-2009	Amend	5-1-2009	619-005-0010	12-17-2008	Adopt	2-1-2009
585-020-0060	8-7-2009	Amend	9-1-2009	619-005-0020	12-17-2008	Adopt	2-1-2009
589-002-0100	8-5-2009	Amend(T)	9-1-2009	619-005-0030	12-17-2008	Adopt	2-1-2009
589-007-0500	7-6-2009	Amend	8-1-2009	619-005-0040	12-17-2008	Adopt	2-1-2009
589-007-0700	7-15-2009	Adopt(T)	8-1-2009	619-005-0050	12-17-2008	Adopt	2-1-2009
589-020-0225	12-29-2008	Amend	2-1-2009	619-005-0060	12-17-2008	Adopt	2-1-2009
603-027-0410	7-24-2009	Amend(T)	9-1-2009	620-010-0020	3-1-2009	Amend	2-1-2009
603-027-0420	7-24-2009	Amend(T)	9-1-2009	620-010-0020(T)	3-1-2009	Repeal	2-1-2009
603-027-0430	7-24-2009	Amend(T)	9-1-2009	629-021-0700	5-11-2009	Amend	6-1-2009
603-027-0440	7-24-2009	Amend(T)	9-1-2009	629-022-0030	2-1-2009	Amend	2-1-2009

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629-022-0040	2-1-2009	Amend	2-1-2009	632-030-0070	5-15-2009	Amend	6-1-2009
629-022-0050	2-1-2009	Adopt	2-1-2009	635-001-0050	1-14-2009	Amend(T)	2-1-2009
629-022-0060	2-1-2009	Adopt	2-1-2009	635-003-0003	5-18-2009	Amend	7-1-2009
629-022-0070	2-1-2009	Adopt	2-1-2009	635-003-0004	3-15-2009	Amend(T)	4-1-2009
629-022-0080	2-1-2009	Adopt	2-1-2009	635-003-0004	5-18-2009	Amend	7-1-2009
629-022-0100	2-1-2009	Repeal	2-1-2009	635-003-0004(T)	5-18-2009	Repeal	7-1-2009
629-022-0110	2-1-2009	Amend	2-1-2009	635-003-0074	5-18-2009	Amend	7-1-2009
629-022-0120	2-1-2009	Amend	2-1-2009	635-003-0077	5-18-2009	Amend	7-1-2009
629-022-0130	2-1-2009	Amend	2-1-2009	635-003-0085	5-18-2009	Amend	7-1-2009
629-022-0140	2-1-2009	Amend	2-1-2009	635-004-0005	4-27-2009	Amend	6-1-2009
629-022-0150	2-1-2009	Amend	2-1-2009	635-004-0009	4-27-2009	Amend	6-1-2009
629-022-0160	2-1-2009	Amend	2-1-2009	635-004-0012	4-22-2009	Adopt	6-1-2009
629-022-0200	2-1-2009	Amend	2-1-2009	635-004-0014	11-21-2008	Amend	1-1-2009
629-022-0210	2-1-2009	Amend	2-1-2009	635-004-0016	1-1-2009	Amend(T)	2-1-2009
629-022-0220	2-1-2009	Amend	2-1-2009	635-004-0016	2-23-2009	Amend(T)	4-1-2009
629-022-0230	2-1-2009	Amend	2-1-2009	635-004-0016	4-22-2009	Amend	6-1-2009
629-022-0250	2-1-2009	Amend	2-1-2009	635-004-0016(T)	2-23-2009	Suspend	4-1-2009
629-022-0300	2-1-2009	Amend	2-1-2009	635-004-0016(T)	4-22-2009	Repeal	6-1-2009
629-022-0320	2-1-2009	Amend	2-1-2009	635-004-0017	4-22-2009	Adopt	6-1-2009
629-022-0380	2-1-2009	Amend	2-1-2009	635-004-0017	7-1-2009	Amend(T)	8-1-2009
629-022-0390	2-1-2009	Amend	2-1-2009	635-004-0017	7-18-2009	Amend(T)	9-1-2009
629-022-0400	2-1-2009	Amend	2-1-2009	635-004-0017(T)	7-18-2009	Suspend	9-1-2009
629-022-0410	2-1-2009	Amend	2-1-2009	635-004-0018	4-27-2009	Amend	6-1-2009
629-022-0500	2-1-2009	Repeal	2-1-2009	635-004-0019	12-4-2008	Amend(T)	1-1-2009
629-022-0600	2-1-2009	Repeal	2-1-2009	635-004-0019	1-5-2009	Amend(T)	2-1-2009
629-022-0700	2-1-2009	Repeal	2-1-2009	635-004-0019	3-18-2009	Amend(T)	5-1-2009
629-022-0800	2-1-2009	Adopt	2-1-2009	635-004-0019	4-27-2009	Amend	6-1-2009
629-022-0810	2-1-2009	Adopt	2-1-2009	635-004-0019	5-1-2009	Amend(T)	6-1-2009
629-022-0820	2-1-2009	Adopt	2-1-2009	635-004-0019	7-2-2009	Amend(T)	8-1-2009
629-022-0830	2-1-2009	Adopt	2-1-2009	635-004-0019(T)	12-4-2008	Suspend	1-1-2009
629-022-0840	2-1-2009	Adopt	2-1-2009	635-004-0019(T)	3-18-2009	Suspend	5-1-2009
629-022-0850	2-1-2009	Adopt	2-1-2009	635-004-0019(T)	4-27-2009	Repeal	6-1-2009
629-041-0100	3-25-2009	Amend(T)	5-1-2009	635-004-0019(T)	7-2-2009	Suspend	8-1-2009
632-030-0005	5-15-2009	Amend	6-1-2009	635-004-0020	11-21-2008	Amend	1-1-2009
632-030-0010	5-15-2009	Amend	6-1-2009	635-004-0025	8-10-2009	Amend	9-1-2009
632-030-0015	5-15-2009	Amend	6-1-2009	635-004-0027	1-1-2009	Amend(T)	2-1-2009
632-030-0016	5-15-2009	Amend	6-1-2009	635-004-0033	1-1-2009	Amend(T)	2-1-2009
632-030-0017	5-15-2009	Amend	6-1-2009	635-004-0033	3-1-2009	Amend(T)	4-1-2009
632-030-0018	5-15-2009	Amend	6-1-2009	635-004-0033	4-27-2009	Amend	6-1-2009
632-030-0019	5-15-2009	Amend	6-1-2009	635-004-0033	7-1-2009	Amend(T)	8-1-2009
632-030-0020	5-15-2009	Amend	6-1-2009	635-004-0033(T)	3-1-2009	Suspend	4-1-2009
632-030-0021	5-15-2009	Amend	6-1-2009	635-004-0033(T)	4-27-2009	Repeal	6-1-2009
632-030-0022	5-15-2009	Amend	6-1-2009	635-004-0035	11-21-2008	Amend	1-1-2009
632-030-0024	5-15-2009	Amend	6-1-2009	635-004-0042	6-1-2009	Adopt(T)	6-1-2009
632-030-0025	5-15-2009	Amend	6-1-2009	635-004-0042	8-10-2009	Adopt	9-1-2009
632-030-0026	5-15-2009	Adopt	6-1-2009	635-004-0042(T)	8-10-2009	Repeal	9-1-2009
632-030-0027	5-15-2009	Amend	6-1-2009	635-004-0048	11-21-2008	Amend	1-1-2009
632-030-0030	5-15-2009	Amend	6-1-2009	635-004-0050	11-21-2008	Amend	1-1-2009
632-030-0033	5-15-2009	Amend	6-1-2009	635-004-0060	11-21-2008	Amend	1-1-2009
632-030-0035	5-15-2009	Amend	6-1-2009	635-004-0090	1-1-2009	Amend(T)	2-1-2009
632-030-0040	5-15-2009	Amend	6-1-2009	635-004-0090	4-27-2009	Amend	6-1-2009
632-030-0041	5-15-2009	Adopt	6-1-2009	635-004-0090(T)	4-27-2009	Repeal	6-1-2009
632-030-0042	5-15-2009	Amend	6-1-2009	635-004-0135	11-21-2008	Amend	1-1-2009
632-030-0045	5-15-2009	Amend	6-1-2009	635-004-0170	11-21-2008	Amend	1-1-2009
632-030-0049	5-15-2009	Adopt	6-1-2009	635-005-0001	11-21-2008	Amend	1-1-2009
632-030-0052	5-15-2009	Adopt	6-1-2009	635-005-0005	11-21-2008	Amend	1-1-2009
632-030-0056	5-15-2009	Amend	6-1-2009	635-005-0005	12-17-2008	Amend	2-1-2009

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635-005-0045	11-21-2008	Amend	1-1-2009	635-006-1085	2-26-2009	Amend(T)	4-1-2009
635-005-0047	11-21-2008	Amend	1-1-2009	635-006-1085	4-22-2009	Amend	6-1-2009
635-005-0048	11-21-2008	Amend	1-1-2009	635-006-1085(T)	4-22-2009	Repeal	6-1-2009
635-005-0055	11-21-2008	Amend	1-1-2009	635-008-0050	8-12-2009	Amend	9-1-2009
635-005-0055	12-1-2008	Amend(T)	1-1-2009	635-008-0055	4-27-2009	Amend	6-1-2009
635-005-0055	5-29-2009	Amend(T)	7-1-2009	635-008-0095	6-10-2009	Amend	7-1-2009
635-005-0055(T)	5-29-2009	Suspend	7-1-2009	635-008-0123	4-27-2009	Amend	6-1-2009
635-005-0064	12-17-2008	Amend	2-1-2009	635-008-0140	4-27-2009	Amend	6-1-2009
635-005-0065	11-21-2008	Amend	1-1-2009	635-008-0145	1-15-2009	Amend	2-1-2009
635-005-0065	12-17-2008	Amend	2-1-2009	635-008-0147	3-11-2009	Amend(T)	4-1-2009
635-005-0067	12-17-2008	Amend	2-1-2009	635-008-0147	3-30-2009	Amend(T)	5-1-2009
635-005-0068	12-17-2008	Adopt	2-1-2009	635-008-0147	8-12-2009	Amend	9-1-2009
635-005-0069	12-17-2008	Adopt	2-1-2009	635-008-0155	8-12-2009	Amend	9-1-2009
635-005-0084	11-21-2008	Amend	1-1-2009	635-010-0170	12-9-2008	Amend(T)	1-1-2009
635-005-0090	11-21-2008	Amend	1-1-2009	635-010-0170	5-14-2009	Amend(T)	6-1-2009
635-005-0095	11-21-2008	Amend	1-1-2009	635-010-0170(T)	5-14-2009	Suspend	6-1-2009
635-005-0100	11-21-2008	Amend	1-1-2009	635-011-0100	1-1-2009	Amend	2-1-2009
635-005-0135	11-21-2008	Amend	1-1-2009	635-013-0003	1-1-2009	Amend	2-1-2009
635-005-0140	11-21-2008	Amend	1-1-2009	635-013-0003	5-18-2009	Amend	7-1-2009
635-005-0145	11-21-2008	Amend	1-1-2009	635-013-0004	1-1-2009	Amend	2-1-2009
635-005-0180	11-21-2008	Amend	1-1-2009	635-013-0007	5-18-2009	Amend	7-1-2009
635-006-0001	11-21-2008	Amend	1-1-2009	635-013-0007	8-1-2009	Amend(T)	9-1-2009
635-006-0001	8-10-2009	Amend	9-1-2009	635-013-0009	3-15-2009	Amend(T)	4-1-2009
635-006-0132	11-21-2008	Amend	1-1-2009	635-013-0009	8-1-2009	Amend(T)	9-1-2009
635-006-0133	11-21-2008	Amend	1-1-2009	635-013-0009(T)	8-1-2009	Suspend	9-1-2009
635-006-0145	11-21-2008	Amend	1-1-2009	635-014-0080	1-1-2009	Amend	2-1-2009
635-006-0150	11-21-2008	Amend	1-1-2009	635-014-0090	1-1-2009	Amend	2-1-2009
635-006-0160	8-10-2009	Amend	9-1-2009	635-014-0090	5-22-2009	Amend(T)	6-1-2009
635-006-0165	11-21-2008	Amend	1-1-2009	635-014-0090	6-15-2009	Amend(T)	7-1-2009
635-006-0200	11-21-2008	Amend	1-1-2009	635-014-0090	8-1-2009	Amend(T)	9-1-2009
635-006-0205	11-21-2008	Amend	1-1-2009	635-014-0090(T)	6-15-2009	Suspend	7-1-2009
635-006-0205	8-10-2009	Amend	9-1-2009	635-014-0090(T)	8-1-2009	Suspend	9-1-2009
635-006-0207	11-21-2008	Amend	1-1-2009	635-016-0080	1-1-2009	Amend	2-1-2009
635-006-0210	11-21-2008	Amend	1-1-2009	635-016-0090	1-1-2009	Amend	2-1-2009
635-006-0211	11-21-2008	Amend	1-1-2009	635-016-0090	6-1-2009	Amend(T)	7-1-2009
635-006-0212	6-16-2009	Amend(T)	7-1-2009	635-016-0090	7-1-2009	Amend(T)	8-1-2009
635-006-0213	11-21-2008	Amend	1-1-2009	635-016-0090	8-1-2009	Amend(T)	9-1-2009
635-006-0215	11-21-2008	Amend	1-1-2009	635-016-0090(T)	7-1-2009	Suspend	8-1-2009
635-006-0215	6-16-2009	Amend(T)	7-1-2009	635-017-0080	1-1-2009	Amend	2-1-2009
635-006-0215	6-25-2009	Amend(T)	8-1-2009	635-017-0090	1-1-2009	Amend	2-1-2009
635-006-0215(T)	6-25-2009	Suspend	8-1-2009	635-017-0090	2-25-2009	Amend	4-1-2009
635-006-0225	11-21-2008	Amend	1-1-2009	635-017-0090	3-1-2009	Amend(T)	3-1-2009
635-006-0225	6-16-2009	Amend(T)	7-1-2009	635-017-0090	6-30-2009	Amend(T)	8-1-2009
635-006-0230	11-21-2008	Amend	1-1-2009	635-017-0090(T)	2-25-2009	Repeal	4-1-2009
635-006-0232	1-13-2009	Amend	2-1-2009	635-017-0095	1-1-2009	Amend	2-1-2009
635-006-0235	11-21-2008	Amend	1-1-2009	635-017-0095	1-1-2009	Amend(T)	2-1-2009
635-006-0412	11-21-2008	Amend	1-1-2009	635-017-0095	2-25-2009	Amend	4-1-2009
635-006-0425	11-21-2008	Amend	1-1-2009	635-017-0095(T)	2-25-2009	Repeal	4-1-2009
635-006-0810	11-21-2008	Amend	1-1-2009	635-018-0080	1-1-2009	Amend	2-1-2009
635-006-0850	12-17-2008	Amend	2-1-2009	635-018-0090	1-1-2009	Amend	2-1-2009
635-006-0910	12-17-2008	Amend	2-1-2009	635-018-0090	4-15-2009	Amend(T)	4-1-2009
635-006-1015	4-22-2009	Amend	6-1-2009	635-018-0090	8-1-2009	Amend(T)	7-1-2009
635-006-1035	11-21-2008	Amend	1-1-2009	635-019-0080	1-1-2009	Amend	2-1-2009
635-006-1035	12-17-2008	Amend	2-1-2009	635-019-0090	1-1-2009	Amend	2-1-2009
635-006-1035	4-22-2009	Amend	6-1-2009	635-021-0080	1-1-2009	Amend	2-1-2009
635-006-1075	11-21-2008	Amend	1-1-2009	635-021-0090	1-1-2009	Amend	2-1-2009
635-006-1075	4-22-2009	Amend	6-1-2009	635-021-0090	5-30-2009	Amend(T)	7-1-2009

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635-021-0090	6-13-2009	Amend(T)	7-1-2009	635-041-0065	3-6-2009	Amend(T)	4-1-2009
635-021-0090	7-5-2009	Amend(T)	8-1-2009	635-041-0065(T)	2-16-2009	Suspend	3-1-2009
635-021-0090(T)	6-13-2009	Suspend	7-1-2009	635-041-0065(T)	3-6-2009	Suspend	4-1-2009
635-021-0090(T)	7-5-2009	Suspend	8-1-2009	635-041-0075	8-1-2009	Amend(T)	9-1-2009
635-023-0080	1-1-2009	Amend	2-1-2009	635-041-0076	5-16-2009	Amend(T)	6-1-2009
635-023-0090	1-1-2009	Amend	2-1-2009	635-041-0076	5-27-2009	Amend(T)	7-1-2009
635-023-0095	1-1-2009	Amend	2-1-2009	635-041-0076	6-16-2009	Amend(T)	7-1-2009
635-023-0095	1-1-2009	Amend(T)	2-1-2009	635-041-0076	6-30-2009	Amend(T)	8-1-2009
635-023-0095	2-26-2009	Amend	4-1-2009	635-041-0076	7-8-2009	Amend(T)	8-1-2009
635-023-0095	4-13-2009	Amend(T)	5-1-2009	635-041-0076	7-15-2009	Amend(T)	8-1-2009
635-023-0095	6-6-2009	Amend(T)	7-1-2009	635-041-0076(T)	5-27-2009	Suspend	7-1-2009
635-023-0095	7-9-2009	Amend(T)	8-1-2009	635-041-0076(T)	6-16-2009	Suspend	7-1-2009
635-023-0095	7-24-2009	Amend(T)	9-1-2009	635-041-0076(T)	6-30-2009	Suspend	8-1-2009
635-023-0095(T)	2-26-2009	Repeal	4-1-2009	635-041-0076(T)	7-8-2009	Suspend	8-1-2009
635-023-0095(T)	6-6-2009	Suspend	7-1-2009	635-041-0076(T)	7-15-2009	Suspend	8-1-2009
635-023-0095(T)	7-9-2009	Suspend	8-1-2009	635-041-0510	11-21-2008	Amend	1-1-2009
635-023-0095(T)	7-24-2009	Suspend	9-1-2009	635-041-0520	11-21-2008	Amend	1-1-2009
635-023-0125	1-1-2009	Amend	2-1-2009	635-041-0600	11-21-2008	Amend	1-1-2009
635-023-0125	2-26-2009	Amend	4-1-2009	635-042-0001	11-21-2008	Amend	1-1-2009
635-023-0125	3-1-2009	Amend(T)	3-1-2009	635-042-0007	11-21-2008	Amend	1-1-2009
635-023-0125	5-15-2009	Amend(T)	6-1-2009	635-042-0022	11-21-2008	Amend	1-1-2009
635-023-0125	6-12-2009	Amend(T)	7-1-2009	635-042-0022	3-27-2009	Amend(T)	5-1-2009
635-023-0125(T)	2-26-2009	Repeal	4-1-2009	635-042-0022	4-7-2009	Amend(T)	5-1-2009
635-023-0125(T)	6-12-2009	Suspend	7-1-2009	635-042-0022	4-14-2009	Amend(T)	5-1-2009
635-023-0128	1-1-2009	Amend	2-1-2009	635-042-0022(T)	4-7-2009	Suspend	5-1-2009
635-023-0128	5-18-2009	Amend	7-1-2009	635-042-0022(T)	4-14-2009	Suspend	5-1-2009
635-023-0128	6-16-2009	Amend(T)	7-1-2009	635-042-0027	6-18-2009	Amend(T)	7-1-2009
635-023-0130	1-1-2009	Amend	2-1-2009	635-042-0031	8-4-2009	Amend(T)	9-1-2009
635-023-0130	5-18-2009	Amend	7-1-2009	635-042-0031	8-8-2009	Amend(T)	9-1-2009
635-023-0134	1-1-2009	Amend	2-1-2009	635-042-0031(T)	8-8-2009	Suspend	9-1-2009
635-023-0134	5-30-2009	Amend(T)	7-1-2009	635-042-0110	11-21-2008	Amend	1-1-2009
635-023-0134	7-1-2009	Amend(T)	8-1-2009	635-042-0110	6-1-2009	Amend(T)	7-1-2009
635-023-0134(T)	7-1-2009	Suspend	8-1-2009	635-042-0130	1-1-2009	Amend(T)	2-1-2009
635-039-0080	1-1-2009	Amend	2-1-2009	635-042-0130	2-26-2009	Amend	4-1-2009
635-039-0080	4-27-2009	Amend	6-1-2009	635-042-0130(T)	2-26-2009	Repeal	4-1-2009
635-039-0085	1-1-2009	Amend	2-1-2009	635-042-0133	2-26-2009	Amend	4-1-2009
635-039-0085	4-27-2009	Amend	6-1-2009	635-042-0135	1-1-2009	Amend(T)	2-1-2009
635-039-0085	5-22-2009	Amend(T)	7-1-2009	635-042-0135	2-2-2009	Amend(T)	3-1-2009
635-039-0085	8-16-2009	Amend(T)	9-1-2009	635-042-0135(T)	2-2-2009	Suspend	3-1-2009
635-039-0090	1-1-2009	Amend	2-1-2009	635-042-0145	2-15-2009	Amend(T)	3-1-2009
635-039-0090	2-2-2009	Amend(T)	3-1-2009	635-042-0145	3-11-2009	Amend(T)	4-1-2009
635-039-0090	4-27-2009	Amend	6-1-2009	635-042-0145	5-17-2009	Amend(T)	6-1-2009
635-039-0090(T)	4-27-2009	Repeal	6-1-2009	635-042-0145	8-4-2009	Amend(T)	9-1-2009
635-041-0005	11-21-2008	Amend	1-1-2009	635-042-0145(T)	3-11-2009	Suspend	4-1-2009
635-041-0010	11-21-2008	Amend	1-1-2009	635-042-0145(T)	5-17-2009	Suspend	6-1-2009
635-041-0030	11-21-2008	Amend	1-1-2009	635-042-0160	2-15-2009	Amend(T)	3-1-2009
635-041-0030	2-26-2009	Amend	4-1-2009	635-042-0160	5-17-2009	Amend(T)	6-1-2009
635-041-0040	11-21-2008	Amend	1-1-2009	635-042-0160	8-4-2009	Amend(T)	9-1-2009
635-041-0045	11-21-2008	Amend	1-1-2009	635-042-0160(T)	5-17-2009	Suspend	6-1-2009
635-041-0060	11-21-2008	Amend	1-1-2009	635-042-0170	2-15-2009	Amend(T)	3-1-2009
635-041-0061	11-21-2008	Amend	1-1-2009	635-042-0170	8-4-2009	Amend(T)	9-1-2009
635-041-0061	2-26-2009	Amend	4-1-2009	635-042-0180	2-15-2009	Amend(T)	3-1-2009
635-041-0063	11-21-2008	Amend	1-1-2009	635-042-0180	3-6-2009	Amend(T)	4-1-2009
635-041-0063	2-26-2009	Amend	4-1-2009	635-042-0180	4-7-2009	Amend(T)	5-1-2009
635-041-0063	8-1-2009	Amend(T)	9-1-2009	635-042-0180	5-17-2009	Amend(T)	6-1-2009
635-041-0065	11-21-2008	Amend	1-1-2009	635-042-0180	8-4-2009	Amend(T)	9-1-2009
635-041-0065	2-2-2009	Amend(T)	3-1-2009	635-042-0180(T)	3-6-2009	Suspend	4-1-2009
635-041-0065	2-16-2009	Amend(T)	3-1-2009	635-042-0180(T)	4-7-2009	Suspend	5-1-2009

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635-043-0105	4-13-2009	Amend(T)	5-1-2009	635-073-0000	6-10-2009	Amend	7-1-2009
635-043-0105	8-11-2009	Amend(T)	9-1-2009	635-073-0065	2-3-2009	Amend	3-1-2009
635-043-0105(T)	8-11-2009	Suspend	9-1-2009	635-073-0070	2-3-2009	Amend	3-1-2009
635-045-0000	1-1-2009	Amend	2-1-2009	635-075-0005	5-5-2009	Amend(T)	6-1-2009
635-045-0000	8-12-2009	Amend	9-1-2009	635-075-0005	6-10-2009	Amend	7-1-2009
635-045-0002	1-1-2009	Amend	2-1-2009	635-075-0005(T)	6-10-2009	Repeal	7-1-2009
635-048-0080	5-7-2009	Amend(T)	6-1-2009	635-080-0050	1-1-2009	Amend	2-1-2009
635-049-0025	6-10-2009	Amend	7-1-2009	635-080-0051	1-1-2009	Amend	2-1-2009
635-049-0055	6-10-2009	Repeal	7-1-2009	635-080-0062	1-1-2009	Amend	2-1-2009
635-049-0065	6-10-2009	Adopt	7-1-2009	635-080-0063	1-1-2009	Amend	2-1-2009
635-049-0067	6-10-2009	Adopt	7-1-2009	635-195-0000	11-24-2008	Adopt	1-1-2009
635-049-0069	6-10-2009	Adopt	7-1-2009	635-195-0010	11-24-2008	Adopt	1-1-2009
635-049-0071	6-10-2009	Adopt	7-1-2009	647-010-0010	7-1-2009	Amend	6-1-2009
635-049-0073	6-10-2009	Adopt	7-1-2009	660-024-0000	4-16-2009	Amend	5-1-2009
635-049-0090	6-10-2009	Repeal	7-1-2009	660-024-0010	4-16-2009	Amend	5-1-2009
635-049-0200	5-6-2009	Repeal	6-1-2009	660-024-0020	4-16-2009	Amend	5-1-2009
635-049-0205	11-24-2008	Amend	1-1-2009	660-024-0030	4-16-2009	Amend	5-1-2009
635-049-0210	1-1-2009	Repeal	2-1-2009	660-024-0040	4-16-2009	Amend	5-1-2009
635-049-0235	1-1-2009	Adopt	2-1-2009	660-024-0050	4-16-2009	Amend	5-1-2009
635-049-0255	5-6-2009	Adopt	6-1-2009	660-024-0060	4-16-2009	Amend	5-1-2009
635-051-0000	8-12-2009	Amend	9-1-2009	660-024-0070	4-16-2009	Amend	5-1-2009
635-052-0000	8-12-2009	Amend	9-1-2009	660-024-0080	4-16-2009	Adopt	5-1-2009
635-053-0000	8-12-2009	Amend	9-1-2009	660-033-0120	1-2-2009	Amend	2-1-2009
635-054-0000	8-12-2009	Amend	9-1-2009	660-033-0130	1-2-2009	Amend	2-1-2009
635-055-0035	1-1-2009	Amend	2-1-2009	660-041-0010	4-2-2009	Amend	5-1-2009
635-055-0035	5-15-2009	Amend(T)	4-1-2009	660-041-0110	4-2-2009	Amend	5-1-2009
635-055-0037	1-1-2009	Adopt	2-1-2009	660-041-0170	4-2-2009	Adopt	5-1-2009
635-060-0000	1-1-2009	Amend	2-1-2009	661-010-0015	8-5-2009	Amend(T)	9-1-2009
635-060-0000	8-12-2009	Amend	9-1-2009	661-010-0038	8-5-2009	Amend(T)	9-1-2009
635-060-0008	5-12-2009	Amend(T)	6-1-2009	661-010-0050	8-5-2009	Amend(T)	9-1-2009
635-060-0008	5-14-2009	Amend(T)	6-1-2009	670-010-0005	7-1-2009	Amend	7-1-2009
635-060-0009	1-1-2009	Amend	2-1-2009	670-010-0006	7-1-2009	Repeal	7-1-2009
635-060-0009	5-28-2009	Amend(T)	7-1-2009	670-010-0010	7-1-2009	Amend	7-1-2009
635-060-0046	6-10-2009	Amend	7-1-2009	670-010-0011	7-1-2009	Amend	7-1-2009
635-060-0055	1-1-2009	Amend	2-1-2009	690-180-0005	7-30-2009	Adopt(T)	9-1-2009
635-065-0001	1-1-2009	Amend	2-1-2009	690-180-0010	7-30-2009	Adopt(T)	9-1-2009
635-065-0015	6-10-2009	Amend	7-1-2009	690-180-0100	7-30-2009	Adopt(T)	9-1-2009
635-065-0401	1-1-2009	Amend	2-1-2009	690-180-0200	7-30-2009	Adopt(T)	9-1-2009
635-065-0625	1-1-2009	Amend	2-1-2009	690-180-0300	7-30-2009	Adopt(T)	9-1-2009
635-065-0740	1-1-2009	Amend	2-1-2009	690-200-0050	1-2-2009	Amend	2-1-2009
635-065-0760	1-1-2009	Amend	2-1-2009	690-205-0200	1-2-2009	Amend	2-1-2009
635-065-0765	1-9-2009	Amend	2-1-2009	690-205-0205	1-2-2009	Adopt	2-1-2009
635-066-0000	1-1-2009	Amend	2-1-2009	690-215-0005	1-2-2009	Amend	2-1-2009
635-066-0010	1-1-2009	Amend	2-1-2009	690-215-0006	1-2-2009	Adopt	2-1-2009
635-066-0020	1-1-2009	Amend	2-1-2009	690-215-0025	1-2-2009	Adopt	2-1-2009
635-067-0000	1-1-2009	Amend	2-1-2009	690-215-0030	1-2-2009	Amend	2-1-2009
635-067-0000	6-10-2009	Amend	7-1-2009	690-215-0035	1-2-2009	Adopt	2-1-2009
635-067-0004	1-1-2009	Amend	2-1-2009	690-215-0040	1-2-2009	Amend	2-1-2009
635-068-0000	3-1-2009	Amend	4-1-2009	690-220-0030	1-2-2009	Amend	2-1-2009
635-068-0000	6-10-2009	Amend	7-1-2009	690-220-0040	1-2-2009	Amend	2-1-2009
635-069-0000	2-3-2009	Amend	3-1-2009	690-220-0050	1-2-2009	Amend	2-1-2009
635-069-0000	6-10-2009	Amend	7-1-2009	690-220-0060	1-2-2009	Repeal	2-1-2009
635-070-0000	4-1-2009	Amend	5-1-2009	690-220-0070	1-2-2009	Amend	2-1-2009
635-070-0000	6-10-2009	Amend	7-1-2009	690-220-0080	1-2-2009	Amend	2-1-2009
635-071-0000	4-1-2009	Amend	5-1-2009	690-220-0115	1-2-2009	Adopt	2-1-2009
635-071-0000	6-10-2009	Amend	7-1-2009	690-240-0010	1-2-2009	Amend	2-1-2009
635-072-0000	1-1-2009	Amend	2-1-2009	690-240-0035	1-2-2009	Amend	2-1-2009

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690-240-0385	1-2-2009	Adopt	2-1-2009	733-030-0460	6-1-2009	Adopt	7-1-2009
690-380-0090	6-18-2009	Amend	8-1-2009	733-030-0470	6-1-2009	Adopt	7-1-2009
690-380-0100	6-18-2009	Amend	8-1-2009	733-030-0480	6-1-2009	Adopt	7-1-2009
690-380-4010	6-18-2009	Amend	8-1-2009	734-059-0015	2-20-2009	Amend	4-1-2009
690-382-0100	6-18-2009	Amend	8-1-2009	734-060-0000	3-23-2009	Adopt	5-1-2009
690-382-0300	6-18-2009	Amend	8-1-2009	734-060-0010	2-20-2009	Amend	4-1-2009
690-382-0500	6-18-2009	Amend	8-1-2009	734-060-0105	2-20-2009	Amend	4-1-2009
690-382-0700	6-18-2009	Amend	8-1-2009	734-060-0175	2-20-2009	Amend	4-1-2009
690-512-0040	7-1-2009	Amend	8-1-2009	734-060-0185	2-20-2009	Amend	4-1-2009
690-512-0100	7-1-2009	Adopt	8-1-2009	734-062-0005	7-20-2009	Amend	9-1-2009
731-050-0030	5-20-2009	Adopt(T)	7-1-2009	734-062-0010	7-20-2009	Amend	9-1-2009
731-070-0240	7-29-2009	Amend(T)	9-1-2009	734-062-0015	7-20-2009	Amend	9-1-2009
731-070-0245	7-29-2009	Adopt(T)	9-1-2009	734-062-0020	7-20-2009	Amend	9-1-2009
733-030-0006	4-3-2009	Amend	5-1-2009	734-062-0025	7-20-2009	Repeal	9-1-2009
733-030-0011	4-3-2009	Amend	5-1-2009	734-062-0030	7-20-2009	Amend	9-1-2009
733-030-0016	4-3-2009	Amend	5-1-2009	734-062-0035	7-20-2009	Amend	9-1-2009
733-030-0021	4-3-2009	Amend	5-1-2009	734-062-0040	7-20-2009	Amend	9-1-2009
733-030-0026	4-3-2009	Amend	5-1-2009	734-062-0045	7-20-2009	Repeal	9-1-2009
733-030-0036	4-3-2009	Amend	5-1-2009	734-062-0100	3-23-2009	Adopt	5-1-2009
733-030-0045	4-3-2009	Amend	5-1-2009	734-062-0105	3-23-2009	Adopt	5-1-2009
733-030-0050	4-3-2009	Amend	5-1-2009	734-062-0110	3-23-2009	Adopt	5-1-2009
733-030-0055	4-3-2009	Amend	5-1-2009	734-062-0115	3-23-2009	Adopt	5-1-2009
733-030-0060	4-3-2009	Amend	5-1-2009	734-062-0120	3-23-2009	Adopt	5-1-2009
733-030-0065	4-3-2009	Amend	5-1-2009	734-062-0125	3-23-2009	Adopt	5-1-2009
733-030-0080	4-3-2009	Amend	5-1-2009	734-071-0010	12-15-2008	Amend	1-1-2009
733-030-0085	4-3-2009	Amend	5-1-2009	734-072-0010	3-20-2009	Amend	5-1-2009
733-030-0090	4-3-2009	Amend	5-1-2009	734-072-0020	3-20-2009	Amend	5-1-2009
733-030-0095	4-3-2009	Amend	5-1-2009	734-072-0022	3-20-2009	Amend	5-1-2009
733-030-0100	4-3-2009	Amend	5-1-2009	734-072-0030	3-20-2009	Amend	5-1-2009
733-030-0105	4-3-2009	Amend	5-1-2009	734-073-0110	12-15-2008	Amend	1-1-2009
733-030-0110	4-3-2009	Amend	5-1-2009	734-073-0120	12-15-2008	Repeal	1-1-2009
733-030-0115	4-3-2009	Amend	5-1-2009	734-075-0010	3-20-2009	Amend	5-1-2009
733-030-0120	4-3-2009	Amend	5-1-2009	734-078-0015	4-17-2009	Amend	6-1-2009
733-030-0125	4-3-2009	Amend	5-1-2009	734-078-0017	4-17-2009	Adopt	6-1-2009
733-030-0130	4-3-2009	Amend	5-1-2009	734-082-0015	3-20-2009	Amend	5-1-2009
733-030-0135	4-3-2009	Amend	5-1-2009	734-082-0025	3-20-2009	Amend	5-1-2009
733-030-0140	4-3-2009	Repeal	5-1-2009	734-082-0040	3-20-2009	Amend	5-1-2009
733-030-0150	4-3-2009	Amend	5-1-2009	735-010-0130	1-1-2009	Amend	1-1-2009
733-030-0155	4-3-2009	Amend	5-1-2009	735-010-0130(T)	1-1-2009	Repeal	1-1-2009
733-030-0160	4-3-2009	Amend	5-1-2009	735-016-0030	6-1-2009	Amend	7-1-2009
733-030-0180	4-3-2009	Amend	5-1-2009	735-016-0070	6-1-2009	Amend	7-1-2009
733-030-0190	4-3-2009	Amend	5-1-2009	735-032-0036	2-20-2009	Adopt	4-1-2009
733-030-0250	4-3-2009	Amend	5-1-2009	735-060-0040	7-1-2009	Amend	8-1-2009
733-030-0260	4-3-2009	Amend	5-1-2009	735-060-0055	7-1-2009	Amend	8-1-2009
733-030-0270	4-3-2009	Amend	5-1-2009	735-060-0057	7-1-2009	Amend	8-1-2009
733-030-0280	4-3-2009	Amend	5-1-2009	735-060-0065	7-1-2009	Amend	8-1-2009
733-030-0290	4-3-2009	Amend	5-1-2009	735-060-0105	7-1-2009	Amend	8-1-2009
733-030-0300	4-3-2009	Amend	5-1-2009	735-060-0110	7-1-2009	Amend	8-1-2009
733-030-0320	4-3-2009	Amend	5-1-2009	735-060-0120	7-1-2009	Amend	8-1-2009
733-030-0330	4-3-2009	Amend	5-1-2009	735-060-0130	7-1-2009	Amend	8-1-2009
733-030-0340	4-3-2009	Amend	5-1-2009	735-062-0005	1-1-2009	Amend	1-1-2009
733-030-0350	4-3-2009	Amend	5-1-2009	735-062-0014	1-1-2009	Adopt	1-1-2009
733-030-0400	6-1-2009	Adopt	7-1-2009	735-062-0014(T)	1-1-2009	Repeal	1-1-2009
733-030-0410	6-1-2009	Adopt	7-1-2009	735-062-0015	1-1-2009	Amend	1-1-2009
733-030-0420	6-1-2009	Adopt	7-1-2009	735-062-0015(T)	1-1-2009	Repeal	1-1-2009
733-030-0430	6-1-2009	Adopt	7-1-2009	735-062-0020	1-1-2009	Amend	1-1-2009
733-030-0440	6-1-2009	Adopt	7-1-2009	735-062-0020(T)	1-1-2009	Repeal	1-1-2009

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735-062-0078	2-20-2009	Adopt	4-1-2009	735-176-0017	7-1-2009	Adopt	7-1-2009
735-062-0080	2-20-2009	Amend	4-1-2009	735-176-0018	7-1-2009	Repeal	7-1-2009
735-062-0080	7-1-2009	Amend	8-1-2009	735-176-0019	7-1-2009	Adopt	7-1-2009
735-062-0096	3-20-2009	Adopt	5-1-2009	735-176-0020	7-1-2009	Amend	7-1-2009
735-062-0140	2-20-2009	Amend	4-1-2009	735-176-0021	7-1-2009	Adopt	7-1-2009
735-063-0000	2-20-2009	Adopt	4-1-2009	735-176-0022	7-1-2009	Adopt	7-1-2009
735-063-0050	2-20-2009	Amend	4-1-2009	735-176-0030	7-1-2009	Amend	7-1-2009
735-063-0055	2-20-2009	Repeal	4-1-2009	735-176-0040	7-1-2009	Amend	7-1-2009
735-063-0060	2-20-2009	Amend	4-1-2009	735-176-0045	7-1-2009	Adopt	7-1-2009
735-063-0065	2-20-2009	Amend	4-1-2009	736-004-0062	12-15-2008	Amend	1-1-2009
735-063-0070	2-20-2009	Amend	4-1-2009	736-004-0062	6-18-2009	Amend	8-1-2009
735-063-0075	2-20-2009	Amend	4-1-2009	736-010-0040	12-15-2008	Amend	1-1-2009
735-064-0020	6-25-2009	Amend	8-1-2009	736-010-0040	6-18-2009	Amend	8-1-2009
735-064-0040	6-25-2009	Amend	8-1-2009	736-010-0055	12-15-2008	Amend	1-1-2009
735-064-0110	12-15-2008	Amend	1-1-2009	736-010-0055	6-18-2009	Amend	8-1-2009
735-070-0043	1-26-2009	Adopt	3-1-2009	736-015-0015	8-1-2009	Amend	7-1-2009
735-070-0043(T)	1-26-2009	Repeal	3-1-2009	736-015-0020	2-10-2009	Amend	3-1-2009
735-150-0005	3-20-2009	Amend	5-1-2009	736-015-0035	6-2-2009	Amend	7-1-2009
735-158-0000	3-20-2009	Amend	5-1-2009	736-015-0040	2-10-2009	Amend	3-1-2009
735-158-0005	3-20-2009	Adopt	5-1-2009	736-018-0045	2-1-2009	Amend	2-1-2009
735-158-0010	3-20-2009	Adopt	5-1-2009	736-018-0045	4-1-2009	Amend	4-1-2009
735-160-0010	2-20-2009	Amend	4-1-2009	736-018-0045	5-1-2009	Amend	5-1-2009
735-160-0011	2-20-2009	Amend	4-1-2009	736-018-0045	5-1-2009	Amend	5-1-2009
735-160-0012	2-20-2009	Repeal	4-1-2009	736-018-0045	6-1-2009	Amend	6-1-2009
735-160-0013	2-20-2009	Repeal	4-1-2009	736-140-0010	6-2-2009	Adopt(T)	7-1-2009
735-160-0075	2-20-2009	Amend	4-1-2009	736-140-0020	6-2-2009	Adopt(T)	7-1-2009
735-160-0080	2-20-2009	Amend	4-1-2009	736-146-0010	12-15-2008	Amend	1-1-2009
735-160-0085	2-20-2009	Repeal	4-1-2009	736-146-0012	12-15-2008	Amend	1-1-2009
735-160-0093	2-20-2009	Repeal	4-1-2009	736-146-0015	12-15-2008	Amend	1-1-2009
735-160-0125	2-20-2009	Amend	4-1-2009	736-146-0020	12-15-2008	Amend	1-1-2009
735-170-0000	7-1-2009	Amend	7-1-2009	736-146-0025	12-15-2008	Repeal	1-1-2009
735-170-0010	7-1-2009	Amend	7-1-2009	736-146-0030	12-15-2008	Repeal	1-1-2009
735-170-0020	7-1-2009	Amend	7-1-2009	736-146-0040	12-15-2008	Repeal	1-1-2009
735-170-0030	7-1-2009	Repeal	7-1-2009	736-146-0050	12-15-2008	Amend	1-1-2009
735-170-0040	7-1-2009	Amend	7-1-2009	736-146-0060	12-15-2008	Amend	1-1-2009
735-170-0045	7-1-2009	Amend	7-1-2009	736-146-0070	12-15-2008	Amend	1-1-2009
735-170-0050	7-1-2009	Amend	7-1-2009	736-146-0080	12-15-2008	Amend	1-1-2009
735-170-0060	7-1-2009	Repeal	7-1-2009	736-146-0090	12-15-2008	Amend	1-1-2009
735-170-0070	7-1-2009	Repeal	7-1-2009	736-146-0100	12-15-2008	Amend	1-1-2009
735-170-0080	7-1-2009	Repeal	7-1-2009	736-146-0110	12-15-2008	Amend	1-1-2009
735-170-0090	7-1-2009	Amend	7-1-2009	736-146-0120	12-15-2008	Amend	1-1-2009
735-170-0100	7-1-2009	Amend	7-1-2009	736-146-0130	12-15-2008	Amend	1-1-2009
735-170-0105	7-1-2009	Adopt	7-1-2009	736-146-0140	12-15-2008	Amend	1-1-2009
735-170-0110	7-1-2009	Amend	7-1-2009	736-147-0010	12-15-2008	Amend	1-1-2009
735-170-0115	7-1-2009	Adopt	7-1-2009	736-147-0020	12-15-2008	Repeal	1-1-2009
735-170-0120	7-1-2009	Amend	7-1-2009	736-147-0030	12-15-2008	Amend	1-1-2009
735-170-0130	7-1-2009	Amend	7-1-2009	736-147-0040	12-15-2008	Adopt	1-1-2009
735-170-0140	7-1-2009	Amend	7-1-2009	736-147-0050	12-15-2008	Amend	1-1-2009
735-174-0000	7-1-2009	Amend	7-1-2009	736-147-0060	12-15-2008	Amend	1-1-2009
735-174-0010	7-1-2009	Amend	7-1-2009	736-147-0070	12-15-2008	Adopt	1-1-2009
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735-174-0030	7-1-2009	Amend	7-1-2009	736-148-0020	12-15-2008	Amend	1-1-2009
735-174-0035	7-1-2009	Adopt	7-1-2009	736-149-0010	12-15-2008	Amend	1-1-2009
735-174-0040	7-1-2009	Amend	7-1-2009	740-015-0020	12-15-2008	Amend	1-1-2009
735-174-0045	7-1-2009	Adopt	7-1-2009	740-015-0040	12-15-2008	Amend	1-1-2009
735-176-0000	7-1-2009	Amend	7-1-2009	740-100-0010	4-1-2009	Amend	5-1-2009
735-176-0010	7-1-2009	Amend	7-1-2009	740-100-0060	4-1-2009	Amend	5-1-2009

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740-100-0070	4-1-2009	Amend	5-1-2009	800-030-0050	2-5-2009	Amend	3-1-2009
740-100-0080	4-1-2009	Amend	5-1-2009	801-001-0035	1-1-2009	Amend	2-1-2009
740-100-0085	4-1-2009	Adopt	5-1-2009	801-010-0010	1-1-2009	Amend	2-1-2009
740-100-0090	4-1-2009	Amend	5-1-2009	801-010-0050	1-1-2009	Amend	2-1-2009
740-100-0100	4-1-2009	Amend	5-1-2009	801-010-0115	1-1-2009	Amend	2-1-2009
740-110-0010	4-1-2009	Amend	5-1-2009	801-010-0345	1-1-2009	Amend	2-1-2009
740-110-0080	4-1-2009	Amend	5-1-2009	801-030-0020	1-1-2009	Amend	2-1-2009
741-100-0005	2-20-2009	Adopt	4-1-2009	801-040-0010	1-1-2009	Amend	2-1-2009
741-100-0020	2-20-2009	Amend	4-1-2009	801-040-0090	1-1-2009	Amend	2-1-2009
741-100-0030	2-20-2009	Amend	4-1-2009	804-001-0002	7-1-2009	Amend	7-1-2009
741-100-0040	2-20-2009	Adopt	4-1-2009	806-001-0003	5-14-2009	Amend	6-1-2009
741-105-0010	2-20-2009	Repeal	4-1-2009	806-001-0003	7-1-2009	Amend	7-1-2009
741-105-0020	2-20-2009	Repeal	4-1-2009	806-010-0020	7-10-2009	Amend	8-1-2009
741-105-0030	2-20-2009	Repeal	4-1-2009	806-010-0037	7-10-2009	Amend	8-1-2009
741-110-0020	2-20-2009	Amend	4-1-2009	806-010-0095	2-5-2009	Amend	3-1-2009
741-110-0030	2-20-2009	Amend	4-1-2009	808-001-0008	7-1-2009	Amend	7-1-2009
741-110-0040	2-20-2009	Amend	4-1-2009	808-002-0480	6-1-2009	Amend	7-1-2009
741-110-0050	2-20-2009	Amend	4-1-2009	808-002-0780	2-1-2009	Amend	3-1-2009
741-110-0060	2-20-2009	Amend	4-1-2009	808-003-0045	7-1-2009	Amend	7-1-2009
741-110-0070	2-20-2009	Amend	4-1-2009	808-003-0095	6-3-2009	Amend(T)	7-1-2009
741-110-0080	2-20-2009	Amend	4-1-2009	808-003-0100	7-1-2009	Amend	7-1-2009
741-110-0090	2-20-2009	Amend	4-1-2009	808-003-0105	7-1-2009	Amend	7-1-2009
741-115-0030	2-20-2009	Amend	4-1-2009	808-003-0130	7-1-2009	Amend	7-1-2009
741-115-0040	2-20-2009	Amend	4-1-2009	808-040-0020	5-13-2009	Amend(T)	6-1-2009
741-115-0060	2-20-2009	Amend	4-1-2009	808-040-0050	5-13-2009	Amend(T)	6-1-2009
741-115-0070	2-20-2009	Amend	4-1-2009	808-040-0080	5-13-2009	Amend(T)	6-1-2009
741-120-0020	2-20-2009	Amend	4-1-2009	809-010-0025	7-1-2009	Amend	7-1-2009
741-120-0040	2-20-2009	Amend	4-1-2009	811-015-0025	12-23-2008	Amend	2-1-2009
741-125-0020	2-20-2009	Repeal	4-1-2009	811-015-0030	1-29-2009	Amend	3-1-2009
741-200-0010	2-20-2009	Amend	4-1-2009	812-001-0200	2-23-2009	Amend(T)	4-1-2009
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741-200-0065	2-20-2009	Adopt	4-1-2009	812-001-0200(T)	6-1-2009	Repeal	6-1-2009
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800-010-0025	2-5-2009	Amend	3-1-2009	812-002-0060	11-20-2008	Amend	1-1-2009
800-010-0030	2-5-2009	Amend	3-1-2009	812-002-0262	2-1-2009	Adopt	3-1-2009
800-010-0040	2-5-2009	Amend	3-1-2009	812-002-0420	11-20-2008	Amend	1-1-2009
800-010-0041	2-5-2009	Amend	3-1-2009	812-002-0420	6-1-2009	Amend	6-1-2009
800-010-0042	2-5-2009	Amend	3-1-2009	812-003-0120	6-1-2009	Amend	6-1-2009
800-015-0005	2-5-2009	Amend	3-1-2009	812-003-0140	2-1-2009	Amend	3-1-2009
800-015-0010	2-5-2009	Amend	3-1-2009	812-003-0141	2-1-2009	Adopt	3-1-2009
800-015-0015	2-5-2009	Amend	3-1-2009	812-003-0200	6-1-2009	Amend	6-1-2009
800-015-0020	2-5-2009	Amend	3-1-2009	812-003-0320	6-1-2009	Amend	6-1-2009
800-015-0030	2-5-2009	Amend	3-1-2009	812-003-0330	6-1-2009	Amend	6-1-2009
800-020-0015	2-5-2009	Amend	3-1-2009	812-003-0450	11-20-2008	Repeal	1-1-2009
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800-020-0030	2-5-2009	Amend	3-1-2009	812-005-0800	11-20-2008	Amend	1-1-2009
800-020-0035	2-5-2009	Amend	3-1-2009	812-005-0800	2-1-2009	Amend	3-1-2009
800-025-0020	2-5-2009	Amend	3-1-2009	812-005-0800	6-1-2009	Amend	6-1-2009
800-025-0023	2-5-2009	Amend	3-1-2009	812-006-0100	11-20-2008	Amend	1-1-2009
800-025-0025	2-5-2009	Amend	3-1-2009	812-006-0200	11-20-2008	Amend	1-1-2009
800-025-0027	2-5-2009	Amend	3-1-2009	812-006-0300	6-1-2009	Amend	6-1-2009
800-025-0030	2-5-2009	Amend	3-1-2009	812-006-0400	6-1-2009	Amend	6-1-2009
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800-025-0050	2-5-2009	Amend	3-1-2009	812-020-0050	11-20-2008	Adopt	1-1-2009
800-025-0060	2-5-2009	Amend	3-1-2009	812-020-0055	11-20-2008	Adopt	1-1-2009
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812-020-0065	11-20-2008	Adopt	1-1-2009	817-035-0090	6-1-2009	Amend	7-1-2009
812-020-0070	11-20-2008	Adopt	1-1-2009	817-035-0110	6-1-2009	Amend	7-1-2009
812-020-0070	2-1-2009	Amend	3-1-2009	817-040-0003	7-1-2009	Amend(T)	8-1-2009
812-020-0071	7-1-2009	Adopt	8-1-2009	818-001-0087	7-1-2009	Amend(T)	7-1-2009
812-020-0072	11-20-2008	Adopt	1-1-2009	820-010-0215	12-12-2008	Amend	1-1-2009
812-020-0080	11-20-2008	Adopt	1-1-2009	820-010-0325	5-15-2009	Amend	6-1-2009
812-020-0082	11-20-2008	Adopt	1-1-2009	820-010-0635	5-15-2009	Amend	6-1-2009
812-020-0085	11-20-2008	Adopt	1-1-2009	820-030-0060	5-15-2009	Amend	6-1-2009
812-020-0087	11-20-2008	Adopt	1-1-2009	820-040-0005	5-15-2009	Amend	6-1-2009
812-020-0090	11-20-2008	Adopt	1-1-2009	830-001-0000	7-1-2009	Amend	8-1-2009
812-021-0000	7-1-2009	Adopt	8-1-2009	830-011-0000	7-1-2009	Amend	8-1-2009
812-021-0005	7-1-2009	Adopt	8-1-2009	830-011-0020	7-1-2009	Amend	8-1-2009
812-021-0010	7-1-2009	Adopt	8-1-2009	830-011-0040	7-1-2009	Amend	8-1-2009
812-021-0011	7-1-2009	Adopt	8-1-2009	830-020-0030	7-1-2009	Amend	8-1-2009
812-021-0015	7-1-2009	Adopt	8-1-2009	830-030-0000	7-1-2009	Amend	8-1-2009
812-021-0019	7-1-2009	Adopt	8-1-2009	830-030-0050	7-1-2009	Amend	8-1-2009
812-021-0023	7-1-2009	Adopt	8-1-2009	830-030-0060	7-1-2009	Amend	8-1-2009
812-021-0025	7-1-2009	Adopt	8-1-2009	830-040-0000	7-1-2009	Amend	8-1-2009
812-021-0028	7-1-2009	Adopt	8-1-2009	830-040-0040	7-1-2009	Amend	8-1-2009
812-021-0030	7-1-2009	Adopt	8-1-2009	833-020-0050	12-26-2008	Amend	2-1-2009
812-021-0031	7-1-2009	Adopt	8-1-2009	833-020-0164	12-26-2008	Amend	2-1-2009
812-021-0032	7-1-2009	Adopt	8-1-2009	833-025-0050	12-26-2008	Amend	2-1-2009
812-021-0033	7-1-2009	Adopt	8-1-2009	833-030-0001	12-26-2008	Amend	2-1-2009
812-021-0034	7-1-2009	Adopt	8-1-2009	833-030-0010	12-26-2008	Amend	2-1-2009
812-021-0035	7-1-2009	Adopt	8-1-2009	833-060-0001	12-26-2008	Am. & Ren.	2-1-2009
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812-021-0042	7-1-2009	Adopt	8-1-2009	833-060-0001	12-26-2008	Am. & Ren.	2-1-2009
812-021-0045	7-1-2009	Adopt	8-1-2009	833-060-0001	12-26-2008	Am. & Ren.	2-1-2009
812-021-0047	7-1-2009	Adopt	8-1-2009	833-060-0001	12-26-2008	Am. & Ren.	2-1-2009
813-110-0010	2-9-2009	Amend(T)	3-1-2009	833-060-0001	12-26-2008	Am. & Ren.	2-1-2009
813-110-0010	8-5-2009	Amend	9-1-2009	836-011-0000	1-29-2009	Amend	3-1-2009
813-110-0010(T)	8-5-2009	Repeal	9-1-2009	836-012-0331	7-9-2009	Adopt(T)	8-1-2009
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817-010-0101	6-1-2009	Amend	7-1-2009	836-043-0005	1-1-2009	Amend	1-1-2009
817-020-0005	6-1-2009	Am. & Ren.	7-1-2009	836-043-0009	1-1-2009	Amend	1-1-2009
817-020-0011	6-1-2009	Am. & Ren.	7-1-2009	836-043-0017	1-1-2009	Amend	1-1-2009
817-020-0012	6-1-2009	Am. & Ren.	7-1-2009	836-043-0021	1-1-2009	Amend	1-1-2009
817-020-0015	6-1-2009	Amend	7-1-2009	836-043-0024	1-1-2009	Amend	1-1-2009
817-030-0005	12-1-2008	Amend(T)	1-1-2009	836-043-0028	1-1-2009	Amend	1-1-2009
817-030-0005	6-1-2009	Amend	7-1-2009	836-043-0032	1-1-2009	Amend	1-1-2009
817-030-0015	12-1-2008	Amend(T)	1-1-2009	836-043-0034	1-1-2009	Adopt	1-1-2009
817-030-0015	6-1-2009	Amend	7-1-2009	836-043-0036	1-1-2009	Repeal	1-1-2009
817-030-0020	12-1-2008	Amend(T)	1-1-2009	836-043-0037	1-1-2009	Repeal	1-1-2009
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817-030-0040	12-1-2008	Amend(T)	1-1-2009	836-043-0044	1-1-2009	Amend	1-1-2009
817-030-0040	6-1-2009	Amend	7-1-2009	836-043-0046	1-1-2009	Amend	1-1-2009
817-030-0045	12-1-2008	Amend(T)	1-1-2009	836-043-0046	8-14-2009	Amend	9-1-2009
817-030-0045	6-1-2009	Amend	7-1-2009	836-043-0048	1-1-2009	Amend	1-1-2009
817-030-0065	12-1-2008	Amend(T)	1-1-2009	836-043-0050	1-1-2009	Amend	1-1-2009
817-030-0065	6-1-2009	Amend	7-1-2009	836-043-0053	1-1-2009	Amend	1-1-2009
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817-035-0050	6-1-2009	Amend	7-1-2009	836-043-0068	1-1-2009	Amend	1-1-2009

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836-043-0070	1-1-2009	Repeal	1-1-2009	839-003-0040	12-5-2008	Amend	1-1-2009
836-043-0071	1-1-2009	Adopt	1-1-2009	839-003-0045	12-5-2008	Amend	1-1-2009
836-043-0076	1-1-2009	Amend	1-1-2009	839-003-0050	12-5-2008	Amend	1-1-2009
836-043-0079	1-1-2009	Amend	1-1-2009	839-003-0055	12-5-2008	Amend	1-1-2009
836-043-0082	1-1-2009	Amend	1-1-2009	839-003-0060	12-5-2008	Amend	1-1-2009
836-043-0086	1-1-2009	Repeal	1-1-2009	839-003-0065	12-5-2008	Amend	1-1-2009
836-043-0087	1-1-2009	Adopt	1-1-2009	839-003-0070	12-5-2008	Amend	1-1-2009
836-043-0089	1-1-2009	Amend	1-1-2009	839-003-0080	12-5-2008	Amend	1-1-2009
836-051-0106	12-9-2008	Amend	1-1-2009	839-003-0085	12-5-2008	Amend	1-1-2009
836-051-0750	12-9-2008	Adopt	1-1-2009	839-003-0090	12-5-2008	Amend	1-1-2009
836-051-0755	12-9-2008	Adopt	1-1-2009	839-003-0095	12-5-2008	Amend	1-1-2009
836-051-0760	12-9-2008	Adopt	1-1-2009	839-003-0100	12-5-2008	Amend	1-1-2009
836-051-0765	12-9-2008	Adopt	1-1-2009	839-003-0200	12-5-2008	Amend	1-1-2009
836-051-0770	12-9-2008	Adopt	1-1-2009	839-003-0205	12-5-2008	Amend	1-1-2009
836-051-0775	12-9-2008	Adopt	1-1-2009	839-003-0210	12-5-2008	Amend	1-1-2009
836-052-0119	7-1-2009	Amend	8-1-2009	839-003-0215	12-5-2008	Amend	1-1-2009
836-052-0129	7-1-2009	Amend	8-1-2009	839-003-0220	12-5-2008	Amend	1-1-2009
836-052-0132	7-1-2009	Adopt	8-1-2009	839-003-0225	12-5-2008	Amend	1-1-2009
836-052-0133	7-1-2009	Amend	8-1-2009	839-003-0230	12-5-2008	Amend	1-1-2009
836-052-0134	7-1-2009	Amend	8-1-2009	839-003-0235	12-5-2008	Amend	1-1-2009
836-052-0141	7-1-2009	Adopt	8-1-2009	839-003-0240	12-5-2008	Amend	1-1-2009
836-052-0142	7-1-2009	Amend	8-1-2009	839-003-0245	12-5-2008	Amend	1-1-2009
836-052-0192	7-1-2009	Adopt	8-1-2009	839-005-0000	12-5-2008	Amend	1-1-2009
836-052-0900	10-1-2009	Amend	9-1-2009	839-005-0003	12-5-2008	Amend	1-1-2009
836-053-0850	4-28-2009	Adopt(T)	6-1-2009	839-005-0010	12-5-2008	Amend	1-1-2009
836-053-0855	4-28-2009	Adopt(T)	6-1-2009	839-005-0016	12-5-2008	Amend	1-1-2009
836-053-0860	4-28-2009	Adopt(T)	6-1-2009	839-005-0026	12-5-2008	Amend	1-1-2009
836-053-0865	4-28-2009	Adopt(T)	6-1-2009	839-005-0195	12-5-2008	Amend	1-1-2009
836-072-0001	12-10-2008	Adopt	1-1-2009	839-005-0200	12-5-2008	Amend	1-1-2009
836-072-0005	12-10-2008	Adopt	1-1-2009	839-005-0205	12-5-2008	Amend	1-1-2009
836-072-0010	12-10-2008	Adopt	1-1-2009	839-005-0220	12-5-2008	Amend	1-1-2009
836-072-0015	12-10-2008	Adopt	1-1-2009	839-020-0050	1-12-2009	Amend	2-1-2009
836-072-0020	12-10-2008	Adopt	1-1-2009	839-025-0013	8-5-2009	Amend(T)	9-1-2009
836-072-0025	12-10-2008	Adopt	1-1-2009	839-025-0020	8-5-2009	Amend(T)	9-1-2009
836-072-0030	12-10-2008	Adopt	1-1-2009	839-025-0030	8-5-2009	Amend(T)	9-1-2009
836-072-0035	12-10-2008	Adopt	1-1-2009	839-025-0035	8-5-2009	Amend(T)	9-1-2009
836-072-0040	12-10-2008	Adopt	1-1-2009	839-025-0085	8-5-2009	Amend(T)	9-1-2009
836-072-0045	12-10-2008	Adopt	1-1-2009	839-025-0200	8-5-2009	Amend(T)	9-1-2009
837-012-0530	4-10-2009	Amend	5-1-2009	839-025-0210	8-5-2009	Amend(T)	9-1-2009
837-012-0625	4-10-2009	Amend	5-1-2009	839-025-0530	8-5-2009	Amend(T)	9-1-2009
837-012-0750	4-10-2009	Amend	5-1-2009	839-025-0700	12-1-2008	Amend	1-1-2009
837-040-0001	12-31-2008	Amend	2-1-2009	839-025-0700	12-29-2008	Amend	2-1-2009
837-040-0015	12-31-2008	Adopt	2-1-2009	839-025-0700	1-1-2009	Amend	2-1-2009
837-040-0020	12-31-2008	Amend	2-1-2009	839-025-0700	1-6-2009	Amend	2-1-2009
837-046-0000	6-2-2009	Adopt(T)	7-1-2009	839-025-0700	1-12-2009	Amend	2-1-2009
837-046-0020	6-2-2009	Adopt(T)	7-1-2009	839-025-0700	2-11-2009	Amend	3-1-2009
837-046-0040	6-2-2009	Adopt(T)	7-1-2009	839-025-0700	3-17-2009	Amend	5-1-2009
837-046-0060	6-2-2009	Adopt(T)	7-1-2009	839-025-0700	3-24-2009	Amend	5-1-2009
837-046-0080	6-2-2009	Adopt(T)	7-1-2009	839-025-0700	4-1-2009	Amend	5-1-2009
837-046-0100	6-2-2009	Adopt(T)	7-1-2009	839-025-0700	6-10-2009	Amend	7-1-2009
837-046-0120	6-2-2009	Adopt(T)	7-1-2009	839-025-0700	6-30-2009	Amend	8-1-2009
837-046-0140	6-2-2009	Adopt(T)	7-1-2009	839-025-0700	7-1-2009	Amend	8-1-2009
837-046-0160	6-2-2009	Adopt(T)	7-1-2009	839-025-0700	7-1-2009	Amend	8-1-2009
837-046-0180	6-2-2009	Adopt(T)	7-1-2009	839-025-0700	7-10-2009	Amend	8-1-2009
839-003-0005	12-5-2008	Amend	1-1-2009	839-025-0700	7-16-2009	Amend	9-1-2009
839-003-0010	12-5-2008	Amend	1-1-2009	839-025-0700	7-22-2009	Amend	9-1-2009
839-003-0020	12-5-2008	Amend	1-1-2009	839-025-0700	7-29-2009	Amend	9-1-2009
839-003-0025	12-5-2008	Amend	1-1-2009	839-025-0750	3-1-2009	Amend	4-1-2009

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845-001-0005	8-1-2009	Amend	8-1-2009	850-060-0225	12-8-2008	Amend	1-1-2009
845-005-0320	7-1-2009	Amend	8-1-2009	850-060-0225	6-17-2009	Amend	8-1-2009
845-005-0321	7-1-2009	Adopt	8-1-2009	850-060-0226	12-8-2008	Amend	1-1-2009
845-005-0405	4-1-2009	Amend	5-1-2009	850-060-0226	6-17-2009	Amend	8-1-2009
845-005-0410	4-1-2009	Amend	5-1-2009	851-031-0090	6-26-2009	Amend	8-1-2009
845-005-0415	4-1-2009	Amend	5-1-2009	851-050-0138	11-26-2008	Amend	1-1-2009
845-005-0415	7-15-2009	Amend(T)	8-1-2009	851-056-0006	11-26-2008	Amend	1-1-2009
845-006-0335	4-1-2009	Amend	5-1-2009	851-056-0022	11-26-2008	Amend	1-1-2009
845-006-0345	5-1-2009	Amend	6-1-2009	851-061-0090	5-15-2009	Amend	6-1-2009
845-006-0425	7-1-2009	Amend	8-1-2009	851-062-0020	11-26-2008	Amend	1-1-2009
845-006-0500	5-1-2009	Amend	6-1-2009	851-062-0120	6-26-2009	Amend	8-1-2009
845-008-0045	7-1-2009	Am. & Ren.	8-1-2009	851-063-0035	5-15-2009	Amend	6-1-2009
845-010-0154	12-20-2008	Adopt	2-1-2009	852-005-0005	7-1-2009	Amend	7-1-2009
845-013-0050	5-1-2009	Amend	6-1-2009	852-070-0005	7-1-2009	Amend	7-1-2009
845-013-0060	5-1-2009	Amend	6-1-2009	852-070-0055	7-1-2009	Amend	7-1-2009
845-020-0025	1-1-2009	Amend	2-1-2009	852-070-0060	7-1-2009	Amend	7-1-2009
845-020-0035	1-1-2009	Amend	2-1-2009	855-007-0010	1-5-2009	Adopt(T)	2-1-2009
847-001-0030	5-1-2009	Amend	6-1-2009	855-007-0010	6-22-2009	Adopt	8-1-2009
847-005-0005	1-22-2009	Amend	3-1-2009	855-007-0010(T)	6-22-2009	Repeal	8-1-2009
847-008-0020	1-22-2009	Amend	3-1-2009	855-007-0020	1-5-2009	Adopt(T)	2-1-2009
847-008-0040	1-22-2009	Amend	3-1-2009	855-007-0020	6-22-2009	Adopt	8-1-2009
847-008-0060	5-1-2009	Amend	6-1-2009	855-007-0020(T)	6-22-2009	Repeal	8-1-2009
847-008-0070	1-22-2009	Adopt	3-1-2009	855-007-0030	1-5-2009	Adopt(T)	2-1-2009
847-010-0054	1-22-2009	Repeal	3-1-2009	855-007-0030	6-22-2009	Adopt	8-1-2009
847-010-0055	1-22-2009	Repeal	3-1-2009	855-007-0030(T)	6-22-2009	Repeal	8-1-2009
847-010-0073	5-1-2009	Amend	6-1-2009	855-007-0040	1-5-2009	Adopt(T)	2-1-2009
847-010-0100	1-22-2009	Amend	3-1-2009	855-007-0040	6-22-2009	Adopt	8-1-2009
847-020-0130	1-22-2009	Amend	3-1-2009	855-007-0040(T)	6-22-2009	Repeal	8-1-2009
847-020-0170	4-9-2009	Amend(T)	5-1-2009	855-007-0050	1-5-2009	Adopt(T)	2-1-2009
847-035-0030	5-1-2009	Amend	6-1-2009	855-007-0050	6-22-2009	Adopt	8-1-2009
847-035-0030	7-20-2009	Amend	9-1-2009	855-007-0050(T)	6-22-2009	Repeal	8-1-2009
847-050-0037	7-14-2009	Amend(T)	8-1-2009	855-007-0060	1-5-2009	Adopt(T)	2-1-2009
847-065-0000	5-1-2009	Amend	6-1-2009	855-007-0060	6-22-2009	Adopt	8-1-2009
847-070-0016	7-20-2009	Amend	9-1-2009	855-007-0060(T)	6-22-2009	Repeal	8-1-2009
847-070-0019	1-22-2009	Amend	3-1-2009	855-007-0080	1-5-2009	Adopt(T)	2-1-2009
847-070-0020	1-22-2009	Amend	3-1-2009	855-007-0080	6-22-2009	Adopt	8-1-2009
847-070-0045	1-22-2009	Amend	3-1-2009	855-007-0080(T)	6-22-2009	Repeal	8-1-2009
848-005-0010	5-14-2009	Amend	6-1-2009	855-007-0090	1-5-2009	Adopt(T)	2-1-2009
848-005-0010	7-1-2009	Amend	6-1-2009	855-007-0090	6-22-2009	Adopt	8-1-2009
848-010-0015	1-2-2009	Amend	2-1-2009	855-007-0090(T)	6-22-2009	Repeal	8-1-2009
848-010-0020	1-2-2009	Amend	2-1-2009	855-007-0100	1-5-2009	Adopt(T)	2-1-2009
848-010-0022	1-2-2009	Adopt	2-1-2009	855-007-0100	6-22-2009	Adopt	8-1-2009
848-010-0026	1-2-2009	Amend	2-1-2009	855-007-0100(T)	6-22-2009	Repeal	8-1-2009
848-010-0044	1-2-2009	Amend	2-1-2009	855-007-0110	1-5-2009	Adopt(T)	2-1-2009
848-015-0030	1-2-2009	Amend	2-1-2009	855-007-0110	6-22-2009	Adopt	8-1-2009
848-020-0030	1-2-2009	Amend	2-1-2009	855-007-0110(T)	6-22-2009	Repeal	8-1-2009
848-020-0060	1-2-2009	Amend	2-1-2009	855-007-0120	1-5-2009	Adopt(T)	2-1-2009
848-035-0020	1-2-2009	Amend	2-1-2009	855-007-0120	6-22-2009	Adopt	8-1-2009
848-035-0030	1-2-2009	Amend	2-1-2009	855-007-0120(T)	6-22-2009	Repeal	8-1-2009
848-035-0035	1-2-2009	Adopt	2-1-2009	855-060-0003	6-26-2009	Adopt(T)	8-1-2009
848-035-0040	1-2-2009	Amend	2-1-2009	855-062-0003	6-26-2009	Adopt(T)	8-1-2009
848-040-0100	1-2-2009	Amend	2-1-2009	855-062-0005	6-26-2009	Adopt(T)	8-1-2009
848-040-0117	1-2-2009	Amend	2-1-2009	855-062-0020	6-26-2009	Adopt(T)	8-1-2009
848-040-0145	1-2-2009	Amend	2-1-2009	855-062-0030	6-26-2009	Adopt(T)	8-1-2009
848-040-0160	1-2-2009	Amend	2-1-2009	855-062-0040	6-26-2009	Adopt(T)	8-1-2009
848-040-0175	1-2-2009	Adopt	2-1-2009	855-062-0050	6-26-2009	Adopt(T)	8-1-2009
848-045-0020	1-2-2009	Amend	2-1-2009	855-065-0001	6-26-2009	Amend(T)	8-1-2009

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855-065-0006	6-26-2009	Amend(T)	8-1-2009	863-015-0070	1-1-2009	Am. & Ren.	1-1-2009
855-110-0003	6-26-2009	Adopt(T)	8-1-2009	863-015-0075	1-1-2009	Am. & Ren.	1-1-2009
855-110-0007	6-26-2009	Amend(T)	8-1-2009	863-015-0076	1-1-2009	Am. & Ren.	1-1-2009
855-110-0010	6-26-2009	Amend(T)	8-1-2009	863-015-0080	1-1-2009	Am. & Ren.	1-1-2009
856-010-0008	6-23-2009	Adopt	8-1-2009	863-015-0085	1-1-2009	Am. & Ren.	1-1-2009
856-010-0010	6-23-2009	Amend	8-1-2009	863-015-0095	1-1-2009	Am. & Ren.	1-1-2009
856-010-0010	8-5-2009	Amend	9-1-2009	863-015-0100	1-1-2009	Am. & Ren.	1-1-2009
856-010-0015	2-10-2009	Amend(T)	3-1-2009	863-015-0120	1-1-2009	Am. & Ren.	1-1-2009
856-010-0022	6-19-2009	Adopt	8-1-2009	863-015-0130	1-1-2009	Amend	1-1-2009
859-040-0010	12-17-2008	Amend(T)	2-1-2009	863-015-0135	1-1-2009	Amend	1-1-2009
859-040-0010	5-5-2009	Amend	6-1-2009	863-015-0140	1-1-2009	Amend	1-1-2009
859-040-0010(T)	5-5-2009	Repeal	6-1-2009	863-015-0145	1-1-2009	Amend	1-1-2009
859-040-0015	12-17-2008	Amend(T)	2-1-2009	863-015-0150	1-1-2009	Amend	1-1-2009
859-040-0015	5-5-2009	Amend	6-1-2009	863-015-0155	1-1-2009	Amend	1-1-2009
859-040-0015(T)	5-5-2009	Repeal	6-1-2009	863-015-0160	1-1-2009	Am. & Ren.	1-1-2009
860-022-0041	4-15-2009	Amend(T)	5-1-2009	863-015-0165	1-1-2009	Repeal	1-1-2009
860-022-0070	3-25-2009	Amend	5-1-2009	863-015-0175	1-1-2009	Amend	1-1-2009
860-024-0010	12-29-2008	Amend	2-1-2009	863-015-0180	1-1-2009	Repeal	1-1-2009
860-024-0020	5-5-2009	Amend	6-1-2009	863-015-0185	1-1-2009	Repeal	1-1-2009
860-024-0021	5-5-2009	Amend	6-1-2009	863-015-0186	1-1-2009	Amend	1-1-2009
860-027-0400	2-5-2009	Adopt	3-1-2009	863-015-0188	1-1-2009	Adopt	1-1-2009
860-032-0620	4-14-2009	Amend	5-1-2009	863-015-0190	1-1-2009	Amend	1-1-2009
860-034-0010	5-5-2009	Amend	6-1-2009	863-015-0195	1-1-2009	Repeal	1-1-2009
860-034-0120	5-5-2009	Amend	6-1-2009	863-015-0200	1-1-2009	Amend	1-1-2009
860-034-0310	5-5-2009	Amend	6-1-2009	863-015-0205	1-1-2009	Amend	1-1-2009
860-038-0220	6-25-2009	Amend	8-1-2009	863-015-0210	1-1-2009	Amend	1-1-2009
860-038-0300	6-25-2009	Amend	8-1-2009	863-015-0215	1-1-2009	Amend	1-1-2009
860-083-0005	6-25-2009	Adopt	8-1-2009	863-015-0220	1-1-2009	Repeal	1-1-2009
860-083-0005	8-5-2009	Amend	9-1-2009	863-015-0225	1-1-2009	Am. & Ren.	1-1-2009
860-083-0010	8-5-2009	Adopt	9-1-2009	863-015-0230	1-1-2009	Am. & Ren.	1-1-2009
860-083-0050	6-25-2009	Adopt	8-1-2009	863-015-0250	1-1-2009	Amend	1-1-2009
860-083-0100	8-5-2009	Adopt	9-1-2009	863-015-0255	1-1-2009	Amend	1-1-2009
860-083-0200	8-5-2009	Adopt	9-1-2009	863-015-0260	1-1-2009	Amend	1-1-2009
860-083-0300	8-5-2009	Adopt	9-1-2009	863-015-0265	1-1-2009	Amend	1-1-2009
860-083-0350	8-5-2009	Adopt	9-1-2009	863-015-0275	1-1-2009	Amend	1-1-2009
860-083-0400	8-5-2009	Adopt	9-1-2009	863-024-0000	1-1-2009	Adopt	1-1-2009
860-083-0500	8-5-2009	Adopt	9-1-2009	863-024-0003	1-1-2009	Adopt	1-1-2009
863-014-0000	1-1-2009	Adopt	1-1-2009	863-024-0005	1-1-2009	Adopt	1-1-2009
863-014-0003	1-1-2009	Adopt	1-1-2009	863-024-0010	1-1-2009	Adopt	1-1-2009
863-014-0038	1-1-2009	Adopt	1-1-2009	863-024-0015	1-1-2009	Adopt	1-1-2009
863-014-0042	1-1-2009	Adopt	1-1-2009	863-024-0020	1-1-2009	Adopt	1-1-2009
863-015-0000	1-1-2009	Adopt	1-1-2009	863-024-0030	1-1-2009	Adopt	1-1-2009
863-015-0005	1-1-2009	Am. & Ren.	1-1-2009	863-024-0050	1-1-2009	Adopt	1-1-2009
863-015-0010	1-1-2009	Am. & Ren.	1-1-2009	863-024-0055	1-1-2009	Adopt	1-1-2009
863-015-0015	1-1-2009	Am. & Ren.	1-1-2009	863-024-0060	1-1-2009	Adopt	1-1-2009
863-015-0020	1-1-2009	Am. & Ren.	1-1-2009	863-024-0061	1-1-2009	Adopt	1-1-2009
863-015-0025	1-1-2009	Repeal	1-1-2009	863-024-0062	1-1-2009	Adopt	1-1-2009
863-015-0030	1-1-2009	Am. & Ren.	1-1-2009	863-024-0063	1-1-2009	Adopt	1-1-2009
863-015-0035	1-1-2009	Am. & Ren.	1-1-2009	863-024-0065	1-1-2009	Adopt	1-1-2009
863-015-0040	1-1-2009	Am. & Ren.	1-1-2009	863-024-0070	1-1-2009	Adopt	1-1-2009
863-015-0045	1-1-2009	Am. & Ren.	1-1-2009	863-024-0075	1-1-2009	Adopt	1-1-2009
863-015-0050	1-1-2009	Am. & Ren.	1-1-2009	863-024-0076	1-1-2009	Adopt	1-1-2009
863-015-0055	1-1-2009	Am. & Ren.	1-1-2009	863-024-0085	1-1-2009	Adopt	1-1-2009
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