

OREGON BULLETIN

Supplements the 2009 *Oregon Administrative Rules Compilation*

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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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EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 09 - 09

AMENDING EXECUTIVE ORDER 09-03 REGARDING CONNECTING OREGON'S VETERANS WITH SERVICES AND BENEFITS

To increase our ability to connect Oregon's veterans with services and benefits, this Order amends Executive Order 09-03 to identify additional methods by which state agencies can work to connect veterans and their families with available veterans' services and benefits.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

Executive Order 09-03 is superseded and amended to provide:

1. On or before July 1, 2009, Oregon Department of Veterans' Affairs (ODVA) shall create a webpage at which members of the public can enter their contact information and request additional information about veterans' benefits and services.

2. On or before October 1, 2009, each state agency shall update its website to include a link to the ODVA website where members of the public can enter their contact information to request additional information about veterans' benefits and services.

3. On or before January 2, 2010, ODVA shall provide each state agency with printed materials that detail how individuals may contact ODVA to request information about veterans' services and benefits. Agencies shall place ODVA materials in agency offices or facilities that are accessible to agency customers or clients. Agencies shall make reasonable efforts to provide ODVA printed materials to customers or clients during face-to-face contacts, when it is appropriate and feasible to do so, and when the agency's director has determined it is consistent with the agency's mission.

4. On or before January 2, 2010, Department of Corrections, Department of Housing and Community Services, Department of Human Services, Department of Fish & Wildlife, Department of Revenue, Military Department, Parks & Recreation Department, Department of Transportation, the Public Employees Retirement System, and the Oregon University System shall develop and submit to the Governor's Office and ODVA an agency-specific plan to direct agency customers and clients to ODVA to obtain additional information about veterans' services and benefits. This plan may include, but need not be limited to, the following efforts, to be implemented beginning January 2010:

a. Amending selected applications, forms, or other documents of initial exchange to query individuals about their interest in receiving additional information about veterans' services and benefits and direct them to ODVA;

b. Including postcards or tear-off sheets provided by ODVA in agency forms or informational materials, that individuals may fill out and mail to the ODVA to obtain additional information about veterans' services and benefits;

c. Updating agency websites with additional information about veterans' services and benefits related to the agency's mission; or

d. Any alternative measures that are designed to capture individuals' interest in obtaining additional information about veterans' services and benefits, and connecting them with the ODVA.

5. Agencies that are not required by this Order to submit agency-specific plans are encouraged to implement additional measures to direct customers and clients to ODVA to obtain additional information about veterans' services and benefits, as consistent with their agency mission.

6. Agencies are encouraged to partner with elected officials, local governments, school districts, and community colleges to implement additional measures to direct customers and clients to ODVA to obtain additional information about veterans' services and benefits, as consistent with their agency mission.

7. To ensure an efficient use of state resources, whenever applications, forms or other documents are amended to include questions or information pursuant to this Order, those amendments shall occur in conjunction with other regularly scheduled updates, maintenance or revisions, and shall be phased in to use to minimize cost.

8. Agencies shall make clear to clients and customers that providing a response to questions regarding interest in veterans' services and benefits is strictly voluntary. Responses regarding interest in veterans' services and benefit information shall not be required by agencies or used in any way in making decisions regarding hiring or the provision of services or benefits.

9. ODVA shall coordinate outreach to individuals who have indicated an interest in receiving information about veterans' benefits and services and provide any information requested in a timely manner.

10. On or before January 1, 2011, the Department of Administrative Services shall survey agencies regarding their compliance with this Order and provide written recommendations to the Office of the Governor, outlining ways to improve the implementation of this Order.

11. This Order expires on June 30, 2013.

Done at Salem, Oregon this 6th day of May, 2009.

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

ATTEST

/s/ Kate Brown
Kate Brown
SECRETARY OF STATE

OTHER NOTICES

BEFORE THE OREGON DEPARTMENT OF AGRICULTURE EMERGENCY QUARANTINE ORDER

In the Matter of the Chehalem Mountain Nursery, Inc.

A. Background

Whenever the Director of the Oregon Department of Agriculture determines the fact that a disease 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 disease. 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. The Oregon Department of Agriculture has detected *Phytophthora ramorum* (sudden oak death) in nursery stock and soil at Chehalem Mountain Nursery for four years in a row (2006–2009). The actions taken to date to control *P. ramorum* have not eradicated the pathogen. As such, there is an ongoing infestation of *P. ramorum* that the Oregon Department of Agriculture believes poses a serious danger to Oregon's environment and nursery industry.

2. *P. ramorum* is a virulent and highly infectious pathogen that causes mortality or injury to oaks, rhododendron, camellia, viburnum, and many other species important to natural and horticultural landscapes in Oregon and the Oregon's nursery industry. Oregon is already under regulation for *P. ramorum*, in portions of Curry County and believes that absent action under this order, Washington County may also be subject to federal quarantine.

3. Shipment and sale of potentially infected nursery stock from Chehalem Mountain Nursery is currently ongoing.

C. Conclusions of Law

1. The *P. ramorum* infestation at Chehalem Mountain Nursery poses a serious danger of the wide spread within the state of *P. ramorum* 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:** Chehalem Mountain Nursery (hereinafter "Nursery"), 14375 W.W. Patricia Ave., Hillsboro, Washington County, Oregon.

(2) **Commodities Covered in Area Under Quarantine:**

(a) All plants, plant parts, pots, potting media, and soil and any other product or article that an official inspector determines to present a risk of spreading *P. ramorum*.

(b) All life stages of *P. ramorum*.

(3) **Prohibitions in Area Under Quarantine.**

(a) Nursery stock and other covered commodities grown in the quarantined area are not eligible for sale or shipment unless the following conditions are met:

(i) Non-HAP material can be moved out of the area under quarantine if it is first inspected, tested, and found free of *P. ramorum*. (HAP=Host and Associated Plants, for a complete list see: <http://www.aphis.usda.gov/plant_health/plant_pest_info/pram/downloads/pdf_files/usdaprlist.pdf>)

(ii) HAP plants must not be moved on or off the area under quarantine until the results of a complete nursery soil survey of the nursery are known (see subsection (vi) below). All high-risk genera onsite (Rhododendron, Camellia, Pieris, Kalmia, and Viburnum) including landscape plants, must be destroyed onsite by burning, burying, or other method approved by the Oregon Department of Agriculture.

(iii) The nursery must not re-use any containers unless they are steam sterilized before re-use.

(iv) The nursery must not recycle any irrigation water unless it is treated using a federally approved method.

(v) The nursery's media pile must be tested for *P. ramorum* and kept on a paved surface. If positive, the media pile must be treated using a federally approved method.

(vi) The soil substrate throughout the area under quarantine must be sampled for *P. ramorum*. If the soil tests positive in any block, that block must be fumigated with a registered fumigant effective against *P. ramorum*, paved over with asphalt or concrete, or retired from nursery stock production. Alternative uses for retired blocks must be approved by the Oregon Department of Agriculture. Plants in positive blocks must be tested at the expense of the nursery and found free of *P. ramorum* or destroyed by burning or burying onsite.

(vii) Vehicles exiting the site must be washed free of mud, soil, and debris and sprayed down with a federally-approved disinfectant.

(4) **Best Management Plan:** The nursery must work with recognized experts to develop and implement a Best Management Plan. Best management practices identified in the Plan must be adopted throughout the nursery to minimize the probability of disease re-introduction and spread.

(a) Best Management Practices: Best management practices must address the following: water management, soil and potting media, used containers, incoming plant material, and sanitation.

(b) Management practices that contribute to disease infection are prohibited. Prohibited practices include: reuse of pots or potting media (unless steam sterilized); pots sitting on mud or saturated ground; persistent mud or puddles in paths, at loading docks, and on dirt roads; importing and mingling of HAP material; and irrigation with untreated, recycled water.

(c) High-risk genera (*Rhododendron*, *Camellia*, *Pieris*, *Kalmia*, and *Viburnum*) shall not be grown at this site as of the date of this order.

(5) **Additional Quarantine Requirements.** The nursery must complete the USDA's Confirmed Nursery Protocol.

(6) **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.

(7) **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 27th day of April, 2009.

/s/ Katy Coba, Director

Katy Coba, Director

Oregon Department of Agriculture

NOTICE: As provided in ORS 561.600 you are entitled to judicial review of this order pursuant to the provisions of ORS 183.484.

DEQ APPROVES ENVIRONMENTAL WORK AT SITE FOR NEW INDEPENDENCE CIVIC CENTER

DEQ has determined that the property at 400 South Main Street in Independence meets environmental standards and is ready for construction of the new civic center building.

During foundation work in March 2008, Independence discovered some oil contamination and requested DEQ assistance to determine if cleanup would be necessary.

With EPA funding, DEQ conducted a limited investigation. DEQ found some solvents above the level of concern for drinking water use. In order to ensure there would be no use of the contaminated groundwater at the city site, Independence closed the drinking water supply wells on the site, and will provide city water to the new civic center. To ensure continued safety, DEQ placed a deed restriction prohibiting use of groundwater at the site. The deed restriction was recorded on April 28, 2009 in Polk County.

OTHER NOTICES

PROPOSED APPROVAL OF CLEANUP AT BRIGHT DAY PROPERTY

COMMENTS DUE: June 30, 2009

PROJECT LOCATION: 810 SE Belmont Street, Portland, Oregon
PROPOSAL: Pursuant to ORS 465.320 the Department of Environmental Quality (DEQ) invites public comment on the proposed conditional no further action recommendation for the Bright Day property.

HIGHLIGHTS: The Bright Day property has been used for a number of different purposes including a building materials warehouse, a automotive service station, a paint store, a security equipment business and a communications equipment company. An environmental site assessment conducted in association with a property transfer identified petroleum hydrocarbon contamination (diesel fuel) and elevated levels of lead in soils on the northern portion of the site. Petroleum contamination in soil extends vertically to the depth of groundwater. A small abandoned underground storage tank was also discovered in another area of the site and was removed. Additional investigative activities were completed and evaluations showed that groundwater contamination was localized and did not pose an unacceptable risk to human health or the environment or otherwise impair current or future beneficial uses of groundwater. Soil contamination present at the site also does not pose an unacceptable risk to human health or the environment and would be allowed to remain in place. DEQ is proposing to issue a no further action (NFA) for the site. In the event of future subsurface maintenance or construction work is undertaken at the property, the contaminated soil would need to be managed consistent with DEQ requirements for solid waste.

HOW TO COMMENT: The project file is available for public review. To schedule an appointment, contact Dawn Weinberger at 503-229-6729. The DEQ contact for this project is Mike Greenburg, 503-229-5153. Written comments should be sent to the DEQ contact at the Department of Environmental Quality, Northwest Region, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201 by April 30, 2008. A public meeting will be held to receive verbal comments if requested by 10 or more people or by a group with a membership of 10 or more. Please notify DEQ if you need copies of written materials in an alternative format (e.g., Braille, large print, etc.). To make these arrangements, contact DEQ Office of Communication and Outreach at 503-229-5317. Additional information is also available at: <http://www.deq.state.or.us/news/publicnotices/>

OPPORTUNITY TO COMMENT

RECORD OF DECISION, WALDROP OIL BULK PLANT ISLAND CITY, OREGON

COMMENT DUE: June 30, 2009

PROJECT LOCATION: Island City, Oregon

PROPOSAL: The Department of Environmental Quality (DEQ) is providing notice for a public opportunity to review and comment on a draft Record of Decision (ROD) for the Waldrop Oil Bulk Plant site. The draft ROD details the analysis and selection of preferred and protective remedial options designed to address contaminated environmental media at the site located at 10402 West 1st Street in Island City, Oregon.

The site has been an active petroleum bulk plant since 1930. The recommended remedial action addresses the presence of gasoline and diesel contaminants and underlying constituents in contaminated soil and groundwater at and near the site. The recommended remedial action consists of prohibiting the use of groundwater on nine properties, prohibiting future residential use of the bulk plant property, and groundwater monitoring for an additional five years.

The draft ROD as well as more information concerning site-specific investigations and remedial actions is available in DEQ's Environmental Cleanup Site Information (ECSI) database located on the web at <http://www.deq.state.or.us/lq/ecsi/ecsi.htm> under Site ID 3348.

Site specific information is also available by contacting Katie Robertson, DEQ's project manager for this site. The Administrative File for this facility is located at DEQ's Pendleton office, and can be

reviewed in person by contacting project manager at the number below to arrange for an appointment.

HOW TO COMMENT: The public comment period will extend from June 1 to 30, 2009. Please address all comments and/or inquiries to project manager at the following address:

Katie Robertson
Department of Environmental Quality
700 SE Emigrant, Suite 330
Pendleton, OR 97801
(541) 278-4620
robertson.katie@deq.state.or.us

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

THE NEXT STEP: DEQ will consider all public comments received before finalizing the ROD for the Waldrop Oil Bulk Plant site. DEQ will provide written responses to all received public comments.

REQUEST FOR COMMENTS

PROPOSED APPROVAL OF CLEANUP AT THE HILLSBORO CITY BLOCK SITE, HILLSBORO, OREGON

COMMENTS DUE: 5 pm, July 1, 2009

PROJECT LOCATION: 156 E Main Street in Hillsboro, Oregon.

PROPOSAL: Pursuant to Oregon Revised Statute, ORS 465.320, and Oregon Administrative Rules, OAR 340-122-100, the Department of Environmental Quality (DEQ) invites public comment on a proposed No Further Action determination for a property located in downtown Hillsboro. The No Further Action determination would apply to the entire Hillsboro City Block site. A Partial No Further Action determination has already been applied to the South Residential Block portion of the site at 110 SE Washington Street.

HIGHLIGHTS: The project site was historically developed with commercial and office buildings beginning in the 1880s. Businesses have included a feed store, restaurants, various retail establishments, public and private office buildings, and a hotel. The Professional & Budget Dry Cleaners (PBDC) operated on the site at 126 SE First Street from 1990 to 2000.

Environmental investigation at the PBDC Site began in 1996 when drycleaning solvent PCE and petroleum was found in soil and groundwater at the site (see ECSI #2100). In July 2000, the dry cleaner building was demolished, underground storage tanks were removed, and 474 tons of soil was excavated for disposal. Confirmation sampling showed PCE remaining in soil at levels exceeding DEQ risk-based concentrations. Groundwater concentrations were below risk-based concentrations (RBCs) in place at the time, and a beneficial water use study determined that shallow groundwater in the area was not being used nor would likely be used in the future. The PBDC site received a Conditional No Further Action determination in December 2001, which required placement of vapor controls if new construction at the site was performed.

In 2002, the City of Hillsboro requested DEQ oversight of environmental investigation and cleanup of the block during redevelopment of the property for the new Hillsboro Civic Center. Several buried heating oil tanks and additional areas of petroleum contamination were discovered and removed during foundation construction. A vapor barrier liner and passive venting system was installed in the area of the former PBDC site before the Civic Center was built. Following building completion in 2005, air monitoring was performed to verify the effectiveness of the vapor barrier system. Three rounds of sampling results confirmed that PCE concentrations were protective of human health for future building occupants. DEQ concludes, therefore, that environmental conditions 156 E Main Street do not pose an unacceptable risk to human health and the environment, and meet the requirements of the Oregon Environmental Cleanup Laws.

HOW TO COMMENT: DEQ's Staff Report for the Hillsboro City Block site and other project file information is available for public review (by appointment) at DEQ's Northwest Region Office, 2020 SW Fourth Avenue, Suite 400, Portland, Oregon, 97201. To sched-

OTHER NOTICES

ule a file review appointment, call Dawn Weinberger at 503-229-6729; toll free at 1-800-452-4011; or TTY at 503-229-5471. Summary information and a copy of the Staff Report are available in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet, go to <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, then enter 3287 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 3287 in the Site ID/Info column. Please send written comments to Robert Williams, Project Manager, at the address listed above or via email at williams.robert.k@deq.state.or.us. To be considered, DEQ must receive written comments by 5 pm on July 1, 2009. Upon written request by ten or more persons or by a group with a membership of 10 or more, DEQ will hold a public meeting to receive verbal comments.

THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above, before making a final decision regarding the partial "No Further Action" determination. In the absence of comments, DEQ will issue the No Further Action determination for the Hillsboro City Block site.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications & Outreach (503) 229-6488 or toll free in Oregon at (800) 452-4011; fax to 503-229-6945; or e-mail to deqinfo@deq.state.or.us. People with hearing impairments may call DEQ's TTY number, 503-229-5471.

REQUEST FOR COMMENTS ON PROPOSED CONSENT JUDGMENT FOR A PROSPECTIVE PURCHASER AGREEMENT FOR AREA ADJACENT TO FORMER CHARLES LILLY FACILITY, 7737 NE KILLINGSWORTH STREET PORTLAND, OREGON

COMMENTS DUE: 5:00 pm on July 1, 2009

PROJECT LOCATION: 7737 NE Killingsworth Street, Portland, Oregon

PROPOSAL: Pursuant to Oregon Revised Statute ORS 465.320 and Oregon Administrative Rules OAR 340-122-0100, the Department of Environmental Quality (DEQ) is proposing to enter into a Consent Judgment for a Prospective Purchaser Agreement (PPA) with MJB Associates, LLC (MJB) and Acme Scenic & Display, Inc. (ACME) for an area immediately adjacent to the property located at 7737 NE Killingsworth Street, the location of the former Charles H Lilly (CHL) facility that is now owned by MJB (7737 Property).

HIGHLIGHTS: The CHL facility was formerly owned by the Miller Products Company, W.R. Grace & Company, and CHL (formerly known as The Charles. H. Lilly Company), among others, and used to formulate various agricultural chemicals. During site operations, hazardous substance releases occurred off-site to the adjacent property as a result of discharge of contaminated storm water runoff to the then undeveloped property.

Off-site soil contamination is associated with historical pesticide formulation activities at the former CHL facility at 7737 Northeast Killingsworth Street in Portland, Oregon (the site). The CHL off-site operable unit includes property at 8027 NE Killingsworth Street, in Portland, Oregon, owned by KIP Holdings Company (KIP), an affiliate of Hoffman Construction Company. A recent soil cleanup in the off-site operable unit involved consolidation and capping of contaminated soil located on the KIP property into an engineered cell and containment wall located along the property line between the former CHL facility and the KIP property (Containment Wall Area). MJB acquired the CHL facility in 2006 under a Prospective Purchaser Agreement (PPA) between DEQ, MJB and ACME. MJB completed the cleanup of on-site soil contamination in 2007 with DEQ oversight in October of that year. Now MJB is proposing to acquire the Containment Wall Area, and to make it part of the 7737 Property as part of a property line adjustment approved by the City of Portland.

The proposed Consent Judgment will provide MJB as the new owner and ACME as the tenant, with a release of liability to the State of Oregon under ORS 465.255 relating to historical releases of hazardous substances at or from the Containment Wall Area. The proposed Consent Judgment and PPA will also provide MJB and ACME with contribution protection from claims by third parties relating to such historic releases. DEQ retains all existing rights it may have as to all other parties potentially liable for the releases. The proposed Consent Judgment and PPA will secure long term management restrictions for the Containment Wall Area through conditions to be specified in an Easement and Equitable Servitudes to be recorded with the property deed.

DEQ's Prospective Purchaser Program was created in 1995 through amendments to the state's Environmental Cleanup Law. The Prospective Purchaser Agreement is a tool that facilitates the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a property with existing contamination.

HOW TO COMMENT: Written comments concerning the remedial action should be sent to Bob Williams at DEQ Northwest Region, 2020 SW 4th Avenue, Suite 400, Portland, Oregon 97201. All comments must be received by DEQ by 5:00 pm July 1, 2009. Questions may be directed to Mr. Williams at the above address or by calling (503) 229-6802. Summary information is available in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet; go to <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, then enter 102 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 102 in the Site ID/Info column. The Project Staff Report and DEQ file on the Charles Lilly site may also be reviewed at DEQ's Northwest Region office in Portland by contacting Bob Williams at (503) 229-6802.

Upon written request by ten or more persons, or by a group having ten or more members, a public meeting will be held to receive verbal comments on the proposed remedial action.

THE NEXT STEP: DEQ will consider all public comments. A final decision concerning the proposed remedial action will be made after consideration of public comments.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications & Outreach (503) 229-5696 or toll free in Oregon at (800) 452-4011; fax to 503-229-6762; or e-mail to deqinfo@deq.state.or.us. People with hearing impairments may call DEQ's TTY number, 503-229-5471.

REQUEST FOR COMMENTS PROPOSED SETTLEMENT REGARDING PORTLAND WILLAMETTE COMPANY SITE AND WHITAKER SLOUGH INLET, PORTLAND, MULTNOMAH COUNTY

COMMENTS DUE: 5 pm, July 1, 2009

PROJECT LOCATION: The upland property is located at 6800 NE 59th Place in Portland, which is adjacent and to the south of the Whitaker Slough, just west of NE 63rd Avenue. The Whitaker Slough is a side slough to the Columbia Slough that begins, near NE 42nd Avenue and ends near the east end of Marx Street. The Columbia Slough is located in Portland parallel to the Columbia River and extends approximately 31 waterway miles, including side sloughs, from Fairview Lake on the east side to the Willamette River on the west side.

PROPOSAL: DEQ is proposing to enter into a settlement with potentially liable parties Thomas Industries, Inc., Cardinal Aluminum Oregon LLC, and LIT Holdings Industrial LP (the parties) for implementation of source control at their property and sediments remediation in the Whitaker Slough inlet. The settlement would be in the form of a consent judgment pursuant to ORS 465.325(4). The settlement would require the potentially liable parties to satisfactorily complete source control measures at their upland facility and pay DEQ \$350,000 to be used by DEQ for sediments work. The parties

OTHER NOTICES

would also settle potential natural resource damage claims through payment to DEQ of \$50,000 to be dedicated to habitat restoration at within the Columbia Slough watershed. In return, the settling parties would receive a covenant not to sue from the State and contribution protection from claims by third parties relating to historic releases.

HIGHLIGHTS: Electroplating operations at the facility generate plating wastewater, which is managed with an on-site wastewater treatment facility. Prior to 1993, wastewater was discharged to a lined settling pond before it was discharged to the Whitaker Slough. Records indicate that accidental discharges from the settling pond to Whitaker Slough may have occurred. In 1994 and in 2007 sediment samples were collected from the Whitaker Slough inlet and the main channel. Samples showed elevated levels of petroleum hydrocarbons, cadmium, chromium, lead, nickel, zinc in the inlet and lower levels of contamination in the main channel. Inlet sediment contamination exceeds risk-based concentrations for protection of aquatic receptors and human health. In 2005, DEQ issued a Record of Decision for the Columbia Slough that describes the framework for addressing the sediment contamination. The selected remedy involves storm water management to prevent ongoing releases, selective removal of sediment hot spots associated with individual or multiple sources, and natural recovery of remaining sediment contamination over time.

HOW TO COMMENT: Written comments concerning the remedial action should be sent to Bob Williams at DEQ Northwest Region, 2020 SW 4th Avenue, Suite 400, Portland, Oregon 97201. All comments must be received by DEQ by 5:00 pm July 1, 2009. Questions may be directed to Mr. Williams at the above address or by calling (503) 229-6802. Summary information is available in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet; go to <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, then enter 2767 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 2767 in the Site ID/Info column. The DEQ file on the Portland Willamette site may also be reviewed at DEQ's Northwest Region office in Portland by contacting Bob Williams at (503) 229-6802.

THE NEXT STEP: DEQ will review and consider all comments received during the comment period. If DEQ then determines to enter the consent judgments, the consent judgments will be executed by the parties and filed with the Multnomah County Circuit Court. The court must approve the consent judgment for it to take effect.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need

information in large print, Braille or another format. To make these arrangements, contact DEQ Communications & Outreach (503) 229-6488 or toll free in Oregon at (800) 452-4011; fax to 503-229-6945; or e-mail to deqinfo@deq.state.or.us. People with hearing impairments may call DEQ's TTY number, 503-229-5471.

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION DECISION FOR MALHEUR COUNTY SHOP, VALE, OREGON

COMMENTS DUE: June 30, 2009 by 5:00 p.m.

PROJECT LOCATION: 1001 Barkley Drive, Vale

PROPOSAL: Pursuant to Oregon Revised Statute (ORS) 465.315, the Oregon Department of Environmental Quality (DEQ) is proposing to issue a risk-based no further action (NFA) determination for Malheur County Shop site located at 1001 Barkley Drive in Vale, Oregon.

HIGHLIGHTS: The Leaking Underground Storage Tank Program has reviewed information pertaining to the decommissioning of underground storage tanks, soil excavation, and site assessment activities performed at the site. Approximately 22,000 cubic yards of petroleum contaminated soil (PCS) and clean overburden were excavated and transported off-site for treatment in 1998/1999. Residual PCS remains in a thin layer at the soil/groundwater interface. Groundwater has been impacted by petroleum products but is not used for beneficial purposes at the site. All of the potential exposure concerns have been addressed through their elimination during development of the site-specific Conceptual Site Model.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Eastern Regional Office at 700 SE Emigrant, Suite #330, Pendleton, OR 97801. Project reports are available in DEQ's LUST database <http://www.deq.state.or.us/lq/tanks/lust/LustPublicLookup.asp> under LUST No. 23 98 0039.

To schedule an appointment to review the file or to ask questions, please contact Katie Robertson at (541) 278-4620. Written comments should be received by June 30, 2009 and sent to Katie Robertson, Project Manager, at the address listed above. Upon written request by ten or more persons or by a group with a membership of 10 or more, a public meeting will be held to receive verbal comments.

THE NEXT STEP: DEQ will consider all public comments received before making a final decision regarding the "No Further Action" recommendation.

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.*

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Board of Massage Therapists
Chapter 334

Rule Caption: 2009–2011 budget adoption and cleanup from the 2008/2009 comprehensive rules revisions.

Date: 6-19-09 **Time:** 9 a.m. **Location:** OBMT Board Rm.
748 Hawthorne Ave. NE
Salem, OR

Hearing Officer: Jordan Barton, Board Chair

Stat. Auth.: ORS 182.456–182.472, 183, 687.011, 687.121, 687.081 & 687.122

Stats. Implemented: ORS 687.011, 687.051, 687.057, 687.061, 687.081, 687.086, 687.121 & 182.462

Proposed Amendments: Rules in OAR 334, 334-001-0012, 334-001-0060, 334-010-0005, 334-010-0010, 334-010-0017, 334-010-0033, 334-010-0046, 334-010-0050, 334-020-0050

Last Date for Comment: 6-19-09, Close of Hearing

Summary: 334-001-0012 adopts the 2009–2011 Biennial budget of \$1,300,000.

334-001-0060(8)(b) removes “or university” due to statutory conflict.

334-010-0005(3)(a) replaces “legal picture” with “government issued photo” for identification required for examination.

334-010-0005(6)(c) adds “and” between (b) and (c) for clarification.

334-010-0010(6) adds to the end “The Board may require an applicant with 3 or more examination failures to undertake and satisfactorily complete a Board approved remediation plan prior to reapplying for the examination.”

334-010-0017(4) changes 4 years to 3 years to renew from lapsed status.

334-010-0033 reorders layout of the fees section for understanding and readability.

334-010-0046(1)(c) removes “or university” in two places due to statutory conflict.

334-010-0050(1) clarifies CE Submittal requirements.

334-020-0050 brings linen requirements into alignment with current industry and technology standards.

Rules Coordinator: Diana Nott

Address: 748 Hawthorne Avenue NE, Salem OR 97301

Telephone: (503) 365-8657

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Board of Naturopathic Examiners
Chapter 850

Rule Caption: List on the Formulary Compendium and by Classification, drugs Naturopathic Physicians may prescribe.

Stat. Auth.: ORS 658.125

Stats. Implemented: ORS 685.145

Proposed Amendments: 850-060-0225, 850-060-0226

Last Date for Comment: 6-1-09

Summary: Add to 850-060-0225 the following that may be prescribed: Diclofenac; Etodolac; Indomethacin; Ketorolac; Meloxicam; Peroxicam; Sulindac; Tolmetin.

Add to 850-060-0226 Classifications: Acetic Acid Derivatives**;
Oxicams** classifications under NSAIDS.

Rules Coordinator: Anne Walsh

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

Telephone: (971) 673-0193

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Construction Contractors Board
Chapter 812

Rule Caption: Adoption of Continuing Education Rules for Construction Contractors with Residential Endorsements.

Date:	Time:	Location:
6-23-09	11 a.m.	West Salem Roth's IGA Oregon Rm. 1130 Wallace Rd. Salem, OR

Hearing Officer: Tom Skaar

Stat. Auth.: ORS 670.310, 701.124, 701.126 & 701.235

Other Auth.: 2007 OL Ch. 648 (HB 2654)

Stats. Implemented: ORS 701.063, 701.124 & 701.126

Proposed Adoptions: 812-020-0071, Rules in 812-021

Last Date for Comment: 6-23-09, 11 a.m.

Summary: *Note: The rulemaking hearing held on April 28, 2009, was held open and extended to June 23, 2009. Further public hearing on these rules will be held on June 23, 2009 at 11:00 a.m. The agency will accept written comments until 11:00 a.m. on June 23, 2009.*

Adopt 812-020-0071 to allow continuing education hours earned as a residential contractor to apply toward commercial continuing education credits.

Adopt administrative rules in chapter 812, division 21. Adoption of proposed rules is necessary to establish and administer the continuing education program under ORS 701.126, which applies to residential contractors. In 2007, the Oregon Legislature enacted ORS 701.126. Proposed rules needed include, but are not limited to:

- Defines terms in the rules adopted to administer ORS 701.126.
- Establishes the date on which the rules take effect and the date on which the first will be applied to renewing residential contractors.
- Outlines the requirements for residential contractors to comply with ORS 701.126, defining number of hours required by CORE areas and elective hours.
- Outlines requirements for licensees to maintain records of CE participation.
- Establishes the requirements when license is inactive.
- Establishes the rules for continuing education requirements when there has been a lapse in the license.
- Establishes provider approval, standards, and fees for CORE training.
- Establishes course approval, standards, and fees for CORE training.
- Establishes tracking of hours.

NOTICES OF PROPOSED RULEMAKING

Rules Coordinator: Catherine Dixon
Address: Construction Contractors Board, 700 Summer St. NE,
Suite 300, Salem, OR 97310
Telephone: (503) 378-4621, ext. 4077

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**Department of 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 OEGB member.

Date:	Time:	Location:
6-23-09	9-10 a.m.	PEBB/OEGB Boardroom 1225 Ferry St. SE Salem, OR 97301

Hearing Officer: Denise Hall
Stat. Auth.: ORS 243.860-243.886
Stats. Implemented: ORS 243.886
Proposed Amendments: 111-040-0040
Proposed Repeals: 111-040-0035
Last Date for Comment: 6-30-09

Summary: OAR 111-040-0040 is amended to clarify what changes can occur as a result of an OEGB member experiencing a Qualified Status Change.

Rules Coordinator: April Kelly
Address: Department of Administrative Services, Oregon Educators Benefit Board, 1225 Ferry St. SE, Salem, OR 97301
Telephone: (503) 378-6588

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**Department of Agriculture
Chapter 603**

Rule Caption: Establishes process for experimental or research pesticide use. Amends application of Demonstration and Research category.

Date:	Time:	Location:
6-23-09	10 a.m.	Oregon Dept. of Agriculture 635 Capitol St. NE Salem, OR

Hearing Officer: John Beyers
Stat. Auth.: ORS 634
Stats. Implemented: ORS 634
Proposed Adoptions: 603-057-0160
Proposed Amendments: 603-057-0110, 603-057-0145
Last Date for Comment: 7-7-09, 5 p.m.

Summary: 603-057-0160: Address pesticide use for experimental or research purposes with two distinct experimental use permit processes. Clarifies licensing and recordkeeping requirements to conduct experimental use of pesticides.

603-057-0110: Amends Pesticide operator, applicator, and trainee categories to allow the ability of adding the category of Demonstration and Research to a pesticide trainee license. identifies when the category of Demonstration and Research is to be used.

603-057-0145: Amends pesticide consultant standards of competence to include the ability to add the category of Demonstration and Research to a Pesticide Consultant license. Clarifies when a Pesticide Consultant with the category of Demonstration and Research may qualify for an applicator license.

Rules Coordinator: Sue Gooch
Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301
Telephone: (503) 986-4552

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Rule Caption: Allows licensing equivalency between Commercial or Public, and Private Pesticide Applicators.
Stat. Auth.: ORS 634
Stats. Implemented: ORS 634
Proposed Adoptions: 603-057-0180
Last Date for Comment: 6-26-09

Summary: The new rule establishes a process to allow a person currently licensed as a Commercial or Public Pesticide Applicator to qualify for a Private Pesticide Applicator license without taking an additional examination. Without this proposed rule, persons who are currently licensed as a Commercial or public Pesticide Applicator must take, and pass an additional certification examination to qualify for a Private Pesticide Applicator's license to apply restricted use pesticides on agricultural or forest crops owned by the licensee or the licensee's immediate employer. This rule also clarifies that the certification period for the Private Applicator license will be the same as that identified on the Commercial or Public Applicator license.

Rules Coordinator: Sue Gooch
Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301
Telephone: (503) 986-4552

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**Department of Agriculture,
Oregon Blueberry Commission
Chapter 670**

Rule Caption: Reduces maximum assessment cap to one percent based on gross price collected on blueberries.

Stat. Auth.: ORS 576.304
Other Auth.: Motion made by Commission at April 21, 2009 Commission meeting.

Stats. Implemented: ORS 292.495, 576.206(7) & 576.265
Proposed Amendments: 670-010-0005, 670-010-0010, 670-010-0011

Proposed Repeals: 670-010-0006
Last Date for Comment: 6-14-09

Summary: Reduces maximum assessment cap to one percent based on gross price collected on blueberries delivered to the handler for any given year. Removes three-year price averaging requirement.

Rules Coordinator: Lisa Ostlund
Address: Department of Agriculture, Oregon Blueberry Commission, 4093 12th St. Cut Off, Salem, OR 97302
Telephone: (503) 364-2944

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

Rule Caption: Amend rule to increase certification fee from \$25 to \$35 in order to prevent program deficit in next biennium.

Date:	Time:	Location:
6-24-09	9 a.m.-12 p.m.	Public Service Bldg., 200A 255 Capitol St. NE Salem, OR 97301

Hearing Officer: Linda Hutchins
Stat. Auth.: ORS 326.051 & 326.550
Stats. Implemented: ORS 192.440 & 326.550
Proposed Amendments: 589-007-0500

Last Date for Comment: 6-30-09, Close of Business
Summary: The State GED program and office are funded entirely by state fees. Due to increased costs associated with the administration of the GED program in the next biennium, a deficit of \$113,000 is projected by June 2011. To remedy the projected deficit, CCWD and its advisory group, the State Board of Education, have decided to raise the state fee from \$25 to \$35 to provide the State office sufficient revenue to operate the GED program.

Rules Coordinator: Linda Hutchins
Address: Department of Community Colleges and Workforce Development, Public Service Bldg., 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 378-8648, ext. 474

NOTICES OF PROPOSED RULEMAKING

Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: GINA requirements, Minimum Standards to Medicare Supplement Plans and Changes to Guaranteed Issue Eligibility.

Date: 6-23-09
Time: 10 a.m.
Location: Labor & Industries Bldg.
Conference Rm. B
350 Winter St. NE
Salem, OR

Hearing Officer: Jeannette Holman

Stat. Auth.: ORS 731.244, 743.010, 743.362, 743.683 & 743.684

Other Auth.: ORS 743.680–743.689

Stats. Implemented: ORS 743.010, 743.683 & 743.684

Proposed Adoptions: 836-052-0132, 836-052-0141, 836-052-0192

Proposed Amendments: 836-052-0119, 836-052-0129, 836-052-0133, 836-052-0134, 836-052-0142

Last Date for Comment: 6-23-09

Summary: Amends rules governing Medicare supplement insurance in order to conform to changes in federal law and in the National Association of Insurance Commissioners' Model regulation to Implement Revisions to the NAIC Medicare Supplement Insurance Minimum Standards Model Act, and to provide dually eligible Medicaid/Medicare recipients a guarantee issue time period of 63 days to purchase a Medicare supplement plan, when they have received notice that their Medicaid coverage is terminating.

Rules Coordinator: Sue Munson

Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Salem, OR 97301-3883

Telephone: (503) 947-7272

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Rule Caption: Physician Credentialing and Recredentialing in Connection with Health Care Service Contractors.

Stat. Auth.: ORS 442.807

Stats. Implemented: ORS 442.800–442.807

Proposed Amendments: 836-052-0900

Last Date for Comment: 6-26-09

Summary: This rulemaking proposes to amend the rule that 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 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. These proposed changes bring Oregon standards into conformance with national and federal credentialing standards. 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 recommended changes incorporated 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

Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Salem, OR 97301-3883

Telephone: (503) 947-7272

Department of Corrections Chapter 291

Rule Caption: Inmate Cost of Care Reimbursement.

Stat. Auth.: ORS 179.040, 179.610–179.770, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 179.610–179.770, 423.020, 423.030 & 423.075

Proposed Amendments: 291-203-0020, 291-203-0040, 291-203-0050

Last Date for Comment: 7-24-09

Summary: ORS 179.640 provides that rules adopted by the Department for determining the ability of inmates to pay reimbursement for their cost of care while incarcerated in an ODOC institution must include a requirement that the Department consider, in addition to other relevant factors, the inmate's personal estate, the inmate's need for funds for personal support after release, and the availability of third-party benefits such as, but not limited to, Medicare or private insurance. These temporary rules amendments are necessary to conform the Department's cost of care reimbursement rules to this statutory requirement.

Rules Coordinator: Janet R. Worley

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

Telephone: (503) 945-0933

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

Rule Caption: Revise rules to specifically include certain individuals, Psychiatric Nurse Practitioners, Final Orders and HIV Testing.

Date: 6-16-09
Time: 1 p.m.
Location: DHS Bldg., Rm. 137A
500 Summer St. NE
Salem, OR

Hearing Officer: Richard Luthé

Stat. Auth.: ORS 179.040 & 409.050

Other Auth.: SB 160 Enrolled (2009 Legislative Session)

Stats. Implemented: ORS 179.321, 426.070, 426.385, 427.031 & 427.255

Proposed Amendments: Rules in 309-114

Proposed Repeals: 309-114-0005(T), 309-114-0010(T), 309-114-0020(T)

Last Date for Comment: 6-19-09, 5 p.m.

Summary: The Addictions and Mental Health Division is proposing to permanently revise rules in OAR 309-114 to: include consideration of the individual's history of violence and its relationship to mental health treatment when determining if the state institution has "good cause" to involuntarily administer "significant procedures;" expand the role of Psychiatric Nurse Practitioners; allow issuance of final orders in contested case hearings & include HIV testing in the definition of "Significant Procedures."

Rules Coordinator: Richard Luthé

Address: 500 Summer St. NE E86 Salem, OR 97301-1118

Telephone: (503) 947-1186

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Department of Human Services, Administrative Services Division and Director's Office Chapter 407

Rule Caption: Amending Privacy Rules Governing the Collection, Use and Disclosure of Protected Information.

Date: 6-24-09
Time: 10:30–11:30 a.m.
Location: Human Services Bldg.
Rm. 137-D
500 Summer St. NE
Salem, OR 97301

Hearing Officer: Jennifer Bittel

NOTICES OF PROPOSED RULEMAKING

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.010

Proposed Ren. & Amends: 410-014-0000 to 407-014-0000, 410-014-0010 to 407-014-0010, 410-014-0020 to 407-014-0020, 410-014-0030 to 407-014-0030, 410-014-0040 to 407-014-0040, 410-014-0050 to 407-014-0050, 410-014-0060 to 407-014-0060, 410-014-0070 to 407-014-0070

Last Date for Comment: 6-26-09, 5 p.m.

Summary: These rules were originally adopted in 2005 in compliance with federal HIPAA Privacy Rules, 45 CFR parts 160 and 164. The rules are being moved to the Department-wide rule chapter and amended to provide clarification and guidance for Department staff and contracted partners and to reduce redundancy. The proposed amendments do not affect current privacy practices of the Department.

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

Rule Caption: MMIS Emergent Alternative Communication Process and Procedures.

Date:	Time:	Location:
6-15-09	10:30–11:30 a.m.	Human Services Bldg. Rm. 137-B 500 Summer St. NE Salem, OR 97301

Hearing Officer: Dar Nelson

Stat. Auth.: ORS 409.050 & 414.065

Stats. Implemented: ORS 414.065

Proposed Adoptions: 407-120-0400

Proposed Repeals: 407-120-0400(T)

Last Date for Comment: 6-22-09, 5 p.m.

Summary: The Department-wide provider rules (OAR 407-120-0300 to 407-120-0380) govern provider enrollment and claiming using the Medicaid Management Information System (MMIS). The Department is proposing to permanently adopt the temporary rule, OAR 407-120-0400, in concert with the permanent adoption of the Division of Medical Assistance Programs rule, OAR 410-120-0027, to continue to ensure that Oregon Health Plan clients will be able to receive consistent and uninterrupted service and that providers are assured their correct and appropriate reimbursement at times that necessitate exceptions to normal, on-going communications. The adoption of this rule will repeal the current temporary rule that expires July 10, 2009.

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, Division of Medical Assistance Programs Chapter 410

Rule Caption: MMIS Alternative Process and Procedures — Releases 1, 2 & 3.

Date:	Time:	Location:
6-15-09	10:30 a.m.	HSB Bldg., Rm. 137B 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.025, 409.040, 409.050, 409.110 & 414.065

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-120-0027

Proposed Repeals: 410-120-0027(T)

Last Date for Comment: 6-17-09

Summary: The General Rules Program administrative rules govern Division of Medical Assistance Programs' (DMAP) payments for services provided to clients. DMAP will permanently amend 410-120-0027 to facilitate communication that is an exception to normal and ongoing communication and needs to be covered in rule. This means that the referenced document will be in place on a permanent basis while each individual Release will specify individual beginning effective dates and will be ongoing until further notice. This rule is revised to reference the document, MMIS Alternative Process and Procedures, dated May 1, 2009, that includes Release #1, Pharmacy Payments During MMIS Enrollment Data Correction — effective retroactive to January 1, 2009; Release #2, MMIS Transitional Issues/temporary protocols — effective retroactive to January 16, 2009; and Release #3, Prepaid Health Plan Supplemental Payment Processing — effective May 1, 2009.

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

Rule Caption: Hospital Provider Tax Rate Reduction.

Date:	Time:	Location:
6-23-09	9:30–10:30 a.m.	Human Services Bldg. Rm. 137-C 500 Summer St. NE Salem, OR 97301

Hearing Officer: Jennifer Bittel

Stat. Auth.: ORS 409.050, 410.070 & 411.060

Stats. Implemented: ORS 409.750 & OL 2003, Ch. 736, Sec. 2 & 3

Proposed Amendments: 410-050-0861

Last Date for Comment: 6-25-09, 5 p.m.

Summary: The proposed hospital provider tax rule change reduces the tax rate from .63% to .15%, effective July 1, 2009.

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: Amends, adopts, and repeals the rules related to Hospitals.

Date:	Time:	Location:
6-24-09	11 a.m.	3414 Cherry Ave. NE, Rm. 123 Salem, OR

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 409.050, 431.162, 441.015, 441.055, 441.064, 441.170, 441.815, 442.015 & 442.807

Stats. Implemented: ORS 183.745, 431.162, 435.254, 441.015 - 441.096, 441.160–441.192, 441.815, 442.015, 442.800–442.807, 750.055 & 750.333

Proposed Adoptions: 333-500-0005, 333-500-0025, 333-500-0032, 333-500-0034, 333-500-0036, 333-500-0038, 333-500-0045, 333-500-0065, 333-501-0005, 333-501-0010, 333-501-0015, 333-501-0020, 333-501-0025, 333-501-0030, 333-501-0035, 333-501-0040, 333-501-0045, 333-501-0050, 333-501-0055, 333-505-0033, 333-505-0080, 333-505-0090, 333-505-0100, 333-505-0110, 333-505-0120, 333-520-0035, 333-520-0120

Proposed Amendments: 333-500-0010, 333-500-0020, 333-500-0030, 333-500-0040, 333-500-0055, 333-500-0060, 333-500-0090, 333-505-0001, 333-505-0005, 333-505-0007, 333-505-0010, 333-505-0020, 333-505-0030, 333-505-0040, 333-505-0050, 333-505-0060, 333-505-0070, 333-510-0001, 333-510-0002, 333-510-0010,

NOTICES OF PROPOSED RULEMAKING

333-510-0020, 333-510-0030, 333-510-0040, 333-510-0045, 333-510-0050, 333-510-0060, 333-515-0001, 333-515-0005, 333-515-0020, 333-515-0030, 333-515-0040, 333-520-0000, 333-520-0020, 333-520-0030, 333-520-0040, 333-520-0050, 333-520-0060, 333-520-0070, 333-520-0075, 333-525-0000, 333-525-0010

Proposed Repeals: 333-500-0050, 333-500-0056, 333-500-0057, 333-500-0070, 333-500-0080, 333-500-0100, 333-510-0005, 333-510-0046, 333-510-0047, 333-510-0070, 333-510-0080, 333-510-0090, 333-510-0100, 333-520-0010, 333-520-0055, 333-520-0073, 333-520-0080, 333-520-0090, 333-520-0100, 333-520-0110, 333-530-0000, 333-530-0010, 333-530-0020, 333-530-0030, 333-530-0040, 333-530-0050, 333-530-0060, 333-530-0070, 333-530-0080, 333-530-0090, 333-530-0100, 333-530-0110, 333-530-0120, 333-530-0130, 333-530-0140, 333-530-0150, 333-530-0160, 333-530-0170, 333-530-0180, 333-530-0190

Last Date for Comment: 6-26-09, 5 p.m.

Summary: The Department of Human Services, Public Health Division is proposing to adopt, amend, and repeal the Oregon Administrative Rules relating to Hospitals, to update the rules to be consistent with Centers for Medicare and Medicaid regulations; provide better organization for the rules; provide clearer wording; provide clearer processes for licensing, handling complaints, investigations, surveys, and discipline; establish clear classifications for different types of hospitals; establish clearer rules for medical records and what is required to be documented in a medical record; make clear the types of patient services that are required for different categories of hospitals; and making housekeeping changes.

Rules Coordinator: Sally Peters

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

Telephone: (971) 673-0561

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Rule Caption: Updated Construction Requirements Necessary for Licensing Hospitals.

Date:	Time:	Location:
6-24-09	10 a.m.	3414 Cherry Ave NE Rm. 123 Sunset Bay Salem, OR

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 441.060

Stats. Implemented: ORS 441.060

Proposed Adoptions: 333-535-0001

Proposed Amendments: 333-535-0000, 333-535-0010, 333-535-0025, 333-535-0035, 333-535-0041, 333-535-0050, 333-535-0061, 333-535-0065, 333-535-0070, 333-535-0080, 333-535-0085, 333-535-0086, 333-535-0090, 333-535-0100, 333-535-0105, 333-535-0110, 333-535-0115, 333-535-0120, 333-535-0130, 333-535-0140, 333-535-0150, 333-535-0160, 333-535-0170, 333-535-0180, 333-535-0190, 333-535-0200, 333-535-0205, 333-535-0210, 333-535-0220, 333-535-0230, 333-535-0250, 333-535-0260, 333-535-0270, 333-535-0280, 333-535-0290, 333-535-0300, 333-535-0310

Proposed Repeals: 333-535-0240

Last Date for Comment: 6-26-09, 5 p.m.

Summary: The Department of Human Services, Public Health Division is proposing to permanently amend OAR 333-535-000 through 333-535-0310 and Tables 1 through 5 to increase patient safety for health care projects reviewed by the facilities Planning & Safety Program. Also proposed is an addition of Table 6 referenced by changes to OAR 333-535-0310 regarding electrical requirements in patient care areas.

Rules Coordinator: Sally Peters

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

Telephone: (971) 673-0561

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

Rule Caption: Clackamas County-Issued Adult Foster Home License, transition to State Licensing.

Date:	Time:	Location:
6-18-09	2 p.m.	Human Services Bldg. 500 Summer St. NE Rms. 137CD Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 443.775

Stats. Implemented: ORS 443.705–443.825

Proposed Adoptions: 411-050-0499

Last Date for Comment: 6-22-09, 5 p.m.

Summary: The Department of Human Services (DHS), Seniors and People with Disabilities Division (SPD) is proposing to adopt OAR 411-050-0499 to transition the adult foster home licensing and inspection program from Clackamas County to DHS on July 1, 2009. This proposed rule authorizes adult foster home licensees to maintain their Clackamas County-issued licenses until renewed pursuant to OAR chapter 411, division 050, according to the schedule determined upon issuance of their initial license.

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

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Rule Caption: Support Service for Adults with Developmental Disabilities.

Date:	Time:	Location:
6-16-09	2 p.m.	Human Services Bldg. 500 Summer St. NE Rms. 137CD Salem, OR 97301

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: Rules in 411-340

Last Date for Comment: 6-22-09, 5 p.m.

Summary: The Department of Human Services, Seniors and People with Disabilities Division (SPD) is proposing to modify the support services for adults with developmental disabilities rules in OAR chapter 411, division 340 to:

- Clarify the benefit level and individual cost limit for support services;
- Revise how case management is provided to brokerage customers; and
- Provide general housekeeping changes.

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

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Rule Caption: Community Developmental Disability Programs.

Date:	Time:	Location:
6-22-09	11 a.m.	Human Services Bldg. 500 Summer St. NE, Rm. 166 Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 409.050, 410.070 & 430.640

Other Auth.: SB 165 (2009)

Stats. Implemented: ORS 427.00, 427.007 & 430.610–430.695

Proposed Adoptions: 411-320-0045, 411-320-0175

Proposed Amendments: Rules in 411-320

Last Date for Comment: 6-24-09, 5 p.m.

Summary: The Department of Human Services (DHS), Seniors and People with Disabilities Division (SPD) is proposing to modify the

NOTICES OF PROPOSED RULEMAKING

community developmental disability program (CDDP) rules in OAR chapter 411, division 320 to:

- Allow the provision of SPD to operate a CDDP;
- Remove language and associated responsibilities regarding support specialists;
- Add qualifications and responsibilities for new required CDDP positions;
- Add CDDP responsibilities associated with the implementation of entitlement for support services for individuals 18 years and older and not in comprehensive services;
- Clarify quality assurance responsibilities;
- Clarify the responsibilities of the CDDP and services coordinators to establish consistency with the family support services rules in OAR chapter 411, division 305;
- Clarify developmental disability eligibility;
- Clarify the complaint and hearing process for eligibility determination decisions;
- Add new definitions to provide clarity throughout the rules and remove definitions no longer applicable;
- Allow the provision of crisis diversion services to individuals with a developmental disability other than mental retardation who are enrolled in developmental disability services;
- Clarify expectations for monitoring and record-keeping of crisis diversion services; 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

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Department of Justice
Chapter 137

Rule Caption: Exempt technology transfer contracts and certain other contracts from legal requirements.

Date:	Time:	Location:
6-22-09	2 p.m.	1215 State St. NE, 3rd Floor Conference Rm. Salem, OR

Hearing Officer: Sharman Meiners

Stat. Auth.: ORS 291.047, 190.430 & 190.490

Stats. Implemented: ORS 291.047, 190.430 & 190.490

Proposed Adoptions: 137-045-0052

Proposed Amendments: 137-045-0050

Proposed Repeals: 137-045-0050(T)

Last Date for Comment: 6-22-09

Summary: Amendment of OAR 137-045-0050 exempts technology transfer contracts and related agreements with the Oregon university System ("OUS") from the legal sufficiency approval requirements under ORS 291.047. The Attorney General has determined that the degree of risk assumed by OUS under such contracts is not materially reduced by legal review of individual contracts within the class. Adoption of OAR 137-045-0052 exempts all contracts included under OAR 137-045-0050(1)-(18) & (20) from the review requirements under ORS 190.430 and 190.490.

Rules Coordinator: Carol Riches

Address: Department of Justice, 1162 Court St. NE, Salem, OR 97301

Telephone: (503) 378-6313

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Department of Public Safety Standards and Training
Chapter 259

Rule Caption: Medical Standards for Telecommunicators/EMD, Issuance of DPSST Numbers, and Eliminates Certified Retired Officer Program.

Stat. Auth.: ORS 181.640 & 181.667

Stats. Implemented: ORS 181.640 & 181.667

Proposed Amendments: 259-008-0011, 259-008-0020, 259-008-0068

Last Date for Comment: 6-26-09, Close of Business

Summary: Amends current medical standards for Telecommunicators/EMD's relating to speaking acuity to clarify the Department's intent to require a physician completing an F-2T medical examination to indicate whether an applicant exhibits normal speech patterns;

Amends current rule to clarify those instances when a DPSST number will be issued; and

Establishes process to eliminate certified retired officer program. Phases out currently certified retired officers and prohibits issuance of new certifications for retired officers who honorably retire on or after February 28, 2009.

Rules Coordinator: Bonnie Narvaez

Address: 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2431

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Rule Caption: Adopts NFPA 472 (2008 Edition) and Amends Denial and Revocation Rules for Fire Service Professionals.

Stat. Auth.: ORS 181.610, 181.640, 181.661, 181.662, 181.664 & 183.341

Stats. Implemented: ORS 181.610, 181.640, 181.661, 181.662 & 181.664

Proposed Amendments: 259-009-0005, 259-009-0059, 259-009-0062, 259-009-0070

Last Date for Comment: 6-26-09, 5 p.m.

Summary: Defines "Cargo Tank Specialty", "First Responder" "Hazardous Materials Safety Officer", "Hazardous Materials Technician", "Incident Commander", "Intermodal Tank Specialty", "Marine Tank Vessel Specialty", "Operations Level Responder" and "Tank Car Specialty."

Amends minimum standards for employment as a fire service professional to include the submittal of fingerprints when an individual is identified in the Oregon LEDS system as a multi-source offender.

Adopts the provisions of NFPA Standard 472, 2008 Edition, entitled "Standard for Hazardous Materials and Weapons of Mass Destruction."

Amends Mandatory Grounds for Denying or Revoking Certification of a Fire Service Professional or Instructor to include the entire list of current Measure 11 offenses within the text of the rule and includes an "attempt" to commit a Measure 11 offense as a discretionary disqualifying offense;

Amends Discretionary Disqualifying Misconduct as Grounds for Denying or Revoking Certification of a Fire Service Professional or Instructor to include the entire list of discretionary crimes within the text of the rule and includes any crime that requires a fire service professional or instructor to register as a sex offender;

Establishes timeframe when the Department will or will not initiate revocation proceedings based on a discretionary disqualifying conviction; and

Housekeeping and structural changes were made to the Grounds for Mandatory and Discretionary Denial or Revocation of Certification for clarity and to address misconduct cases in which there has been an arbitrator's opinion related to a fire service professional's or instructor's employment.

Rules Coordinator: Bonnie Narvaez

Address: 4190 Aumsville Hwy, SE Salem OR 97317

Telephone: (503) 378-2431

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Land Use Board of Appeals
Chapter 661

Rule Caption: Amends Land Use Board of Appeals' administrative rules pursuant to periodic rule review.

Stat. Auth.: ORS 183.335

Stats. Implemented: ORS 183.335 & 183.715

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 661-001-0000, 661-010-0000, 661-010-0015, 661-010-0021, 661-010-0025, 661-010-0026, 661-010-0030, 661-010-0039, 661-010-0040, 661-010-0045, 661-010-0050, 661-010-0055, 661-010-0065, 661-010-0067, 661-010-0075

Last Date for Comment: 8-29-09

Summary: The following summarizes the major substantive amendments:

OAR 661-001-0000 is being amended to conform to the timing provisions of proposed rulemaking with recent statutory changes and to update the mailing list of parties entitled to notice.

OAR 661-010-0000 is being amended to reflect the new effective date of the rules.

OAR 661-010-0015 is being amended to specify what will be considered as proof of mailing to comply with LUBA's deadlines. Clarifies the procedures that LUBA will take when it receives a Notice of Intent to Appeal without the required filing fee. The deposit for costs shall also be raised from \$150 to \$200.

OAR 661-010-0021 is being amended to clarify that filing or refiling of a Notice of Intent to Appeal may be accomplished via U.S. mail on or before the due date. Also, the rule is being amended to clarify that an intervenor need not file a new motion to intervene when the petitioner files an amended notice of intent to appeal or if the petitioner refiles the original notice of intent to appeal.

OAR 661-010-0025 is being amended to increase the type of media that LUBA will accept as the local record. The requirements for the table of contents of a record are also being amended to require that any attached exhibits be listed separately at the end of the table of contents. Amendment also provides LUBA will have discretion to accept a record with minor defects.

OAR 661-010-0026 is being amended to require a governing body's legal council to file a response or advise LUBA of the parties' efforts to resolve a record objection within 14 days of the filing of a record objection.

OAR 661-010-0030 is being amended to clarify that the date of filing a petition for review is the date of mailing if sent by registered or certified mail or when actually received by the board. Amendment also requires that maps be included when helpful in illustrating material facts.

OAR 661-010-0039 is being amended to clarify how a party may respond to an amicus brief or a state agency brief.

OAR 661-010-0040 is being amended to limit the time that petitioner may reserve for rebuttal to 10 minutes and limits the use of rebuttal time to address arguments raised by respondent(s).

OAR 661-010-0045 is being amended to provide LUBA with discretion to take evidence when there is a jurisdictional dispute. Rule is also being amended to provide LUBA with the ability to order the time to continue to run while the board addresses a motion to take evidence.

OAR 661-010-0050 is being amended to clarify that intervention in an appeal that is consolidated with other appeals does not allow for intervention in the other appeals. Rule is also being amended to clarify that an intervenor need not file new motions to intervene when an amended notice of intent to appeal is filed or the original notice of intent to appeal is refilled. The rule is also being amended to allow the intervenor's brief to include cross-assignments of error when appropriate.

OAR 661-010-0055 is being amended to clarify that consolidation of appeals does not affect the status of the parties to each appeal.

OAR 661-010-0065 is being amended to change the amount of time for filing certain motions from 10 days to 14 days to conform to other time limits.

OAR 661-010-0067 is being amended to provide for an automatic time extension for filing a Petition for Review when the parties agree to an extension regarding a record objection.

OAR 661-010-0075 is being amended to raise the recoverable copying costs from \$0.20 to \$0.25. Rule amendment also clarifies when a document will be deemed received by LUBA. The rule amendment further clarifies that the lead petitioner shall be respon-

sible for notifying the other petitioners of documents and other communications that they receive from the Board. Finally, the rule is being amended to provide how LUBA will process an appeal that is transferred from the Oregon Department of Land Conservation and Development.

Rules Coordinator: William F. Wilson

Address: Land Use Board of Appeals, 550 Capitol St. NE, Suite 235, Salem, OR 97301-2552

Telephone: (503) 378-2986

Office for Oregon Health Policy and Research Chapter 409

Rule Caption: Amendments to Health Care Acquired Infection Reporting and Public Disclosure Rules.

Date:	Time:	Location:
6-22-09	1:30-2:30 p.m.	General Services Bldg. Neahkannie Rm., 1st Flr 1225 Ferry St. NE Salem, OR 97301

Hearing Officer: Jennifer Bittel

Stat. Auth.: ORS 442.838 & 442.420(3)(d)

Stats. Implemented: ORS 179.505, 192.410, 192.496, 192.502, 442.400, 442.405, 442.015, 442.011 & 442.838

Proposed Adoptions: 409-023-0012, 409-023-0013

Proposed Amendments: 409-023-0000, 409-023-0010, 409-023-0015

Last Date for Comment: 6-24-09, 5 p.m.

Summary: These proposed rules implement the health care acquired infection (HAI) reporting, public disclosure, and other applicable mandates of ORS 442.838, which was enacted by the 74th Legislative Assembly. These proposed rules are intended to fulfill the mandates by prescribing the HAIs that are reported, how they are reported, the health care facilities that report them, and how they are publicly disclosed.

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

Oregon Commission on Children and Families Chapter 423

Rule Caption: Clarify Definition of "direct service" and delete unnecessary definition.

Stat. Auth.: ORS 417.705-417.797

Stats. Implemented: ORS 417.705-417.797

Proposed Amendments: 423-001-0006

Last Date for Comment: 6-22-09

Summary: Clarify the definition of "direct service" and delete unnecessary definition of "Staff Director or Director". The duties and responsibilities of the director are detailed in OAR 423-010-0023.

Rules Coordinator: Marsha Clark

Address: Oregon Commission on Children and Families, 530 Center St. NE, Suite 405, Salem, OR 97301

Telephone: (503) 373-1283

Oregon Medical Board Chapter 847

Rule Caption: Deletes references to emergency and non-emergency care; lists airway devices a First Responder may use.

Stat. Auth.: ORS 682.245

Stats. Implemented: ORS 682.245

Proposed Amendments: 847-035-0030

Last Date for Comment: 6-29-09

Summary: The proposed rule change deletes references to emergency and non-emergency care in the First Responder and EMT

NOTICES OF PROPOSED RULEMAKING

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

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

Telephone: (971) 673-2713

Oregon Patient Safety Commission

Chapter 325

Rule Caption: Establishes the Patient Safety Commission's 2009-2011 biennial budget by amending OAR 325-005-0015.

Date:	Time:	Location:
6-23-09	12 p.m.	800 NE Oregon St., Rm. 1-D Portland, OR

Hearing Officer: Shannon O'Fallon

Stat. Auth.: ORS 442.820-442.835

Other Auth.: 2003 OL Ch. 686, Sec. 9

Stats. Implemented: ORS 182.462(1) & 182.462(2)

Proposed Amendments: 325-005-0015

Last Date for Comment: 6-23-09, 5 p.m.

Summary: In accordance with the rules governing semi-independent state agencies, this action establishes the Patient Safety Commission's 2009-2011 biennial budget of \$993,281 by amending OAR 325-005-0015.

Rules Coordinator: Jim Dameron

Address: 1020 SW Taylor St., Suite 375, Portland, OR 97205

Telephone: (503) 224-9226

Oregon Public Employees Retirement System

Chapter 459

Rule Caption: Clarify actuarial equivalency factors rules by updating a citation and repealing an obsolete rule.

Date:	Time:	Location:
6-16-09	2 p.m.	PERS Boardroom 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.630 & 238.650

Stats. Implemented: ORS 238.607 & 238.630

Proposed Amendments: 459-005-0060

Proposed Repeals: 459-005-0058

Last Date for Comment: 7-1-09

Summary: Repeals obsolete rule 459-005-0058 and changes citation in 459-005-0060 from 459-005-0055(4) to 459-005-0055(3).

Copies of 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

Rule Caption: Clarifies hours of service that may be considered for vesting in the OPSRP Pension Program.

Date:	Time:	Location:
6-16-09	2 p.m.	PERS Boardroom 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.010 & 238A.115

Proposed Adoptions: 459-075-0060

Last Date for Comment: 7-1-09

Summary: A member must be vested in the OPSRP Pension Program to receive benefits under the program, ORS 238A.115 provides standards by which a member may vest in the pension program, including a common standard, i.e. a member may vest in the OPSRP Pension Program by completing 600 hours of service in each of five calendar years.

OAR 459-075-0060, Vesting in the OPSRP Pension Program, clarifies that the determination of hours of service within a calendar year will include hours served during the member's waiting time and hours served by the member with all PERS employers during a calendar year. For calendar years 2004 and later, hours of service will be determined based on hours reported by employers through the EDX. The rule also incorporates statutory restrictions on hours that may be considered.

Copies of 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 Marine Board

Chapter 250

Rule Caption: Clarifies rule language for Boating Safety Education Program.

Stat. Auth.: ORS 830.110

Stats. Implemented: ORS 830.082-830.096

Proposed Amendments: 250-018-0060, 250-018-0090, 250-018-0110

Last Date for Comment: 6-18-09, Close of Business

Summary: The Marine Board is reviewing the Boating Safety Education Program rules for clarity and grammar corrections.

Rules Coordinator: June LeTarte

Address: 435 Commercial Street NE, #400, PO Box 14145 Salem OR 97309

Telephone: (503) 378-2617

Oregon University System,

Eastern Oregon University

Chapter 579

Rule Caption: Amend special student and course fees.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Proposed Amendments: 579-020-0006

Last Date for Comment: 6-23-09

Summary: Amend fees charged to students for special uses of facilities, services or supplies at Eastern Oregon University.

Rules Coordinator: Lara Moore

Address: Oregon University System, Eastern Oregon University, One University Blvd., La Grande, OR 97850

Telephone: (541) 962-3368

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.

Date:	Time:	Location:
6-17-09	10 a.m.	800 NE Oregon St., Rm. 1A Portland, OR 97232

Hearing Officer: Board of Maritime Pilots

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115 & 776.345

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Proposed Adoptions: 856-010-0008
Proposed Amendments: 856-010-0010
Last Date for Comment: 6-17-09

Summary: 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 apprenticeship applicants.

Rules Coordinator: Susan Johnson
Address: Public Utility Commission, Board of Maritime Pilots, 800 NE Oregon St., Suite 507, Portland, OR 97232
Telephone: (971) 673-1530

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**Secretary of State,
Archives Division
Chapter 166**

Rule Caption: Adds a records series to the Cities General Records Retention Schedule.

Date:	Time:	Location:
6-22-09	8:30 a.m.	800 Summer Street NE Salem, OR 97310

Hearing Officer: Michael Matthews

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192 & 357

Proposed Amendments: 166-200-0010

Last Date for Comment: 6-22-09, Close of Hearing

Summary: Amends OAR 166-200-0010 to add a records series to the rule, clarifying, consolidating and establishing clear retention for security records.

Rules Coordinator: Julie Yamaka
Address: 800 Summer Street NE, Salem, OR 97310
Telephone: (503) 378-5199

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Rule Caption: Amendment clarifies Oregon University System General Records Retention Schedule.

Date:	Time:	Location:
6-22-09	10:30 a.m.	800 Summer Street NE Salem, OR 97310

Hearing Officer: Michael Matthews

Stat. Auth.: ORS 192 & 357

Other Auth.: Code of Federal Regulations Title 34

Stats. Implemented: ORS 192 & 357

Proposed Amendments: Rules in 166-475

Last Date for Comment: 6-22-09, Close of Hearing

Summary: Updates and revises OAR 166-475 existing rules relating to retention of records generated by the Oregon University System.

Rules Coordinator: Julie Yamaka
Address: 800 Summer Street NE., Salem, OR 97310
Telephone: (503) 378-5199

.....
Rule Caption: Revises records retention period in Education Service District, School District and Schools Records Retention Schedule.

Date:	Time:	Location:
6-22-09	9:30 a.m.	800 Summer Street NE Salem, OR 97310

Hearing Officer: Michael Matthews

Stat. Auth.: ORS 192 & 357

Other Auth.: Code of Federal Regulation Title 34

Stats. Implemented: ORS 192 & 357

Proposed Amendments: 166-400-0060

Last Date for Comment: 6-22-09, Close of Hearing

Summary: This amendment to OAR 166-400-0060 updates and clarifies the rule relating to Education Service Districts, School Districts and Schools. The revision amends out-dated descriptive narrative and revises retention periods to match retention periods within OAR 166-400.

Rules Coordinator: Julie Yamaka

Address: 800 Summer Street NE., Salem, OR 97310
Telephone: (503) 378-5199

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Rule Caption: Pertaining to Publishing Tables and Charts in Online Administrative Rules Compilation.

Date:	Time:	Location:
6-24-09	10-10:30 a.m.	Large Conf. Rm. 800 Summer St. NE Salem, OR 97310

Hearing Officer: Julie Yamaka

Stat. Auth.: ORS 183.360, 183.362 & 183.365

Stats. Implemented: ORS 183.360, 183.362 & 183.365

Proposed Amendments: 166-500-0040, 166-500-0050, 166-500-0055

Last Date for Comment: 6-24-09, Close of Hearing

Summary: Amending procedural rules of the Oregon Secretary of State, Archives Division, Administrative Rules Unit to set forth the new procedures by which state agencies, boards and commissions that promulgate administrative rules may submit PDFs of tables, charts, appendices, etc. referred to in rule, for publication in the Online Oregon Administrative Rules Compilation.

Rules Coordinator: Julie Yamaka

Address: 800 Summer Street NE., Salem, OR 97310

Telephone: (503) 378-5199

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**Teacher Standards and Practices Commission
Chapter 584**

Rule Caption: Amends, renumbers, and repeals rules regarding 'recency' requirement, civil rights test, CAPs, CPD and rule definitions.

Date:	Time:	Location:
6-23-09	1-3 p.m.	TSPC Office 465 Commercial St. NE Salem, OR 97301

Hearing Officer: Victoria Chamberlain

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120-342.430, 342.534 & 342.985

Proposed Amendments: 584-005-0005, 584-019-0003, 584-021-0105, 584-021-0140, 584-021-0150, 584-021-0165, 584-021-0210, 584-036-0025, 584-036-0081, 584-036-0067, 584-040-0005, 584-060-0002, 584-060-0012, 584-060-0013, 584-060-0014, 584-060-0022, 584-060-0171, 584-060-0190, 584-060-0200, 584-065-0060, 584-070-0111, 584-070-0012, 584-070-0014, 584-070-0022, 584-070-0211, 584-070-0221, 584-070-0310, 584-080-0002, 584-080-0012, 584-080-0022, 584-080-0031, 584-080-0151, 584-080-0152, 584-080-0153, 584-080-0161, 584-090-0001, 584-090-0005

Proposed Repeals: 584-048-0010, 584-048-0015, 584-048-0020, 584-048-0090, 584-048-0105, 584-048-0115, 584-050-0009

Proposed Renumberings: 584-048-0120 to 584-036-0115, 584-048-0040 to 584-042-0012

Proposed Ren. & Amends: 584-048-0006 to 584-036-0004, 584-048-0025 to 584-038-0019, 584-048-0030 to 584-038-0018, 584-048-0032 to 584-038-0014, 584-048-0035 to 584-040-0009, 584-048-0067 to 584-044-0018, 584-048-0070 to 584-044-0016, 584-048-0085 to 584-046-0018, 584-048-0095 to 584-046-0022, 584-048-0110 to 584-046-0023

Last Date for Comment: 8-6-09, 4 p.m.

Summary: (1) Removes 'recency' requirement for licensure and clarifies CPD in rules.

(2) Updates requirement for civil rights *workshop* to *Commission approved test* in several rules.

(3) Clarifies next steps and renewal requirements after first license with out-of-state preparation.

(4) Updates division 90 rules to include initial II licenses.

(5) Amends 584-019-003 *Notice of Opportunity for Hearing*.

(6) Renumbers rules to proper divisions.

(7) Housekeeping amendments, corrects and removes expired rule language, repeals outdated rules.

NOTICES OF PROPOSED RULEMAKING

Rules Coordinator: Victoria Chamberlain
Address: Teacher Standards and Practices Commission, 465 Commercial St. NE, Salem, OR 97301
Telephone: (503) 378-6813

Veterinary Medical Examining Board
Chapter 875

Rule Caption: Defines 'veterinary technician' as a person licensed by the Board.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.350 & 686.370

Proposed Amendments: 875-030-0010

Last Date for Comment: 7-15-09

Summary: Eliminates notarized signature of an Oregon licensed veterinarian as proof of experience for on-the-job applicants for the Veterinary Technician National Exam.

Rules Coordinator: Lori Makinen

Address: Veterinary Medical Examining Board, 800 NE Oregon St., Suite 407, Portland, OR 97232

Telephone: (971) 673-0224

Rule Caption: Clarifies requirements for on-the-job experience eligibility for VTNE, application process, and fees.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.350 & 686.370

Proposed Amendments: 875-030-0010, 875-030-0020, 875-030-0025

Last Date for Comment: 7-15-09

Summary: Requires employment W-2 forms as proof of experience for on-the-job applicants for the Veterinary Technician National Exam.

Deletes reference to Board administering the Veterinary Technician National Exam; adds reference to American Association of Veterinary State Boards' (AAVSB) administration of Veterinary Technician National Exam. Deletes reference to Interstate Reporting Service.

Deletes reference to veterinarians' letter certifying work experience for applicants for Veterinary Technician National Exam. Clarifies VTNE application process (Board screen VTNE applications; candidates apply directly to AAVSB).

Rules Coordinator: Lori Makinen

Address: Veterinary Medical Examining Board, 800 NE Oregon St., Suite 407, Portland, OR 97232

Telephone: (971) 673-0224

ADMINISTRATIVE RULES

Appraiser Certification and Licensure Board Chapter 161

Rule Caption: Adopting temporary budget to allow for operation of agency pending hearing and permanent adoption.

Adm. Order No.: ACLB 3-2009(Temp)

Filed with Sec. of State: 5-15-2009

Certified to be Effective: 7-1-09 thru 11-30-09

Notice Publication Date:

Rules Amended: 161-006-0025

Subject: Amends Oregon Administrative Rule 161, division 006, rule 0025, regarding the Board's budget for the 2009–2011 biennium.

Rules Coordinator: Karen Turnbow—(503) 485-2555

161-006-0025

Budget

The Board hereby adopts by reference the Board's 2009-2011 Biennium Budget of \$1,426,474 covering the period from July 1, 2009 through June 30, 2011. The Board will amend budgeted accounts as necessary within the approved budget of \$1,426,474 for the effective operation of the Board. The Board will not exceed the approved 2009–2011 Biennium Budget without amending this rule, notifying holders of licenses, and holding a public hearing thereon as required by ORS Chapter 182.462(1)(2). Copies of the budget are available from the Board's office.

Stat. Auth.: ORS 674.305(8) & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 4-2001(Temp), f. & cert. ef. 9-12-01 thru 3-1-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 1-2003(Temp), f. & cert. ef. 1-14-03 thru 7-11-03; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 4-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03; ACLB 5-2003, f. & cert. ef. 11-10-03; ACLB 2-2005(Temp), f. 6-16-05, cert. ef. 7-1-05 thru 12-28-05; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 2-2007(Temp), f. 6-6-07, cert. ef. 7-1-07 thru 11-30-07; BOC 1-2007, f. 10-31-07, cert. ef. 11-1-07; ACLB 3-2009(Temp), f. 5-15-09, cert. ef. 7-1-09 thru 11-30-09

Board of Architect Examiners Chapter 806

Rule Caption: Board's 2007–2009 Biennial Budget.

Adm. Order No.: BAE 2-2009

Filed with Sec. of State: 5-14-2009

Certified to be Effective: 5-14-09

Notice Publication Date: 5-1-2009

Rules Amended: 806-001-0003

Subject: This rule amends the 2007–2009 biennial budget for the Oregon Board of Architect Examiners to a maximum expenditure limit of \$710,000.

Rules Coordinator: Carol Moeller—(503) 763-0662, ext. 23

806-001-0003

Biennial Budget

Pursuant to the provisions of ORS 182.462, the Board adopts by reference the Oregon State Board of Architect Examiners' 2007–2009 Biennial Budget of \$710,000 covering the period July 1, 2007, through June 30, 2009. The Board Administrator will amend budgeted accounts as necessary, within the approved budget of \$710,000, for the effective operation of the Board. The Board will not exceed the approved budget amount without amending this rule, notifying holders of licenses, and holding a public hearing. Copies of the budget are available from the Board's office.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 671.120, 671.125, 182.462 & 183.705

Stats. Implemented: ORS 671.125 & 182.462

Hist.: AE 1-1997(Temp), f. & cert. ef. 7-25-97; AE 3-1997, f. & cert. ef. 12-11-97; BAE2-1998, f. & cert. ef. 6-22-98; BAE 2-1999, f. & cert. ef. 5-25-99; BAE 2-2001, f. 6-6-01, cert. ef. 7-1-01; BAE 2-2003, f. 4-11-03 cert. ef. 7-1-03; BAE 1-2005, f. 3-14-05, cert. ef. 7-1-05; BAE 1-2007, f. 5-8-07, cert. ef. 7-1-07; BAE 2-2009, f. & cert. ef. 5-14-09

Board of Examiners for Engineering and Land Surveying Chapter 820

Rule Caption: To amend rules for clarification and adopt the Board's 2009–2011 budget.

Adm. Order No.: BEELS 1-2009

Filed with Sec. of State: 5-15-2009

Certified to be Effective: 5-15-09

Notice Publication Date: 4-1-2009

Rules Amended: 820-010-0325, 820-010-0635, 820-030-0060, 820-040-0005

Subject: OAR 820-010-0325 — Budget — To adopt the Board's 2009–2011 biennial budget.

OAR 820-010-0635 — Continuing Professional Development — Housekeeping. To clarify the requirements of continuing professional development as a condition of registration renewal for engineers, land surveyors, and photogrammetrists.

OAR 820-030-0060 — Filing Time and Place — Housekeeping.

OAR 820-040-0005 — Definitions — To clarify the definition of "Ground Area" and "Height" as used in ORS 672.060(10), 672.107(1)(a)(B), and 672.107(1)(a)(D).

Rules Coordinator: Mari Lopez—(503) 362-2666, ext. 26

820-010-0325

Budget

The amount of \$2,977,970 is established for the biennium beginning July 1, 2009, as the intended limit for payment of expenses from fees, monies or other revenue, including miscellaneous receipts, collected or received by the Board.

Stat. Auth.: ORS 182.462, 670.310, 672.155 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 1-1999, f. 5-27-99, cert. ef. 7-1-99; BEELS 1-2001, f. & cert. ef. 5-22-01; BEELS 2-2002, f. & cert. ef. 5-15-02; BEELS 4-2003, f. 5-14-03, cert. ef. 7-1-03; BEELS 2-2004, f. & cert. ef. 7-14-04; BEELS 2-2005(Temp), f. & cert. ef. 6-9-05 thru 12-5-05; BEELS 4-2005, f. & cert. ef. 9-23-05; BEELS 1-2007(Temp), f. & cert. ef. 3-23-07 thru 6-30-07; Administrative correction, 7-15-07; BEELS 1-2008, f. & cert. ef. 3-12-08; BEELS 1-2009, f. & cert. ef. 5-15-09

820-010-0635

Continuing Professional Development

The purpose of professional development requirements is to demonstrate a continuing level of competency of professional land surveyors, engineers and photogrammetrists. Every registrant shall meet the professional development requirements as a condition of registration renewal.

(1) Requirements. Every registrant is required to obtain 30 PDH units during each biennial renewal period. Registrants who are licensed for a part of a renewal period shall obtain a prorated amount of PDH. If a registrant exceeds the requirement in any renewal period, a maximum of 15 PDH units in courses/activities may be carried forward into the next renewal period.

(2) PDH units may be earned as follows:

(a) Successful completion of college courses;
(b) Successful completion of short courses, tutorials, correspondence, web based courses, televised and videotaped courses;
(c) Active participation in seminars, in-house courses, workshops, and professional conventions;

(d) Teaching or instructing in (a) through (c) above;

(e) Authoring or co-authoring published papers, articles or books;

(f) Active participation in professional or technical societies;

(g) Self study;

(h) Mentoring of engineering, land surveying, or photogrammetry topics;

(i) Non-technical educational activities related to the registrants employment;

(j) Passing a board prepared take home test.

(3) PDH units for each renewal period may be obtained as follows:

(a) 1 College Semester hour equals 45 PDH;

(b) 1 College Quarter hour equals 30 PDH;

(c) 1 Continuing Education unit equals 10 PDH;

(d) 1 hour of professional education in course work, seminars, professional conventions, workshops equals 1 PDH;

(e) For teaching, apply multiple of 2 (teaching credit is valid for teaching a given course or seminar one time only and does not apply to full time faculty teaching college courses);

(f) For authoring or co-authoring a paper, article or book, appearing in a recognized professional or technical publication, up to a maximum of 10 PDH;

(g) 2 PDH for active participation in a professional or technical society. Up to a maximum of 6 PDH per renewal period;

(h) Self study of relevant materials such that the registrant's knowledge of the subject significantly improves the registrant's ability to work in the subject area. Up to a maximum of 6 PDH;

(i) Mentoring of nonlicensed individuals not under your supervision in the field of engineering, land surveying, or photogrammetry. Each 10

ADMINISTRATIVE RULES

hours spent mentoring will provide 1 PDH with a maximum of 2 PDH per year;

(j) 1 PDH per hour for developing, writing, or scoring an Oregon Specific examinations. Up to a maximum of 8 PDH per renewal period.

(4) Determination of Credit. The Board has final authority with respect to approval of courses, credit, PDH values for courses and other methods of earning credit. The Board may maintain a list of courses and activities which it has approved. The Board will approve without listing courses which are sponsored by nationally recognized technical societies and those technical societies listed in 820-001-0000(4)(b)(A) through (E) and (4)(c)(A) through (G). Criteria for determination of credit shall follow these guidelines:

(a) Credit for college or community college approved courses will be based upon course credit established by the college;

(b) Credit for qualifying seminars and workshops will be based on one PDH unit for each hour of attendance. Attendance at qualifying programs presented at professional and/or technical society meetings will earn PDH units for the actual time of each program;

(c) Credit determination for activities is the responsibility of the registrant and is subject to review by the Board.

(5) Record keeping. Each registrant is charged with the responsibility of maintaining records of his/her own professional education activities. Every registrant shall report their professional education activities on a form approved by the Board only when requested by the Board to do so. The duty of maintaining records to support credits claimed is the responsibility of the registrant. Records required include, but are not limited to:

(a) A record showing the activity claimed, sponsoring organization, date, location, duration, instructor's or speaker's name, and PDH units earned; and

(b) Attendance verification records in the form of completion certificates, paid receipts, or other documents supporting evidence of attendance. These records must be retained for five (5) years. Copies may be requested by the Board for audit verification purposes.

(6) Delinquent, retired or inactive registrants must complete PDH requirements as outlined in OAR 820-010-0520 in order to attain active status.

(7) In the event a registrant holds a license in another state that has a lesser PDH requirement than Oregon or no PDH requirement, the registrant will need to satisfy Oregon's 30 PDH requirement to renew the Oregon license. In the event a registrant holds a license in another state that has a higher PDH requirement than Oregon, the registrant will be able to renew registration in Oregon upon fulfilling the other jurisdiction's higher requirement.

(8) Multiple Registrants. The number of PDH units required shall remain a total of 30 PDH per renewal period for persons who hold registration as an engineer, land surveyor, or photogrammetrist or more than one discipline of engineering. At least one third (1/3) of the PDH units required in courses/activities shall be related to each registration.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.375

Hist.: BEELS 2-2000, f. & cert. ef. 2-17-00; BEELS 5-2000, f. & cert. ef. 10-19-00; BEELS 3-2002, f. & cert. ef. 11-13-02; BEELS 1-2003, f. & cert. ef. 1-28-03; BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 2-2007, f. & cert. ef. 4-5-07; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 1-2009, f. & cert. ef. 5-15-09

820-030-0060

Filing Time and Place

The registered professional land surveyors making a survey pursuant to ORS 209.250 shall submit for filing a complete record that contains all the elements listed in ORS 209.250(2)(3) in all affected counties within 45 days of establishment or reestablishment of any boundary monument or boundary reference monument. The 45-day limit will commence with the setting of the first monument, not the completion of the project.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 2-1986, f. 3-26-86, ef. 3-31-86; BEELS 2-2001, f. & cert. ef. 9-14-01, Renumbered from 820-015-0020; BEELS 1-2009, f. & cert. ef. 5-15-09

820-040-0005

Definitions

The following definitions and guides have been adopted by the Board to assist registrants and the general public in their interpretation of specific portions of ORS 672.002 to 672.325.

(1) As used in ORS 672.060(10) and 672.107(1)(a)(B), "Ground Area" is defined as any projected or suspended occupied areas above the ground level in combination with areas in contact with the ground. Measurements in determining the ground area shall be taken from outside wall to outside wall and include the sum of the areas of all additions and the area of the original structure. The ground area of a building, or portion

thereof, not provided with surrounding exterior walls is the usable area under the horizontal projection of the roof or floor above.

(2) As used in ORS 672.060(10) and 672.107(1)(a)(B), "Height" is measured from the top surface of the lowest flooring to the highest interior overhead finish of the structure in determining whether a building exceeds the 20-foot height limitation. A basement floor is considered the lowest flooring when useable (i.e., storage, garage, etc.).

(3) As used in ORS 672.107(1)(a)(D), the height of a structure is defined as the vertical dimension from the average ground level to the average roof height for sloped roofs or parapet height for flat roofs. In multi-level structures, utilize the upper roof only to determine the dimension.

Stat. Auth.: ORS 670.310, 672.060, 672.129 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 4-2005, f. & cert. ef. 9-23-05; BEELS 1-2009, f. & cert. ef. 5-15-09

Board of Naturopathic Examiners Chapter 850

Rule Caption: Clarifies the Natural Childbirth certificate requirement.

Adm. Order No.: BNE 1-2009

Filed with Sec. of State: 4-30-2009

Certified to be Effective: 4-30-09

Notice Publication Date: 3-1-2009

Rules Amended: 850-035-0230

Subject: Clarifies the need to maintain an active license to hold a certificate in natural childbirth.

Rules Coordinator: Anne Walsh—(971) 673-0193

850-035-0230

Requirements for Certification to Practice Natural Childbirth

A naturopathic physician maintaining an active license in Oregon, who wishes to practice natural childbirth must apply to and receive from the board a certificate of special competency in natural childbirth. To receive and maintain a certificate, the licensee must fulfill the following requirements:

(1) Complete at least 200 hours of course work at an approved naturopathic college or hospital in obstetrics and furnish a signed log showing evidence that (a) and (b) and (c) of this subsection have been completed under the direct supervision of a licensed practitioner with specialty training in obstetrics and/or natural childbirth:

(a) Licensee must have taken part in the care of 50 cases each in prenatal and postnatal care; one case may qualify for both areas of care; and

(b) Licensee must have observed and assisted in the intrapartum care and delivery of 50 natural childbirths in a hospital or alternative birth setting. A minimum of 26 of these births must be under the supervision of a naturopathic doctor. No more than 10 of the 50 births may be under the supervision of a medical doctor. No more than 10 of the births may be observation only. A labor and delivery that starts under the care of a naturopathic doctor and includes hospitalization shall count as a birth; and

(c) Licensee must hold a current neonatal resuscitation certificate.

(2) Licensee must pass a specialty exam in obstetrics given by or approved by the Board, after first completing the 200 hours of coursework as required above, and participating in the care of at least 15 cases each in prenatal, intrapartum, and postnatal care; one case may qualify for all these areas of care.

(3) An application for a certificate of special competency in natural childbirth must be submitted, with appropriate fees, after meeting the requirements in 850-035-0230, within three years of passing the specialty examination.

(4) Licensee holding a natural childbirth certification must annually, including initial year of certification, submit 15 hours of Board approved continuing education in obstetrics. Seven of the 15 hours in obstetrics may be used to satisfy ORS 685.102. Licensee must submit proof of current certification in neonatal resuscitation annually.

(5) Licensing action by the Board under ORS 685.100 shall be deemed to have an equal effect upon a certificate of special competency issued the practitioner, unless specifically provided otherwise in the Board action. When the subject of a disciplinary proceeding under 685.100 relates specifically to the practice of natural childbirth by a licensee who possesses a certificate of special competency, the license action may in lieu of effecting the entire scope of the licensee's practice, suspend, revoke, or curtail only the practitioner's authority under a certificate of special competency.

Stat. Auth.: ORS 183 & 685

Stats. Implemented: ORS 685.100, 685.102, 685.135 & 685.160

ADMINISTRATIVE RULES

Hist.: NE 3-1985(Temp), f. & ef. 9-23-85; NE 1-1986, f. & ef. 4-10-86; NE 1-1996, f. & cert. ef. 10-18-96; NE 2-1997(Temp), f. 12-1-97, cert. ef. 12-2-97 thru 5-31-98; administrative correction 8-9-99; BNE 1-2001, f. & cert. ef. 2-7-0; Renumbered from 850-010-0230, BNE 8-2005, f. & cert. ef. 10-27-05; BNE 1-2009, f. & cert. ef. 4-30-09

Board of Nursing Chapter 851

Rule Caption: Rules Establish Instructor to Student Ratios for Classroom, Lab & Clinical for CNA 2 Trainings.

Adm. Order No.: BN 1-2009

Filed with Sec. of State: 5-15-2009

Certified to be Effective: 5-15-09

Notice Publication Date: 3-1-2009

Rules Amended: 851-061-0090

Subject: These rules cover the standards for training programs for Nursing Assistants and Medication Aides. This rule amendment would establish instructor to student ratios for classroom, lab and clinical for CNA 2 trainings.

Rules Coordinator: KC Cotton—(971) 673-0638

851-061-0090

Standards for Program Approval: Curriculum

(1) Board-approved curriculum shall be used in approved nursing assistant level 1 and medication aide training programs.

(2) A nursing assistant level 1 training program shall consist of:

(a) At least 150 hours of instruction divided into 75 hours of classroom instruction and 75 hours of supervised clinical experience;

(b) At least 24 hours of supervised classroom/laboratory instruction with return student demonstrations of learned skills to determine comprehension and competency, in addition to facility orientation, preceding the students' care of clients; and

(c) At least 75 hours of supervised clinical experience in a hospital, licensed nursing, residential, or assisted living facility that has a registered nurse on duty during all scheduled student clinical hours and is in substantial compliance with all standards of licensure.

(3) An on-line nursing assistant level 1 training program shall consist of:

(a) At least the equivalent of 51 hours according to the nationally recognized standard of content to credit ratio;

(b) At least 24 hours of supervised laboratory instruction provided no later than two weeks after the successful completion of the on-line portion of the curriculum. The laboratory portion of the program shall include return student demonstration of learned skills to determine comprehension and competency, in addition to facility orientation, preceding the students' care of clients;

(c) At least 75 hours of supervised clinical experience in a hospital, licensed nursing, residential, or assisted living facility that has a registered nurse on duty during all scheduled student clinical hours and is in substantial compliance with all standards of licensure;

(d) Ongoing technical support service(s) to sustain the electronically offered program including provisions for staffing, reliability, privacy, and security; and

(e) Ongoing technical support service(s) for students on each required educational technology hardware, software, and delivery system.

(4) A nursing assistant level 2 training program will have Board approved:

(a) Standardized category curriculum that may vary in training hours from other Board approved standardized category curricula; and

(b) Competency evaluation.

(5) Medication aide training program classroom and clinical instruction hours:

(a) A medication aide training program shall consist of at least 80 hours of instruction divided into at least 24 hours of classroom instruction and at least 24 hours of 1:1 supervised clinical experience.

(b) All clinical hours shall be completed at one site (licensed nursing facility, hospital, assisted living facility, or residential care facility).

(c) All required clinical hours shall be in medication administration related activities.

(6) Admission requirements for medication aide training programs shall be:

(a) Current, unencumbered CNA 1 status on the Oregon CNA Registry maintained by the Board;

(b) Documentation of graduation from an approved basic nursing assistant level 1 training program at least six months prior to enrollment in the medication aide training program; and

(c) Documentation of at least six months full time experience as a nursing assistant level 1 or the equivalent in part time experience since graduation from a basic nursing assistant training program.

(7) Classroom and clinical faculty/student ratios for nursing assistant level 1, level 2, and medication aide training programs:

(a) Classroom:

(A) The ratio of students per instructor shall be such that each trainee is provided with registered nurse assistance and supervision and be no more than 20 students per instructor for classroom for level 1 and medication aide training programs and no more than 32 students per instructor for the classroom in the level 2 training programs.

(B) The amount of students assigned per instructor with self-directed, on-line instruction shall be such that each trainee is provided with consultation and additional clarification by a Board approved instructor within 72 hours of a trainee's inquiry.

(C) The ratio of students per instructor with instructor-directed, on-line instruction shall be such that each trainee is provided with consultation and additional clarification by a Board approved instructor within 72 hours of a trainee's inquiry, and the class size shall be no more than 20 students per instructor per on-line classroom.

(b) Lab: The ratio of students per instructor in a nursing assistant level 2 training program shall be no more than 10 students per instructor at all times during the lab experience.

(c) Clinical:

(A) The ratio of students per instructor in a nursing assistant level 1 training program shall be no more than 10 students per instructor at all times during the clinical experience.

(B) The ratio of students per instructor in a nursing assistant level 2 training program shall be no more than 8 students per instructor at all times during the clinical experience.

(C) The ratio of students per instructor in a medication aide training program shall begin with a ratio of one clinical preceptor to one medication aide student during the first 24 hours of the clinical experience. Less intensive supervision (either more students per preceptor or less direct supervision by preceptor) may occur with satisfactory evaluation and approval of the clinical preceptor and primary instructor.

(8) Clinical experience and demonstration of competency for nursing assistant level 1 and medication aide training programs:

(a) A clinical schedule shall be prepared for all students prior to the beginning of the clinical experience, and provided to the clinical facility director of nursing, the clinical instructor/preceptor, and the student.

(b) Student practice and demonstration of competency for nursing assistant level 1 and medication aide training programs:

(A) Students may provide direct client care within their authorized duties under the supervision of an approved instructor.

(B) Students shall be identified as students at all times while in the clinical area.

(C) Students must not be counted as staff or utilized as staff during the hours that are scheduled for clinical experience.

(D) Students may be on a unit, floor or wing of a facility only under direct supervision of a qualified instructor.

(E) Students shall not be on a unit, floor, or wing without a CNA or licensed nurse.

(F) Students shall provide care only to the level they have been taught and determined competent by the approved clinical instructor.

(c) In addition, for medication aide training programs, the clinical experience shall consist of a minimum of 10 medication passes to a minimum of five residents/patients during the first 20 hours of supervised clinical experience;

(9) Program completion:

(a) Completion of a nursing assistant level 1 or medication aide training means that:

(A) The student has successfully completed 100% of the required classroom and clinical hours and content in the curriculum;

(B) The student has successfully demonstrated the required skills on the laboratory and clinical skills checklist;

(C) The student has achieved a score of 75% or higher on the program's final examination;

(D) The student has successfully completed the clinical portion of the program no later than four months following the last date of classroom instruction or within four months after the successful completion of the on-line portion of the program; and

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(E) In addition, for nursing assistant level 1 training programs, the student has successfully completed current, adult CPR certification in accordance with Board-approved curriculum.

(b) Completion of a nursing assistant level 2 training means that:

(A) The student has successfully completed 100% of the required classroom and clinical hours and content in the curriculum; and

(B) The student has successfully completed the competency evaluation.

Stat. Auth.: ORS 678.440 & 678.444

Stats. Implemented: ORS 678.444

Hist.: BN 6-1999, f. & cert. ef. 7-8-99; BN 15-2002, f. & cert. ef. 7-17-02; BN 1-2004, f. 1-29-04, cert. ef. 2-12-04; BN 11-2004, f. & cert. ef. 7-13-04; BN 12-2005, f. & cert. ef. 12-21-05; BN 7-2006, f. & cert. ef. 5-8-06; BN 2-2008, f. & cert. ef. 2-25-08; BN 1-2009, f. & cert. ef. 5-15-09

Rule Caption: Rules Coordinate Language Between Curriculum Policy and Authorized Duties for CNA 2s in Acute Care.

Adm. Order No.: BN 2-2009

Filed with Sec. of State: 5-15-2009

Certified to be Effective: 5-15-09

Notice Publication Date: 3-1-2009

Rules Amended: 851-063-0035

Subject: These rules cover standards and authorized duties for Certified Nursing Assistants and Certified Medication aides. The revisions in these rules amendments are to coordinate the language between the curriculum policy and the authorized duties for CNA 2s in Acute Care.

Rules Coordinator: KC Cotton—(971) 673-0638

851-063-0035

Authorized Duties and Standards for CNA 2 Categories of Care

(1) Under the supervision of a licensed nurse, the CNA 2-Restorative Care may only provide care and assist clients with the following:

(a) Tasks associated with performing and reinforcing functional steps of activities of daily living:

(A) Use adaptive, assistive and therapeutic equipment;

(B) Clean, change appliances/devices and dressings for established, non-acute ostomies;

(C) Apply non-prescription topical creams and ointments for prophylactic treatment for skin condition; and

(D) Discontinue indwelling catheters.

(b) Tasks associated with relieving pain:

(A) Assist with complementary therapies (aromatherapy, art therapy, effleurage, light therapy, and music therapy) as ordered by a licensed nurse;

(B) Apply warm and cold compresses;

(C) Apply ice bag, ice collar, ice glove, or dry cold pack; and

(D) Use of heated soaks, sitz and whirlpool baths.

(c) Tasks associated with dysphagia: Add fluid to established gastrostomy or jejunostomy tube feedings and change established tube-feeding bags.

(d) Tasks associated with mobility:

(A) Provide range of motion on clients with complex medical problems;

(B) Use advanced transfer techniques;

(C) Recognize ability and degree in which a client can ambulate and when functional loss has occurred;

(D) Apply therapeutic positioning; and

(E) Use adaptive, assistive, and therapeutic equipment.

(e) Tasks associated with conditions that affect functional ability:

(A) Turn oxygen on and off at predetermined, established flow rate;

(B) Change simple, nonsterile dressings using aseptic technique when no wound debridement or packing is involved;

(C) Perform clean intermittent straight urinary catheterization for chronic conditions;

(D) Collect clean-catch urine specimen;

(E) Empty, measure, and record output from other drainage devices;

(F) Perform urine specimen tests;

(G) Perform hemocult test for occult blood;

(H) Obtain capillary blood glucose (CBGs);

(I) Assist with incentive spirometer;

(J) Suction oral pharynx; and

(K) Apply pediculicides.

(f) Tasks associated with communication and documentation.

(2) Under the supervision of a licensed nurse, the CNA 2- Acute Care may only provide care and assist clients with the following:

(a) Tasks associated with responsive observations:

(A) Vital signs:

(i) Pulse-electronic; and

(ii) Blood pressure- manual and electronic on upper arm, thigh, and lower leg, including orthostatic blood pressure readings.

(B) Warm and cold therapies.

(b) Tasks associated with technical skills:

(A) Add fluid to established post pyloric, jejunostomy and gastrostomy tube feedings and change established tube feeding bags;

(B) Apply sequential compression devices;

(C) Assist patients in and out of Continuous Passive Motion machines;

(D) Bladder scanning;

(E) Capillary blood glucose (CBG) testing;

(F) Interrupt and re-establish nasogastric (NG) suction;

(G) Newborn hearing screening;

(H) Placing electrodes/leads and running electrocardiogram (EKG);

(I) Placing electrodes/leads for telemetry;

(J) Remove cast in non-emergent situations;

(K) Set up traction equipment;

(L) Suction oral pharynx;

(M) Testing gastric contents for occult blood or pH;

(N) Testing stool for occult blood;

(O) Urine dip stick testing; and

(P) Reinforce use of an incentive spirometer.

(c) Tasks associated with interpersonal skills and communication.

(d) Tasks associated with safety.

(e) Tasks associated with infection control:

(A) Change dressing or ostomy appliance/bag which adheres to the skin;

(B) Discontinue foley catheter;

(C) Measure, record and/or empty output from drainage devices and closed drainage systems;

(D) Obtain rectal swab;

(E) Obtain sterile urine specimen from port of catheter; and

(F) Perform clean intermittent straight catheterization for chronic conditions.

(f) Tasks associated with documentation.

(3) Under the supervision of a licensed nurse, the CNA 2- Dementia Care may only provide care and assist clients with the following:

(a) Tasks associated with person-directed care;

(A) Adjust care to meet individual preferences and unique needs; and
(B) Gather information on specific strengths, abilities, and preferences of a person with dementia.

(b) Tasks associated with responsive observation;

(A) Identify findings, patterns, habits, and behaviors that deviate from usual in a person with dementia;

(B) Recognize changes in persons with dementia that should be reported to the licensed nurse;

(C) Observe person's response to medications and notify licensed nurse when necessary;

(D) Observe and collect response to pain for the person with dementia; and

(E) Provide input to licensed nurse on person with dementia's response to interventions for problems and care plan approaches.

(c) Tasks associated with interpersonal skills/communication;

(A) Utilize de-escalation strategies;

(B) Protect person with dementia and self in a crisis situation; and

(C) Use communication techniques to enhance the quality of life for a person with dementia.

(d) Tasks associated with activities of daily living (ADL);

(A) Utilize techniques to encourage self care for the person with dementia; and

(B) Coordinate ADL approaches with the person with dementia's own patterns/habits.

(e) Tasks associated with activities;

(A) Make meaningful moments for the person with dementia; and

(B) Support individual preferences and habits.

(f) Tasks associated with safety;

(A) Identify safety risks for a person with dementia; and

(B) Apply preventive/supportive/protective strategies or devices when working with a person with dementia.

(g) Tasks associated with environment including contributing to a safe, calm, stable, home-like environment for a person with dementia.

(h) Tasks associated with technical skills;

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- (A) Data gathering skills:
 - (i) Collect clean-catch urine specimen;
 - (ii) Perform tests on urine specimens;
 - (iii) Empty, measure, and record output from drainage devices;
 - (iv) Perform hemocult test for occult blood;
 - (v) Perform capillary blood glucose (CBGs); and
- (B) Designated tasks:
 - (i) Apply pediculicides;
 - (ii) Turn oxygen on and off at predetermined, established flow rate;
 - (iii) Change simple, nonsterile dressings using aseptic technique when no wound debridement or packing is involved;
 - (iv) Clean ostomy sites and change dressings or appliances for established, non-acute ostomies;
 - (v) Apply topical over-the-counter creams and ointments for prophylactic treatment of skin conditions;
 - (vi) Discontinue foley catheters;
 - (vii) Perform clean intermittent straight urinary catheterization for chronic conditions;
 - (viii) Insert over-the-counter vaginal suppositories and vaginal creams;
 - (ix) Assist with incentive spirometer;
 - (x) Suction oral pharynx;
 - (xi) Interrupt and re-establish suction (with the exception of chest tubes); and
 - (xii) Add fluid to established jejunostomy and gastrostomy tube feedings and change established tube feeding bags.
- (i) Tasks associated with end of life care;
- (A) Recognize symptoms for a person reaching the end-of-life; and
- (B) Provide compassionate end-of-life care.
- (j) Tasks associated with documentation; and
- (k) Tasks associated with caregiver self care.
- (4) Standards of Care for CNA 2. In the process of client care the CNA 2 shall consistently apply standards set for CNA 1s and:
 - (a) Establish competency as a CNA 2;
 - (b) Maintain competency as a CNA 2;
 - (c) Perform within authorized duties of each CNA 2 category in which the CNA has established competency.

Stat. Auth.: ORS 678.440 & 678.442
Stats. Implemented: ORS 678.440 & 678.442
Hist.: BN10-2007, f. & cert. ef. 10-1-07; BN 2-2009, f. & cert. ef. 5-15-09

Construction Contractors Board Chapter 812

Rule Caption: Adopts revised form and definitions, clarifies language, corrects cites, and revises wording for clarity and consistency.

Adm. Order No.: CCB 3-2009

Filed with Sec. of State: 5-6-2009

Certified to be Effective: 6-1-09

Notice Publication Date: 4-1-2009

Rules Amended: 812-001-0200, 812-002-0420, 812-003-0120, 812-003-0330, 812-006-0300, 812-006-0400

Rules Repealed: 812-001-0200(T)

Subject: 812-001-0200 is amended to adopt the notice entitled "Consumer Protection Notice" to include information for consumers on the warranty offer for new residential construction.

812-002-0420 is amended to correct and update cite references.

812-003-0120 is amended to delete language that is no longer necessary and to clarify that advertising via audio-only media, such as radio commercials, must include an audible statement of the contractor's license number. Advertising via video-audio combined media, such as television commercials, must show the contractor's license number.

812-003-0330 is amended, based on advice from counsel, to clarify that a contractor may not place a license into an active status that has been expired for over one year. A contractor must be eligible for renewal in order to be eligible for the inactive status.

812-006-0300 is amended to use the proper term "translator" rather than "interpreter".

812-006-0400 is amended to create a consistent training and testing period.

Rules Coordinator: Catherine Dixon—(503) 378-4621, ext. 4077

812-001-0200

Consumer Notices Adoption

(1) In order to comply with the requirement to adopt an information notice to owner under ORS 87.093, the Construction Contractors Board adopts the form entitled "Information Notice to Owner About Construction Liens," as revised December 20, 2007. This form may be obtained from the agency.

(2) In order to comply with the requirement to adopt a consumer notice form under ORS 701.330(1), the board adopts the form "Consumer Protection Notice" as revised February 20, 2009.

(3) In order to comply with the requirement to adopt a "Information Notice to Property Owners About Construction Responsibilities" form under ORS 701.325(3), the board adopts the form "Information Notice to Property Owners About Construction Responsibilities" as revised September 23, 2008.

(4) In order to comply with the requirement to adopt a notice of procedure form under ORS 701.330(2), the board adopts the form "Notice of Procedure" dated December 4, 2007.

(5) The board adopts the form "Notice of Compliance with Homebuyer Protection Act" (HPA) as revised December 16, 2003.

(6) The board adopts the form "Model Features for Accessible Homes" dated December 4, 2007.

Stat. Auth.: ORS 87.093, 670.310, 701.235, 701.325, 701.330 & 701.530
Stats. Implemented: ORS 87.093, 701.235, 701.325, 701.330 & 701.530
Hist.: 1BB 4-1981, f. 11-24-81, ef. 1-1-82; 1BB 3-1982, f. 6-4-82, ef. 1-1-83; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0076; 1BB 3-1983, f. 10-5-83, ef. 10-15-83; BB 2-1987, f. & ef. 7-2-87; CCB 1-1989, f. & cert. ef. 1-1-89; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 6-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-17-00; CCB 9-2000, f. & cert. ef. 9-24-00; CCB 7-2002, f. 6-26-02 cert. ef. 7-1-02; CCB 11-2002, f. 12-20-02, cert. ef. 12-23-02; CCB 3-2003(Temp), f. & cert. ef. 3-11-03 thru 9-6-03; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 12-2003(Temp), f. & cert. ef. 12-9-03 thru 6-6-04; CCB 13-2003(Temp), f. 12-19-03, cert. ef. 1-1-04 thru 6-14-04; CCB 2-2004, f. 2-27-04, cert. ef. 3-1-04; CCB 4-2004, f. 5-28-04, cert. ef. 6-1-04; CCB 5-2004(Temp), f. & cert. ef. 6-1-04 thru 11-28-04; CCB 7-2004, f. 8-26-04, cert. ef. 9-1-04; Renumbered from 812-001-0020, CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 1-2006(Temp), f. & cert. ef. 1-11-06 thru 7-10-06; CCB 5-2006, f. & cert. ef. 3-30-06; CCB 5-2007, f. 6-28-07, cert. ef. 7-1-07; CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 1-2008(Temp), f. & cert. ef. 1-2-08 thru 6-29-08; CCB 7-2008, f. 4-28-08, cert. ef. 5-1-08; CCB 16-2008, f. 9-26-08, cert. ef. 10-1-08; CCB 2-2009(Temp), f. & cert. ef. 2-23-09 thru 8-22-09; CCB 3-2009, f. 5-6-09, cert. ef. 6-1-09

812-002-0420

Lapse in License

"Lapse in license" as used in ORS 701.063(4), 701.131(2)(b), 701.225(6)(b) and OAR chapter 812 commences at the time that a license expires, is suspended or is terminated for any reason and ends when the license is renewed, reissued or reinstated by the agency.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.063, 701.131 & 701.225
Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 6-2003(Temp), f. & cert. ef. 7-9-03 thru 1-3-04; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 18-2008, f. & cert. ef. 11-20-08; CCB 3-2009, f. 5-6-09, cert. ef. 6-1-09

812-003-0120

License Required to Advertise

(1) No person shall advertise or otherwise hold out to the public that person's services as a contractor unless that person holds a current, valid license, nor shall any person claim by advertising or by any other means to be licensed, bonded, or insured unless that person holds a current, valid license.

(2) License number in advertising and contracts:

(a) All newsprint classified advertising and newsprint display advertising for work subject to ORS Chapter 701 prepared by a contractor or at the contractor's request or direction, shall show the contractor's license number.

(b) All written bids, written inspection reports and building contracts subject to ORS Chapter 701 shall show the contractor's license number.

(c) All telephone directory space ads and display ads shall show the contractor's license number.

(d) Except as set forth in subsection (2)(e) of this rule all business cards, business letterhead, business signs at construction sites, all advertising, shall show the contractor's license number.

(e) Subsection (2)(d) of this rule does not apply to a company whose primary business is other than construction and has a Standard Industrial Classification (SIC) code from other than Major Groups 15, 16, and 17.

(f) All advertisements by audio-only media, such as radio commercials, must contain an audible statement of the contractor's license number.

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(g) All advertisements by video media or video and audio combined media, such as television commercials, must show visually the contractor's license number.

(h) All advertising by internet media, including but not limited to, website advertising must show visually the contractor's license number.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.010 & 701.026

Hist.: CCB 9-2004, f. & cert. ef. 12-10-04; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 3-2009, f. 5-6-09, cert. ef. 6-1-09

812-003-0330

Inactive Status Generally

(1) A licensee may not convert a license to an inactive status if the licensee is engaged in work as a contractor.

(2) A licensee may not offer to undertake work, advertise work as a contractor, submit a bid for construction work, obtain a building permit or perform construction work while in an inactive status.

(3) A licensee shall notify the agency of any change of address while in an inactive status. During the period when the status of a license is inactive, the agency shall send notices and any other communications to the licensee at the last known address of record of the licensee.

(4) To convert to an inactive status a license must have:

- (a) A current active license;
- (b) A current suspended license; or
- (c) A license that has expired no more than one year.

(5) If the licensee was subject to discipline by the agency, the licensee must satisfy any conditions imposed by the agency as a result of the discipline in order to be eligible for the inactive status.

(6) The licensee must submit a request to convert to inactive status on forms provided by the agency; and

(7) The licensee must comply with OAR 812-003-0340, 812-003-0350, and 812-003-0360.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.056 & 701.063

Hist.: CCB 9-2004, f. & cert. ef. 12-10-04; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 3-2009, f. 5-6-09, cert. ef. 6-1-09

812-006-0300

Testing Requirements

(1) The test required in ORS 701.122 shall cover the subjects listed in OAR 812-006-0250.

(2) A person seeking to take the test shall:

- (a) Pay any fees required by the test administrator;
- (b) Provide approved government-issued picture identification to the test administrator;
- (c) Pay for the authorized translator needed to take the test; and
- (d) Complete the test within a time limit approved by the agency.

(3) A person taking the test shall be allowed to use an Oregon Contractor's Reference Manual and one language translation book during the test.

(4) A person taking the test shall not:

- (a) Retake the same version of the test on consecutive attempts.
- (b) Be accompanied by anyone while taking the test, except an authorized translator.

(5) After the test is completed, a person shall not review the test questions or answers.

(6) There are no reciprocal agreements with other states or organizations that test contractors.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.122

Hist.: CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 3-1993, f. & cert. ef. 6-9-93; CCB 4-1993, f. 8-17-93, cert. ef. 8-18-93; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; CCB 2-1994, f. 12-29-94, cert. ef. 1-1-95; CCB 2-1995, f. 6-6-95, cert. ef. 6-15-95; CCB 1-1998, f. & cert. ef. 2-6-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 9-2000, f. & cert. ef. 8-24-00; CCB 4-2001(Temp), f. & cert. ef. 5-18-01 thru 11-13-01; Administrative correction 11-20-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 7-2006, f. & cert. ef. 6-23-06; Renumbered from 812-006-0012, CCB 10-2006, f. 9-5-06, cert. ef. 10-1-06; CCB 2-2007, f. & cert. ef. 3-1-07; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 3-2009, f. 5-6-09, cert. ef. 6-1-09

812-006-0400

Training and Testing Period

(1) The training and testing required under ORS 701.122 (1) and (3) shall be valid for 24 months from the date the training was completed. Training and testing that is past the 24-month period from the date of the completed training will not be considered for the purposes of fulfilling the requirements set forth in 701.091.

(2) An RMI may satisfy the requirements of ORS 701.091 provided that the RMI:

(a) Has completed the training and passed the test;

(b) Has been the RMI of a licensee within two years of the date of application by the new applicant; and

(c) The license of the licensee that was previously owned by or that previously employed the RMI has not lapsed or, if lapsed, has lapsed for not more than 24 months.

(3) Sections (1) and (2) of this rule do not apply to an RMI that meets the experience requirements under 812-006-0450.

Stat. Auth.: ORS 670.310, 701.122 & 701.235

Stats. Implemented: ORS 701.122

Hist.: CCB 10-2006, f. 9-5-06, cert. ef. 10-1-06; CCB 11-2006(Temp), f. & cert. ef. 11-6-06 thru 5-4-07; CCB 2-2007, f. & cert. ef. 3-1-07; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 3-2009, f. 5-6-09, cert. ef. 6-1-09

Rule Caption: Notify agency of court judgments and entity name changes, and establishes penalties for noncompliance, establishes penalties for failure to pay OR-OSHA penalties.

Adm. Order No.: CCB 4-2009

Filed with Sec. of State: 5-6-2009

Certified to be Effective: 6-1-09

Notice Publication Date: 4-1-2009

Rules Adopted: 812-001-0220, 812-012-0170

Rules Amended: 812-003-0200, 812-003-0320, 812-005-0280, 812-005-0800

Subject: 812-812-001-0220 adopts the form "Unpaid Court Judgment Filing with the CCB (ORS 701.109)".

812-003-0200 is amended to move the penalty to penalty rule, OAR 812-005-0800.

812-003-0320 is amended to clarify that a licensed contractor must notify an agency if it changes its name. The change occurs by: (1) changing the legal name (e.g. the corporate name); (2) changing or adding a new assumed business name; or (3) changing a personal surname. Contractors will have 30 days to submit a record change and a \$20 fee to notify the agency of the name change(s).

812-005-0280 is amended to renumber to add a subsection that permits CCB to sanction a contractor who fails to pay a civil penalty final order for OR-OSHA violations, correct and make the language consistent wording changing "reissue" to "issue", adds language that permits CCB to sanction a contractor who has been sanctioned by DCBS for a fifth (or subsequent) repeat violation of OR-OSHA laws; and permits CCB to sanction contractor who has been sanctioned by DCBS for willful or egregious violation of OR-OSHA laws.

812-005-0800 is amended to establish a civil penalty for failing to make a record change of an entity name and adds a civil penalty for failure to comply with ORS 701.109(2) for failing to deliver a copy of required final court judgments; to establish a penalty for failure to comply with ORS 701.109(2) by submitting a copy of final judgments; and to establish penalty for failing to maintain insurance, as required in ORS 701.073, or provide proof of insurance as required in OAR 812-003-0200.

812-012-0170 is adopted to require contractors to pay judgments or arbitration orders that arise from breach of contract or negligent or improper work and relate to construction of a residential structure. The rule sets forth the same statutory timeline, The rule also requires that the filing be accompanied by a completed form adopted under OAR 812-001-0220.

Rules Coordinator: Catherine Dixon—(503) 378-4621, ext. 4077

812-001-0220

Unpaid Court Judgment Form Adoption

The Construction Contractors Board adopts the form "Unpaid Court Judgment Filing With the CCB (ORS 701.109)".

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.109

Hist.: CCB 4-2009, f. 5-6-09, cert. ef. 6-1-09

ADMINISTRATIVE RULES

812-003-0200

Insurance Generally

(1) An applicant for a license, renewal or reissue shall certify that the applicant:

(a) Has procured insurance from an insurer transacting insurance in Oregon; and

(b) Will continue to meet those insurance requirements for as long as the applicant is licensed.

(2) Licensees shall provide a certificate of insurance or other evidence of insurance as required by the agency upon request or prior to the expiration date of their insurance.

(3) A certificate of insurance must include:

(a) The name of the insurer;

(b) Policy or binder number;

(c) Effective dates of coverage;

(d) Coverage in at least the amount required in OAR 812-003-0221;

(e) A statement that products and completed operations coverage is included as required by ORS 701.073(1).

(f) The agent's name, and agent's telephone number; and

(g) The CCB listed as the certificate holder.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.073 & 701.098

Hist.: CCB 9-2004, f. & cert. ef. 12-10-04; CCB 6-2006, f. 5-25-06, cert. ef. 6-1-06; CCB 8-2006, f. & cert. ef. 9-5-06; CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 5-2008, f. 2-29-08, cert. ef. 7-1-08; CCB 4-2009, f. 5-6-09, cert. ef. 6-1-09

812-003-0320

Record Changes

(1) Except as provided in section (4) of this rule, requests for record changes that require a new license card shall be accompanied by a \$20 fee.

(2) Every licensed entity that changes its name, including any assumed business name under which it may operate, must notify the agency within 30 days of assuming, filing or registering the new name. This section also applies to sole proprietors that change their surname.

(3) Except as provided in OAR 812-003-0190, requests for business name amendments of a partnership, joint venture, corporation, limited liability company or limited liability partnership shall be accompanied by a rider from the surety and a new Certificate of Insurance to reflect the amended name.

(4) No charge will be made for an address change on the record.

(5) With the exception of record changes due to agency error, a record change request shall be submitted in writing.

Stat. Auth.: ORS 670.310, 701.235 & 701.238

Stats. Implemented: ORS 701.056, 701.068, 701.088 & 701.238

Hist.: 1BB 5, f. 6-15-76, ef. 7-1-76; 1BB 7, f. & ef. 11-14-77; 1BB 1-1978, f. & ef. 5-23-78; 1BB 5-1980, f. & ef. 10-7-80; 1BB 6-1980, f. & ef. 11-4-80; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0015; 1BB 3-1983, f. 10-5-83, ef. 10-15-83; 1BB 3-1984, f. & ef. 5-11-84; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 10-2000, f. & cert. ef. 8-24-00; CCB 9-2004, f. & cert. ef. 12-10-04, Renumbered from 812-003-0005; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 4-2009, f. 5-6-09, cert. ef. 6-1-09

812-005-0280

Fitness Standards

(1) In considering whether to revoke, suspend, or refuse to issue a license pursuant to ORS 701.098(1)(h)(A)-(I), the agency shall consider whether the applicant's or licensee's criminal conduct is substantially related to the fitness and ability of the applicant or licensee to engage in construction contracting.

(a) Fitness to engage in construction contracting includes, but is not limited to the ability to:

(A) Refrain from violent, threatening, intimidating or sexually predatory behavior;

(B) Refrain from dishonest or fraudulent conduct; or

(C) Be financially responsible.

(b) Factors to be considered in denying or refusing to issue or renew a license include, but are not limited to, the date of the offense and the circumstances of the crime. In addition, factors relating to rehabilitation, or lack thereof, as evidenced by intervening events include, but are not limited to: failure to complete the criminal sentence, including probation or parole; failure to complete court ordered treatment; or failure to pay court ordered restitution.

(c) Upon notice and request from the Board, it will be the duty of an applicant or licensee to provide the requested information in order for the Board to conduct a criminal background check as authorized by 701.098(1)(h)(A)-(I). Requested information includes but is not limited to police reports, record of conviction, parole or probation reports, restitution records, counseling reports, and letters of recommendation.

(d) Failure to provide requested information in (1)(c) of this section may result in the denial of a license.

(2) The agency may revoke, suspend, or refuse to issue a license if the applicant, licensee, or an owner, officer or responsible managing individual of the applicant or licensee demonstrates a lack of financial responsibility pursuant to ORS 701.098(2) and 701.102(2)(d).

(a) Lack of financial responsibility is evidenced by failure to pay a final order of the board, issued under ORS 701.145 or 701.146, where the final order exceeds the amount of the applicable bond and the final order was issued against:

(A) The applicant or licensee; or

(B) A business in which the owner, officer or responsible managing individual of the applicant or licensee is, or was, an owner, officer or responsible managing individual during the work period in which the business' obligation giving rise to the final order arose or was incurred.

(C) As used in subsection (a) of this rule, "officer" includes any person listed in ORS 701.005(11) or OAR 812-002-0533.

(b) Lack of financial responsibility is evidenced by failure to pay a civil penalty final order of the Director, Department of Consumer and Business Services, issued under ORS 654.086.

(3)(a) Pursuant to ORS 701.098(2), the agency may revoke, suspend, or refuse to issue a license if a contractor engages in conduct that harms a consumer by:

(b) Arranging for or undertaking work as a contractor that:

(A) Is performed in a manner not in accordance with state building codes or accepted building standards demonstrating negligent or improper work;

(B) The work causes damage to the consumer or to the consumer's property; and

(C) The work is significantly substandard or is part of a pattern of substandard work performed by the contractor.

(4) Pursuant to ORS 701.098(2), the agency may revoke, suspend, or refuse to issue a license if the Director, Department of Consumer and Business Services, by final order, sanctions a contractor under OAR 437-001-0160 and 437-001-0165 for a fifth or subsequent repeat violation of any statute, regulation, rule, standard or order relating to the Oregon Safe Employment Act.

(5) Pursuant to ORS 701.098(2), the agency may revoke, suspend, or refuse to issue a license if the Director, Department of Consumer and Business Services, by final order, sanctions a contractor under OAR 437-001-0175 for a willful or egregious violation of any statute, regulation, rule, standard or order relating to the Oregon Safe Employment Act.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.098 & 701.102

Hist.: CCB 13-2008, f. 6-30-08, cert. ef. 7-1-08; CCB 18-2008, f. & cert. ef. 11-20-08; CCB 4-2009, f. 5-6-09, cert. ef. 6-1-09

812-005-0800

Schedule of Penalties

The agency may assess penalties, not to exceed the amounts shown in the following guidelines:

(1) \$600 for advertising or submitting a bid to do work as a contractor in violation of ORS 701.026 and OAR 812-003-0120, which may be reduced to \$200 if the respondent becomes licensed or to \$50 if the advertisement or bid is withdrawn immediately upon notification from the agency that a violation has occurred and no work was accepted as a result of the advertisement or bid; and

(2) \$700 per offense without possibility of reduction for advertising or submitting a bid to do work as a contractor in violation of ORS 701.026 and OAR 812-003-0120, when one or more previous violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

(3) \$1,000 per offense for performing work as a contractor in violation of ORS 701.026 when the Board has no evidence that the person has worked previously without having a license and no consumer has suffered damages from the work, which may be reduced to \$700 if the respondent becomes licensed within a specified time; and

(4)(a) \$5,000 per offense for performing work as a contractor in violation of ORS 701.026, when an owner has filed a complaint for damages caused by performance of that work, which may be reduced to \$700 if the contractor becomes licensed within a specified time and settles or makes reasonable attempts to settle with the owner.

(b) A "complaint for damages" as used in section (4) of this rule includes, but is not limited to:

(A) A Construction Contractors Board Dispute Resolution Services (DRS) complaint; or

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(B) A letter to Construction Contractors Board indicating that a citizen has been damaged by the contractor; and

(5) \$5,000 per offense for performing work as a contractor in violation of ORS 701.026, when one or more violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

(6) \$500 per offense for failure to respond to the agency's request for the list of subcontractors required in ORS 701.345; and

(7) \$1,000 per offense for hiring a unlicensed subcontractor; and

(8) For failing to provide an "Information Notice to Owners about Construction Liens" as provided in ORS 87.093, when no lien has been filed, \$200 for the first offense, \$400 for the second offense, \$600 for the third offense, \$1,000 for each subsequent offense. Any time a lien has been filed upon the improvement, \$1,000.

(9) Failure to include license number in advertising or on contracts, in violation of OAR 812-003-0120: First offense \$100, second offense \$200, subsequent offenses \$400.

(10) Failure to list with the Construction Contractors Board a business name under which business as a contractor is conducted in violation of OAR 812-003-0260: First offense \$50, second offense \$100, subsequent offenses \$200.

(11) Failure to notify the Construction Contractors Board of a new or additional business name or personal surname (for sole proprietors) under which business as a contractor is conducted, in violation of OAR 812-003-0320: First offense warning, second offense \$50, subsequent offenses \$200.

(12) Failing to use a written contract as required by ORS 701.305: \$500 for the first offense; \$1,000 for the second offense; and \$5,000 for subsequent offenses.

(13) Violation of OAR 812-012-0130(1), failure to provide a Consumer Notification form; \$100 first offense; \$500 second offense; \$1,000 third offense; and \$5,000 for subsequent offenses. Civil penalties shall not be reduced unless the agency determines from clear and convincing evidence that compelling circumstances require a suspension of a portion of the penalty in the interest of justice. In no event shall a civil penalty for this offense be reduced below \$100.

(14) Failure to conform to information provided on the application in violation of ORS 701.046(4), issuance of a \$5,000 civil penalty, and suspension of the license until the contractor provides the agency with proof of conformance with the application and the terms of the application.

(a) If the violator is a limited contractor or residential limited contractor working in violation of the conditions established pursuant to OAR 812-003-0130 or 812-003-0131, the licensee shall be permanently barred from licensure in the limited contractor category or residential limited contractor endorsement.

(b) If the violator is a licensed developer, residential developer or commercial developer working in violation of the conditions established pursuant to ORS 701.005(3), (6) or (13) or 701.042, the licensee shall be permanently barred from licensure in the licensed developer category or residential developer or commercial developer endorsement.

(15) Knowingly assisting an unlicensed contractor to act in violation of ORS Chapter 701, \$1,000.

(16) Failure to comply with any part of ORS Chapters 316, 656, or 657, 701.035, 701.046 or 701.091, as authorized by 701.106, \$1,000 and suspension of the license until the contractor provides the agency with proof of compliance with the statute.

(17) Violating an order to stop work as authorized by ORS 701.225(3), \$1,000 per day.

(18) Working without a construction permit in violation of ORS 701.098, \$1,000 for the first offense; \$2,000 and suspension of CCB license for three (3) months for the second offense; \$5,000 and permanent revocation of CCB license for the third and subsequent offenses.

(19) Failure to comply with an investigatory order issued by the Board, \$500 and suspension of the license until the contractor complies with the order.

(20) Violation of ORS 701.098(1)(k) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public: first offense, \$1,000, suspension of the license or both; second and subsequent offenses, \$5,000, per violation, revocation or suspension of the license until the fraudulent conduct is mitigated in a manner satisfactory to the agency or both.

(21) Engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public by:

(a) Not paying prevailing wage on a public works job; or

(b) Violating the federal Davis-Bacon Act; or

(c) Failing to pay minimum wages or overtime wages as required under state and federal law; or

(d) Failing to comply with the payroll certification requirements of ORS 279C.845; or

(e) Failing to comply with the posting requirements of ORS 279C.840: \$1,000 and suspension of the license until the money required as wages for employees is paid in full and the contractor is in compliance with the appropriate state and federal laws.

(22) Violation of ORS 701.098(1)(k) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public, as described in subparagraphs (19) or (20), where more than two violations have occurred: \$5,000 and revocation of the license.

(23) When, as set forth in ORS 701.098(1)(g), the number of licensed contractors working together on the same task on the same job site, where one of the contractors is licensed exempt under 701.035(2)(b), exceeded two sole proprietors, one partnership, or one limited liability company, penalties shall be imposed on each of the persons to whom the contract is awarded and each of the persons who award the contract, as follows: \$1,000 for the first offense, \$2,000 for the second offense, six month suspension of the license for the third offense, and three-year revocation of license for a fourth offense.

(24) Performing home inspections without being an Oregon certified home inspector in violation of OAR 812-008-0030(1): \$5,000.

(25) Using the title Oregon certified home inspector in advertising, bidding or otherwise holding out as a home inspector in violation of OAR 812-008-0030(3): \$5,000.

(26) Failure to conform to the Standards of Practice in violation of OAR 812-008-0202 through 812-008-0214: \$750 per offense.

(27) Failure to conform to the Standards of Behavior in OAR 812-008-0201(2)-(8): \$750 per offense.

(28) Offering to undertake, bidding to undertake or undertaking repairs on a structure inspected by an owner or employee of the business entity within 12 months following the inspection in violation of ORS 701.355: \$5,000 per offense.

(29) Failure to include certification number in all written reports, bids, contracts, and an individual's business cards in violation of OAR 812-008-0201(4): \$400 per offense.

(30) Violation of work practice standards for lead-based paint activity pursuant to OAR 812-007-0070; \$5,000 per violation and suspension of the lead-based paint business endorsement for up to one year.

(31) Violation of ORS 279C.590:

(a) Imposition of a civil penalty on the contractor of up to ten percent of the amount of the subcontract bid submitted by the complaining subcontractor to the contractor or \$15,000, whichever is less; and

(b) Imposition of a civil penalty on the contractor of up to \$1,000; and

(c) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to six months for a second offense if the offense occurs within three years of the first offense.

(d) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to one year for a third or subsequent offense if the offense occurs within three years of the first offense.

(32) Violation of ORS 701.315, inclusion of provisions in a contract that preclude a homeowner from filing a breach of contract complaint with the Board: \$1,000 for the first offense, \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(33) Violation of ORS 701.345, failure to maintain the list of subcontractors: \$1,000 for the first offense; \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(34) Violation of 701.098(1)(e), knowingly providing false information to the Board: \$1,000 and suspension of the license for up to three months for the first offense; \$2,000 and suspension of the license for up to one year for the second offense; and \$5,000 and permanent revocation of license for the third offense.

(35) Failing to provide a written contract with the contractual terms provided by ORS 701.305 or OAR 812-012-0110: \$200 for the first offense; \$500 for the second offense; and \$1,000 for subsequent offenses.

(36) Working while the license is suspended if the licensee was required to provide an increased bond under ORS 701.068(5), 701.068(6), or OAR 812-003-0175: revocation.

(37) Working while the license is suspended for any violation of ORS 701.098(4)(a)(A) or 701.098(4)(a)(B): \$5,000 for first offense, and revocation for second or subsequent offense.

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(38) Working while the license is suspended for any reason except as otherwise provided for by this rule: revocation.

(39) Failure to comply with ORS 701.106(1)(a); \$1,000 for the first offense, \$5,000 for the second offense; \$5,000 and permanent revocation of CCB license for the third offense.

(40) Failure to deliver as required by ORS 701.109(2) a copy of a final judgment; \$200 first offense, \$400 second offense; \$600 for the third offense; \$1,000 for each subsequent offense.

(41) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200, where there is no claim of loss submitted to the insurance company: first offense, \$500; second offense, \$1,000; third and subsequent offenses, \$5,000.

(42) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200, where there is a claim of loss submitted to the insurance company: first offense, \$2,000; second and subsequent offenses, \$5,000.

Stat. Auth.: ORS 183.310 - 183.500, 670.310, 701.235 & 701.992

Stats. Implemented: ORS 87.093, 279C.590, 701.005, 701.026, 701.042, 701.046, 701.073, 701.091, 701.098, 701.106, 701.109, 701.227, 701.305, 701.315, 701.330, 701.345 & 701.992

Hist.: 1BB 4-1982, f. & ef. 10-7-82; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0080(13); 1BB 3-1983, f. 10-5-83, ef. 10-15-83; 1BB 3-1984, f. & ef. 5-11-84; 1BB 3-1985, f. & ef. 4-25-85; BB 1-1987, f. & ef. 3-5-87, BB 1-1988(Temp), f. & cert. ef. 1-26-88; BB 2-1988, f. & cert. ef. 6-6-88; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 2-1990, f. 5-17-90, cert. ef. 6-1-90; CCB 3-1990(Temp), f. & cert. ef. 7-27-90; CCB 4-1990, f. 10-30-90, cert. ef. 11-1-90; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 4-1992, f. & cert. ef. 6-1-92; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 2-1994, f. 12-29-94, cert. ef. 1-1-95; CCB 3-1995, f. 9-7-95, cert. ef. 9-9-95; CCB 4-1995, f. & cert. ef. 10-5-95; CCB 3-1996, f. & cert. ef. 8-13-96; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-1999(Temp), f. & cert. ef. 11-1-99 thru 4-29-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 13-2000(Temp), f. & cert. ef. 11-13-00 thru 5-11-01; CCB 2-2001 f. & cert. ef. 4-6-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 1-2002(Temp), f. & cert. ef. 3-1-02 thru 8-26-02; CCB 2-2002, f. & cert. ef. 3-1-02; CCB 7-2002, f. 6-26-02 cert. ef. 7-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 6-2004, f. 6-25-04, cert. ef. 9-1-04; CCB 9-2004, f. & cert. ef. 12-10-04; CCB 5-2005, f. 8-24-05, cert. ef. 1-1-06; ; Renumbered from 812-005-0005, CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 2-2006, f. & cert. ef. 1-26-06; CCB 7-2006, f. & cert. ef. 6-23-06; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 4-2007, f. 6-28-07, cert. ef. 7-1-07; CCB 2-2008(Temp), f. & cert. ef. 1-2-08 thru 6-29-08; CCB 5-2008, f. 2-29-08, cert. ef. 7-1-08; CCB 13-2008, f. 6-30-08, cert. ef. 7-1-08; CCB 17-2008, f. 9-26-08, cert. ef. 10-1-08; CCB 19-2008, f. & cert. ef. 11-20-08; CCB 1-2009, f. 1-30-09, cert. ef. 2-1-09; CCB 4-2009, f. 5-6-09, cert. ef. 6-1-09

812-012-0170

Unpaid Court Judgments

(1) A contractor against whom a court enters a judgment or order awarding arbitration must report that judgment or order to the Construction Contractors Board, if:

(a) The judgment or order arises from:

- (A) Breach of contract,
- (B) Negligent work, or
- (C) Improper work.

(b) The judgment or order relates to construction or proposed construction of a residential structure.

(2) The contractor will transmit a copy of the final judgment or order to the Construction Contractors Board within 45 days after the final judgment or order is recorded.

(3) The contractor will transmit the copy of the final judgment or order with a completed "Unpaid Court Judgment Filing" form described in OAR 812-001-0220.

(4) The contractor is not required to send the Board a copy of the judgment or order, if:

(a) The contractor paid the damages and other amounts payable under the judgment or order within 30 days from the date the judgment or order was recorded; or

(b) The contractor appealed the judgment or order and has filed an undertaking on appeal as required by ORS 19.300.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.109

Hist.: CCB 4-2009, f. 5-6-09, cert. ef. 6-1-09

Department of Administrative Services

Chapter 125

Rule Caption: Rule for adoption of Hillcrest Area Plan, 2008.

Adm. Order No.: DAS 6-2009

Filed with Sec. of State: 5-11-2009

Certified to be Effective: 5-11-09

Notice Publication Date: 3-1-2009

Rules Amended: 125-125-0540

Subject: Amendment adopts Hillcrest Area Plan, 2008 and replaces the Fairview/Hillcrest Area Plan, 1985.

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

125-125-0540

Hillcrest Area Plan

The **Hillcrest Area Plan, 2008**, is hereby adopted by reference. This Area Plan replaces the Fairview/Hillcrest Area Plan, 1985.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 183 & 276

Stats. Implemented:

Hist.: CPC 2-1985, f. & ef. 5-13-85; CPC 2-2008(Temp), f. & cert. ef. 4-15-08 thru 10-12-08; CPC 4-2008, f. & cert. ef. 6-17-08; Renumbered from 110-040-0014 by DAS 8-2008, f. & cert. ef. 11-4-08; DAS 6-2009, f. & cert. ef. 5-11-09

Department of Administrative Services, Oregon Educators Benefit Board

Chapter 111

Rule Caption: Amended to include revised definitions for Comparable cost, Subject and Provisional Non-subject districts.

Adm. Order No.: OEBC 8-2009

Filed with Sec. of State: 5-1-2009

Certified to be Effective: 5-1-09

Notice Publication Date: 3-1-2009

Rules Amended: 111-010-0015

Rules Repealed: 111-010-0015(T)

Subject: OAR 111-010-0015 is amended to include revised definitions for Comparable cost, Subject and Provisional Non-subject districts under the Oregon Educators Benefit Board program.

Rules Coordinator: April Kelly—(503) 378-6588

111-010-0015

Definitions

Unless the context indicates otherwise, as used in OEBC 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 (11)(b).

(3) "Affidavit of Domestic Partnership" means a document that attests the eligible employee and one other eligible individual meet the criteria in section (13)(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; and

(i) Comparable benefits for employees who rely on spiritual means of healing.

(5) "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.

(6) "Comparable cost (Medical, Dental and Vision)" means that the total cost to a district for enrollment in OEBC 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.

(7) "Comparable cost (Basic and Supplemental Life Insurance, Accidental Death & Dismemberment Insurance, and Short and Long Term Disability Plans)" means that the premium rates of an OEBC plan design option do not exceed the average, aggregate premium rates of a district's pre-OEBC plan design in effect the year prior to implementation.

(8) "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.

(9) Comparable plan design (Basic and Supplemental Life Insurance and Accidental Death & Dismemberment Insurance)" means that 90 percent of district employees can obtain a maximum benefit through an OEBC

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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.

(10) 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.

(11) "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.

(12) "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.

(13) "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.

(c) Participating Districts must calculate and apply applicable imputed value tax for domestic partners covered under OEBB benefit plans.

(14) "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 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.

(15) "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.

(16) "Non-subject District" means a community college district or a charter school if the employees are not considered employees of a school district.

(17) "Oregon Educators Benefit Board or OEBB" means the program created under chapter 00007, Oregon Laws 2007.

(18) "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).

(19) "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 cost as defined by sections (6) and (8) of this Rule.

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

(21) "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

Rule Caption: Amended to clarify that cost comparability is determined on a district wide basis.

Adm. Order No.: OEBB 9-2009

Filed with Sec. of State: 5-1-2009

Certified to be Effective: 5-1-09

Notice Publication Date: 3-1-2009

Rules Amended: 111-020-0001

Rules Repealed: 111-020-0001(T)

Subject: OAR 111-020-0001 is amended to clarify what measurement is used to determine cost comparability for Provisional non-subject Districts.

Rules Coordinator: April Kelly—(503) 378-6588

111-020-0001

Initial Employee Group Phase-in

(1) Any employee group in Subject Districts or Provisional Non-subject Districts may elect to participate in benefit plans provided by the Board beginning on October 1, 2008, October 1, 2009, or October 1, 2010, without having to meet the phase-in requirements outlined under sections (2), (3) and (4); however:

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(a) Eligible employees of a Subject District who are represented under a collective bargaining agreement with an end date of July 1, 2007, through June 30, 2008, must participate in benefit plans provided by the Board beginning October 1, 2008.

(b) Eligible employees of a Subject District who are represented under a collective bargaining agreement with an end date of July 1, 2008, through June 30, 2009, must participate in benefit plans provided by the Board beginning October 1, 2009.

(c) Eligible employees of a Subject District who are represented under a collective bargaining agreement with an end date on or after July 1, 2009, must participate in benefit plans provided by the Board beginning October 1, 2010.

(d) Eligible employees of a Subject District who are not represented under a collective bargaining agreement must participate in benefit plans provided by the Board consistent with the requirements governing eligible employees of the Subject District who are represented under a collective bargaining contract as outlined under section (1)(a), (b) and (c) above. If more than one collective bargaining contract exists in the Subject District, the earliest collective bargaining contract end date must be applied. If no employee group in the Subject District is represented through a collective bargaining agreement, all eligible employees of the district must participate in benefit plans provided by the Board beginning October 1, 2008.

(2) An employee group electing to participate in benefit plans provided by the Board under section (1) must provide notice of such election not later than June 30, 2008, for the benefit year beginning October 1, 2008 or May 31 of any following year in which they plan to move to the OEGB benefit plans on October 1.

(3) A Provisional Non-subject District wanting to continue providing benefit plans other than those benefit plans provided by the Board must submit an application requesting to be excluded from the requirements of this section. The application must show that the district has met the comparable cost requirements for the medical, dental and vision plans. Applications must be submitted not later than May 31, 2010, and each year that follows.

(4) Employee groups in Provisional Non-subject Districts who elect to participate in benefit plans provided by the Board cannot return to benefit plans provided or administered by an entity other than the Board.

(5) Employee groups electing to participate in OEGB benefit plans prior to the date mandated by Senate Bills 426 and 1066 (Chapter 7, Oregon Laws 2007, as amended by Chapter 39, Oregon Laws 2008) must participate in all types of benefit coverage offered by OEGB at the time of plan selection.

Stat. Auth.: ORS 243.860 - 243.886
Stats. Implemented: ORS 243.886

Hist.: OEGB 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEGB 3-2007(Temp), f. & cert. ef. 11-15-07 thru 3-18-08; OEGB 5-2008, f. & cert. ef. 4-1-08; OEGB 12-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEGB 2-2009, f. & cert. ef. 1-30-09; OEGB 6-2009(Temp), f. & cert. ef. 3-10-09 thru 9-4-09; OEGB 9-2009, f. & cert. ef. 5-1-09

Rule Caption: Amended to clarify what changes can occur as a result of a Qualified Status Change by an OEGB member.

Adm. Order No.: OEGB 10-2009(Temp)

Filed with Sec. of State: 5-4-2009

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

Notice Publication Date:

Rules Amended: 111-040-0040

Rules Suspended: 111-040-0035

Subject: OAR 111-040-0040 is amended to clarify what changes can occur as a result of an OEGB member experiencing a Qualified Status Change.

Rules Coordinator: April Kelly—(503) 378-6588

111-040-0035

Returning to Active Eligible Employee Status

(1) A former active eligible employee returning to benefit eligible status must fulfill the eligibility criteria in OEGB administrative rules before becoming eligible for coverage under OEGB-sponsored benefit plans. If the employee:

(a) Returns to regular active eligible employee status within 12 months of the benefit coverage end date they will have their previous enrollment in OEGB-sponsored benefit plans reinstated the first of the month following their return to work. The employee may make midyear benefit plan changes consistent with OAR 111-040-0040 within 31 calendar days of the date they return to work;

(b) Returns to regular active eligible employee status after 12 months from the benefit coverage end date they will be treated as a newly-hired eligible employee.

Stat. Auth.: 2007 OL Ch. 7

Stats. Implemented: 2007 OL Ch. 7, Sec. 3

Hist.: OEGB 14-2008, f. & cert. ef. 8-15-08; Suspended by OEGB 10-2009(Temp), f. 5-4-09, cert. ef. 5-5-09 thru 10-31-09

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. 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;

(c) Gain dependent by birth, placement for/or adoption, affidavit of dependency or Domestic Partner's children (by affidavit of domestic partnership);

(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 OEGB plans (for a list of requirements see 111-010-0015);

(j) Event by which dependent ceases to satisfy eligibility requirements under OEGB plans (for a list of requirements see 111-010-0015);

(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 (QMCSO), 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.: OEGB 14-2008, f. & cert. ef. 8-15-08; OEGB 10-2009(Temp), f. 5-4-09, cert. ef. 5-5-09 thru 10-31-09

Department of Agriculture

Chapter 603

Rule Caption: Adopting, Amending, and Repealing Rules Governing Notices and Civil Penalties Related to Pesticide Violations.

Adm. Order No.: DOA 6-2009

Filed with Sec. of State: 5-7-2009

Certified to be Effective: 5-7-09

Notice Publication Date: 3-1-2009

Rules Adopted: 603-057-0502, 603-057-0532

Rules Amended: 603-057-0500, 603-057-0510, 603-057-0520, 603-057-0525, 603-057-0530

Rules Repealed: 603-057-0515, 603-057-0502(T), 603-057-0532(T), 603-057-0500(T), 603-057-0510(T), 603-057-0520(T), 603-057-0525(T), 603-057-0530(T)

Subject: The proposed rules fully implement ORS 634.900 as amended in 2007 and update procedures by amending, adopting, and

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repealing rules related to notices and civil penalties issued for violations of pesticide laws. Among other things, the proposed rules define “gross negligence” and “willful misconduct.” The proposed rules establish criteria that the Director will use to set the amounts of the civil penalties for violations that result from gross negligence or willful misconduct. They also modify some of the criteria used to determine the amounts of the civil penalties for violations that do not result from gross negligence or willful misconduct. The proposed rules also update and summarize procedures.

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

603-057-0500

Definitions

In addition to the definitions set forth in ORS 634.006 and OAR 603-057-0001, the following shall apply:

(1) “Director” means the Director of the Department of Agriculture or the Director’s authorized deputies or officers.

(2) “Enforcement” means any documented action taken by the department to address a violation.

(3) “Flagrant” means any violation where the department has documented evidence that the respondent had actual knowledge of the law and knowingly committed the violation.

(4) “Gravity of Effect” is the ranking of a violation with respect to its effect, or potential effect, on the public interests reflected in ORS 634. A violation is ranked as high, medium, or low.

(5) “Gross negligence” means an act or omission that does not reflect an exercise of reasonable care under the circumstances and that is characterized by conscious indifference to or reckless disregard of any purpose of the State Pesticide Control Act.

(6) “Injury” includes, but is not limited to, adulteration.

(7) “Intentionally” means the person acts, or fails to act, with a deliberate or an express purpose. For instance, a person acts intentionally when the person either consciously chooses not to determine whether a pesticide label authorizes use of a pesticide on a particular crop, or when the person knows that a pesticide label does not authorize use of the pesticide on a particular crop but still chooses to apply the pesticide to the crop.

(8) “Knowingly” means the person acts, or fails to act, with a practical understanding of, or a distinct skill in, the general activity that was obtained through such means as instruction, study, practice, or experience.

(9) “Magnitude of Violation” is the categorization of a violation in relation to other types of violations after considering its potential to affect the public interests reflected in ORS 634. A violation is categorized as major, moderate, or minor.

(10) “Person” includes individuals, corporations, associations, firms, joint stock companies, public and municipal corporations, political subdivisions of the state and any agencies thereof, and the Federal Government and any agency thereof.

(11) “Violation” is an act or omission that does not comply with a provision of ORS 634 that relates to pesticide application, sale, or labeling.

(12) “Willfully” means the person acted, or failed to act, after calculating and considering the potential effects and consequences.

(13) “Willful misconduct” means an act or omission that is characterized by or resulting from calculation and consideration of effects and consequences, and with awareness that the act or omission will be incompatible with any purpose of the State Pesticide Control Act.

Stat. Auth.: ORS 561, 634 & 183.335(5)

Stats. Implemented: ORS 183.745, 634.006, 634.306, 634.322, 634.372, 634.900 - 634.915

Hist.: AD 4-1990, f. & cert. ef. 3-16-90; DOA 1-2009(Temp), f. & cert. ef. 1-23-09 thru 7-22-09; DOA 6-2009, f. & cert. ef. 5-7-09

603-057-0502

Civil Penalties Generally

(1) In addition to any other penalty provided by law, the Director may assess a civil penalty for violation of any provision of ORS 634 relating to pesticide application, sale or labeling.

(2) Where the Director determines that a violation did not result from gross negligence or willful misconduct, or if the violation occurred before June 25, 2007, the Director will determine the amount of any civil penalty for that violation using OAR 603-057-0525 and 603-057-0530. The amount of such civil penalty for a first violation shall not exceed \$1,000, and the amount of such civil penalty for any subsequent violation of the same provision shall not exceed \$2,000.

(3) Where the Director determines that a violation resulted from gross negligence or willful misconduct and occurred on or after June 25, 2007, the Director will determine the amount of any civil penalty for that viola-

tion using OAR 603-057-0525 and 603-057-0532. The amount of such civil penalty for a first or a subsequent violation shall not exceed \$10,000.

(4) Where the Director determines that a violation involves a failure to comply with a confidentiality agreement related to the pesticide use reporting program, the Director will determine the amount of any civil penalty for that violation using OAR 603-057-0420. The amount of such civil penalty for a first or subsequent violation of such confidentiality agreement shall not exceed \$10,000.

(5) If a person requests a hearing, nothing in this division of administrative rules prevents the Department from amending the notice to impose civil penalties for the violation under OAR 603-057-0525 and 603-057-0530 and, in the alternative, under OAR 603-057-0525 and 603-057-0532. The amended notice will specify which civil penalty will be assessed if the hearing does not occur for any reason.

(6) A civil penalty imposed under the applicable statutes and these rules may be remitted or reduced upon such terms and conditions as the Director considers proper and consistent with public health and safety.

(7) Civil penalties shall be due and payable ten (10) business days after the order becomes final by operation of law or on appeal. A person may pay a civil penalty before an order becomes final. Payment of a civil penalty before an order becomes final is an admission by the person of all of the allegations in the Notice of Imposition of Civil Penalty.

Stat. Auth.: ORS 561, 634 & 183.335(5)

Stats. Implemented: ORS 183.745, 634.006, 634.306, 634.322, 634.372, & 634.900 - 634.915

Hist.: DOA 1-2009(Temp), f. & cert. ef. 1-23-09 thru 7-22-09; DOA 6-2009, f. & cert. ef. 5-7-09

603-057-0510

Notice of Violation, Notice of Assessment of Civil Penalties, and Notice of Contested Case Rights and Procedures

(1) The Director may determine that a person violated a provision of ORS 634 and decide to not impose a civil penalty. In such circumstances, the Director will issue a written Notice of Violation. The Notice of Violation shall inform a person of the existence of a violation and the consequences of non-compliance.

(2) The Director may determine that a person violated a provision of ORS 634 relating to pesticide application, sale or labeling, and decide to impose a civil penalty. In such circumstances, the Director will issue a written Notice of Imposition of Civil Penalty. The Notice of Imposition of Civil Penalty will inform the person of the existence of a violation, state the amount of the penalty imposed for the violation, and summarize how the penalty was calculated.

(3) Notices of Violation and Notices of Imposition of Civil Penalties shall be served by registered or certified mail.

(4) Notices of Violation and Notices of Imposition of Civil Penalties shall include, but not be limited to:

(a) A caption with the name of the Department and with the name of the person to whom the notice is issued;

(b) A reference to the particular sections of the statutes and administrative rules involved;

(c) A short and plain statement of the matters asserted or charged;

(d) A statement of the person’s right to be represented by counsel and that legal aid organizations may be able to assist a person with limited financial resources;

(e) A statement of the person’s right to request a hearing;

(f) A statement of the procedure to request a hearing, including but not limited to the following;

(A) Any request for hearing must be in writing;

(B) Any request for hearing must be received by the Department within ten (10) business days of the date the Department mailed the notice; and

(C) The address to which a request for hearing must be sent;

(g) A statement that if a request for hearing is not received by the Department within the time stated in the notice the person will have waived the right to a contested case hearing;

(h) A statement of the authority and jurisdiction under which a hearing will be held on the matters asserted or charged;

(i) A statement that if the person requests a hearing a Notice of Contested Case Rights and Procedures will be provided before any hearing;

(j) A statement indicating whether and under what circumstances an order by default may be entered, including but not limited to, that the notice becomes a final order unless the person makes a timely written request for a hearing; and

(k) Other information required by law.

(5) Notices of Violation and Notices of Imposition of Civil Penalties may also include additional information deemed appropriate by the Director, including but not limited to the following:

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(a) A statement that the record of the proceeding to date, including information in the Department's file or files on the subject of the contested case and all materials submitted by a person, automatically become part of the contested case record upon default for the purpose of proving a prima facie case; and

(b) A statement that a collaborative dispute resolution process is available if the person requests a hearing as stated in the notice.

(6) If a person timely requests a hearing for either a Notice of Violation or a Notice of Imposition of Civil Penalty, the Department will mail a written Notice of Contested Case Rights and Procedures to the person before the commencement of the hearing, or request that an administrative law judge inform the person of the rights and procedures.

Stat. Auth.: ORS 561.634 & 183.335(5)

Stats. Implemented: ORS 183.745, 634.006, 634.306, 634.322, 634.372, 634.900 - 634.915

Hist.: AD 4-1990, f. & cert. ef. 3-16-90; DOA 1-2009(Temp), f. & cert. ef. 1-23-09 thru 7-22-09; DOA 6-2009, f. & cert. ef. 5-7-09

603-057-0520

Entry of Order and Appeal Rights

(1) If a person, having been served a Notice of Violation or a Notice of Imposition of Civil Penalty, fails to request a hearing as specified in OAR 603-057-0510(4)(f), or if a hearing is not held for any reason, or if after the hearing the person is found to be in violation, an order may be issued by the Director. If a Notice of Imposition of Civil Penalty was served, the order may assess a civil penalty.

(2) The order shall be signed by the Director.

(3) The order, if not appealed as provided in ORS 183.480 to 183.497 or if sustained on appeal, shall constitute a judgment. If any civil penalty has not been paid when due and payable, the order may be recorded with the county clerk in any county of this state. The clerk shall record the name of the person incurring the penalty and the amount of the penalty in the County Clerk Lien Record. Recording the order has the effects provided for in ORS 205.125 and 205.126, including but not limited to the effect of becoming a lien upon the title of any interest in real property located in that county and owned by the person. The Department may enforce the order as provided in ORS 205.125 and 205.126, bring an action in a court of this state to recover the civil penalty, or take any other action authorized by law to enforce the order.

Stat. Auth.: ORS 561.634 & 183.335(5)

Stats. Implemented: ORS 183.745, 634.006, 634.306, 634.322, 634.372, 634.900 - 634.915

Hist.: AD 4-1990, f. & cert. ef. 3-16-90; DOA 1-2009(Temp), f. & cert. ef. 1-23-09 thru 7-22-09; DOA 6-2009, f. & cert. ef. 5-7-09

603-057-0525

Civil Penalties; Magnitude of Violation and Gravity of Effect

(1) The Director will consider the magnitude of the violation and its gravity of effect when calculating a civil penalty for a violation.

(a) Determine the magnitude of the violation as specified in subsection (2) of this section.

(b) Determine the gravity of effect pertinent to the violation as specified in subsection (3) of this section.

(2) Magnitude of Violation: Violations are categorized as to their magnitude of violation as follows:

(a) Category I (Major):

(A) Make false or misleading claims through any media, relating to the effect of pesticides or application methods to be utilized (ORS 634.372(1));

(B) As a pesticide applicator or operator intentionally or willfully apply or use a worthless pesticide or any pesticide inconsistent with its labeling (ORS 634.372(2));

(C) As a pesticide consultant recommend the application or use of any pesticide inconsistent with its labeling (ORS 634.372(2));

(D) As a pesticide dealer knowingly distribute any pesticide for application or use inconsistent with its labeling (ORS 634.372(2));

(E) Perform pesticide application activities in a faulty, careless or negligent manner (ORS 634.372(4));

(F) As a pesticide dealer refuse or neglect to prepare required records of restricted use and highly toxic pesticide product sales and to maintain those records for at least three years prior to the date of inspection, which include, but are not limited to, the purchaser's name, address and certification number, sale date, and identification and quantity of product sold (ORS 634.372(5), OAR 603-057-0140). Four or more items of required information missing and/or incorrectly recorded;

(G) As a pesticide operator, public applicator or pesticide applicator not employed by a pesticide operator, refuse or neglect to prepare required pesticide application records, and to maintain those records for at least three years prior to the date of inspection, which include the name of the employ-

er or customer, location, date, approximate time application was made, supplier and identity of product applied, amount of product applied, the specific property or the crop to which application was made, type of application equipment used, and the full name of the applicator or trainee who made the application (ORS 634.372(5); 634.146(1); OAR 603-057-0130). Four or more items of required information missing and/or incorrectly recorded;

(H) Prepare required records, reports or application forms which are false, misleading or fraudulent (ORS 634.372(6));

(I) Operate pesticide applicators' apparatus, machinery or equipment without a licensed pesticide applicator or certified private applicator performing the actual application, or supervising such application if performed by a pesticide trainee (ORS 634.372(7));

(J) As a pesticide applicator, work or engage in the application of any classes of pesticides without first obtaining and maintaining a pesticide applicator's license, or apply pesticides which are not specifically authorized by such license (ORS 634.372(8)). No license;

(K) As a pesticide operator, engage in the business of, or represent or advertise as being in the business of, applying pesticides on the property of another, without first obtaining and maintaining a pesticide operator's license, nor shall such person engage in a class of pesticide application business which is not specifically authorized by the license issued by the department. Further, no such person shall employ or use any person to apply or spray pesticides who is not a licensed pesticide applicator or pesticide trainee (ORS 634.372(9));

(i) Firm licensing — No license;

(ii) Employee licensing — No license.

(L) As a pesticide trainee, work or engage in the application of any class of pesticides without first obtaining and maintaining a pesticide trainees license and is otherwise in compliance with the provisions of this chapter (ORS 634.372(10)). No license;

(M) Act as or purport to be, a pesticide dealer or advertise as such without first obtaining and maintaining a pesticide dealer's license (ORS 634.372(11));

(N) Act as or purport to be a pesticide consultant without first obtaining and maintaining a pesticide consultant's license (ORS 634.372(12));

(O) Apply any pesticide classified as a restricted-use or highly toxic pesticide to agricultural, horticultural or forest crops on land owned or leased by the person without first obtaining and maintaining a private applicator certificate (ORS 634.372(13));

(P) As a person described in ORS 634.106(5), use power-driven pesticide application equipment or devices (use hand or backpack types only), or use or apply any pesticide other than those prescribed by the department (ORS 634.372(14));

(Q) Deliver, distribute, sell or offer for sale any pesticide which has been misbranded (ORS 634.372(15));

(R) Formulate, deliver, distribute, sell or offer for sale any pesticide which is adulterated (ORS 634.372(16));

(S) Make application of pesticides, by aircraft or otherwise, within a protected or restricted area without first obtaining a permit for such application from the committee of the protected or restricted area in which the application is to be made, nor shall such person make such an application contrary to the conditions or terms of the permit so issued (ORS 634.372(20));

(T) Use isopropyl ester of 2,4-D, or any other ester of equal or higher volatility with regard to plant damage as determined by the department, without first obtaining a permit for such use as provided in ORS 634.322(10); 634.372(21));

(U) Sell, use or remove any pesticide or device subjected to a "stop sale, use or removal" order until the pesticide or device has been released there-from as provided in ORS 634.322(3) (634.372(22));

(V) Other violations with a substantially similar potential to affect the public interests reflected in ORS 634.

(b) Category II (Moderate):

(A) Operate a faulty or unsafe spray apparatus, aircraft or other application device or equipment (ORS 634.372(3));

(B) As a pesticide dealer refuse or neglect to prepare required records of restricted use and highly toxic pesticide product sales and to maintain those records for at least three years prior to the date of inspection, which include, but are not limited to, the purchaser's name, address and certification number, sale date, and identification and quantity of product sold (ORS 634.372(5); OAR 603-057-0140). Two or three items of required information missing and/or incorrect;

(C) As a pesticide operator, public applicator or pesticide applicator not employed by a pesticide operator, refuse or neglect to prepare required

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pesticide application records, and to maintain those records for at least three years prior to the date of inspection, which include the name of the employer or customer, the location, date, approximate time application was made, supplier and identity of product applied, amount of product applied, the specific property or the crop to which application was made, type of application equipment used, and the full name of the applicator or trainee who made the application (ORS 634.372(5); 634.146(1); OAR 603-057-0130). Two or three items of required information missing and/or incorrectly recorded;

(D) As a pesticide applicator, work or engage in the application of any classes of pesticides without applicator's license, or apply pesticides which are not specifically authorized by such license (ORS 634.372(8)). Inappropriate license;

(E) As a pesticide operator, engage in the business of, or represent or advertise as being in the business of, applying pesticides on the property of another, without first obtaining and maintaining a pesticide operator's license, nor shall such person engage in a class of pesticide application business which is not specifically authorized by the license issued by the department. Further, no such person shall employ or use any person to apply or spray pesticides who is not a licensed pesticide applicator or pesticide trainee (ORS 634.372(9));

- (i) Firm licensing — Inappropriate license;
- (ii) Employee licensing — Inappropriate license.

(F) As a pesticide trainee, work or engage in the application of any class of pesticides without first obtaining and maintaining a pesticide trainee's certificate and is otherwise in compliance with the provisions of this chapter (ORS 634.372(10)). Inappropriate license;

(G) Formulate, deliver, distribute, sell or offer for sale any pesticide which has not been registered as required by ORS 634.016 (634.372(17));

(H) Formulate, deliver, distribute, sell or offer for sale any powdered pesticide containing arsenic or any highly toxic fluoride which is not distinctly colored (ORS 634.372(18));

(I) Distribute sell or offer for sale any pesticide except in the manufacturers original unbroken package (ORS 634.372(19));

(J) Other violations with a substantially similar potential to affect the public interests reflected in ORS 634.

- (c) Category III (Minor):

(A) As a pesticide dealer refuse or neglect to prepare required records of restricted use and highly toxic pesticide product sales and to maintain those records for at least three years prior to the date of inspection, which include, but are not limited to, the purchaser's name, address and certification number, sale date, and identification and quantity of product sold (ORS 634.372(5); OAR 603-057-0140). One item of required information missing and/or incorrectly recorded;

(B) As a pesticide operator, public applicator or pesticide applicator not employed by a pesticide operator, refuse or neglect to prepare required pesticides application records, and to maintain those records for at least three years prior to the date of inspection, which include the name of the employer or customer, the location, date, approximate time application was made, supplier and identity of product applied, amount of product applied, the specific property or the crop to which application was made, type of application equipment used, and the full name of the applicator or trainee who made the application (ORS 634.372(5); 634.146(1); OAR 603-057-0130). One item of required information missing and/or incorrectly recorded;

(C) Other violations with a substantially similar potential to affect the public interests reflected in ORS 634.

(3) Gravity of Effect: The Director shall rank the violation as to its gravity of effect. Following are the factors that may be considered in assigning a gravity ranking to a specific violation. The existence of one or more factors determined to be of high level shall result in the gravity being ranked high level. Lacking any factor determined to be high level, the existence of one or more factors determined to be of medium level shall result in the gravity being ranked medium level. Lacking any factor determined to be of high or medium level shall result in the gravity being ranked low level:

- (a) Rank — High Level:

(A) Human Threat: Injury or illness occurred which was confirmed by medical evaluation conducted through the Oregon Pesticide Analytical And Response Center to have been caused by the pesticide exposure;

- (B) Environmental Threat:

(i) Evidence of injury to crops, wildlife, and/or livestock documented by the department or other appropriate federal or state agency; or

(ii) Evidence of surface or groundwater contamination documented by the department or other appropriate federal or state agency.

- (C) Pesticide:

- (i) Designated as restricted use or highly toxic; or
- (ii) Use or distribution halted due to emergency suspension.

- (D) Conditions of Usage:

(i) Wide area of application;

(ii) Use in area of high population density (e.g., urban, suburban); or

(iii) Usage resulted in a pesticide residue or metabolite on a food or feed crop, on a raw agricultural commodity, or on a crop having food or feed by-products, and for which there is no tolerance or exemption from tolerance established, or for which the established tolerance was exceeded.

- (b) Rank — Medium Level:

(A) Human Threat: Physical irritation occurred which was confirmed by medical evaluation conducted through the Oregon Pesticide Analytical And Response Center to have been caused by pesticide exposure.

(B) Environmental Threat: Symptoms of exposure visible in crops, wildlife, and/or livestock documented by the department or other appropriate federal or state agency.

- (C) Conditions of Usage:

- (i) Moderate area of application; or
- (ii) Use in area of medium population density.

Stat. Auth.: ORS 561, 634 & 183.335(5)

Stats. Implemented: ORS 183.745, 634.006, 634.306, 634.322, 634.372, 634.900 - 634.915

Hist.: AD 4-1990, f. & cert. ef. 3-16-90; DOA 1-2009(Temp), f. & cert. ef. 1-23-09 thru 7-22-09; DOA 6-2009, f. & cert. ef. 5-7-09

603-057-0530

Civil Penalty For A Violation Not Resulting From Gross Negligence or Willful Misconduct; Formula for Amount

(1) When the Director determines that the violation did not result from gross negligence or willful misconduct, or if the violation occurred before June 25, 2007, the Director will determine the amount of the civil penalty using this section. To determine the amount of the civil penalty, calculate it utilizing the formula: $NB + [(1 \times NB) \times (P + H + R + C)] = \text{Penalty Amount}$ where

(a) N = the number of times, within a period of three years prior to and including the date of the current violative act, that the person has been determined by the Director to have committed that violative act;

(b) B = the base penalty determined using the following matrix: [Matrix not included. See ED. NOTE.]

(A) The Magnitude of Violation is determined according to OAR 603-057-0525(2).

(B) The Gravity of Effect is determined according to OAR 603-057-0525(3).

(c) P = past occurrence of unrelated violations under ORS Chapter 634 for a period of three years prior to the date of the current violative act. P will be weighted from 0 to 6 in the following manner:

(A) 0 = no prior violation or insufficient evidence on which to base a finding;

(B) 1 = past occurrence of an unrelated Category III violation;

(C) 2 = past occurrence of an unrelated Category II violation or two unrelated Category III violations;

(D) 3 = past occurrence of an unrelated Category I violation, two unrelated Category II violations or three unrelated Category III violations;

(E) 4 = past occurrence of two unrelated Category I violations, three unrelated Category II violations or four unrelated Category III violations;

(F) 5 = past occurrence of three unrelated Category I violations, four unrelated Category II violations, or five or more unrelated Category III violations;

(G) 6 = past occurrence of three or more unrelated Category I violations or five or more unrelated Category II violations.

(d) H = History of the person in taking all feasible steps or procedures necessary or appropriate to correct a violative action. H will be weighted from -2 to 2 in the following way:

(A) -2 = the person took all feasible steps or procedures to correct any prior violations;

(B) 0 = there is no prior history or insufficient information on which to base a finding;

(C) 1 = the person took some, but not all feasible steps or procedures to correct prior violations;

(D) 2 = the person took no action to correct prior violations.

(e) R = preventability of violation. R will be weighted from -2 to 7 in the following way:

(A) -2 = the person's actions determined to be violative were unavoidable;

(B) 0 = information is insufficient to make any finding;

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(C) 3 = the person's actions determined to be violative were reasonably avoidable;

(D) 7 = the person's actions were flagrant.

(f) C = cooperativeness on the part of the person to assist the department in its investigation and to the extent possible, rectify the violation. C will be weighted from -2 to 2 in the following way:

(A) -2 = the person is cooperative;

(B) -1 = the person provides limited cooperation;

(C) 0 = the person is neither cooperative nor uncooperative;

(D) 1 = the person is generally uncooperative;

(E) 2 = the person is uncooperative.

(2) If the calculation utilizing the formula in this section results in an amount more than \$1,000 for a first violation of any provision of ORS 634, the Director shall assess a civil penalty of \$1,000. If the calculation utilizing the formula in this section results in an amount more than \$2,000 for any subsequent violation of the same provision of ORS 634, the Director shall assess a penalty of \$2,000. In addition, the Director may consider this adjustment if the Director remits or reduces the amount as provided in ORS 634.910 or OAR 603-057-0502(6).

[ED. NOTE: Matrix referenced is available from the agency.]

Stat. Auth.: ORS 561, 634 & 183.335(5)

Stats. Implemented: ORS 183.745, 634.006, 634.306, 634.322, 634.372, 634.900 - 634.915
Hist.: AD 4-1990, f. & cert. ef. 3-16-90; AD 16-1990(Temp), f. & cert. ef. 8-10-90; AD 22-1990, f. & cert. ef. 12-17-90; DOA 1-2009(Temp), f. & cert. ef. 1-23-09 thru 7-22-09; DOA 6-2009, f. & cert. ef. 5-7-09

603-057-0532

Civil Penalty For A Violation Resulting From Gross Negligence or Willful Misconduct; Formula for Amount

(1) When the Director determines that the violation resulted from gross negligence or willful misconduct and that the violation occurred on or after June 25, 2007, the Director will determine the amount of the civil penalty using this section. To determine the amount of the civil penalty, calculate it utilizing the formula: $NB + [(1 \times NB) \times (P + H + C)] = \text{Penalty Amount where}$

(a) N = the number of times, within a period of three years prior to and including the date of the current violative act, that the person has been determined by the Director to have committed that violative act;

(b) B = the base penalty determined using the following matrix:
[Matrix not included. See ED. NOTE.]

(A) The Magnitude of Violation is determined according to OAR 603-057-0525(2).

(B) The Gravity of Effect is determined according to OAR 603-057-0525(3).

(c) P = Past occurrence of unrelated violations under ORS Chapter 634 for a period of three years prior to the date of the current violative act. P will be weighted from 0 to 6 in the same manner as described in OAR 603-057-0530(1)(c).

(d) H = History of the person in taking all feasible steps or procedures necessary or appropriate to correct a violative action. H will be weighted from -2 to 2 in the same manner as described in OAR 603-057-0530(1)(d).

(e) C = Cooperativeness on the part of the person to assist the department in its investigation and to the extent possible, rectify the violation. C will be weighted from -2 to 2 in the same manner as described in OAR 603-057-0530(1)(f).

(2) If the calculation utilizing the formula in this section results in an amount more than \$10,000, the Director will assess a penalty of \$10,000. In addition, the Director may consider this adjustment if the Director remits or reduces the amount as provided in ORS 634.910 or OAR 603-057-0502(6).

[ED. NOTE: Matrix referenced is available from the agency.]

Stat. Auth.: ORS 561, 634 & 183.335(5)

Stats. Implemented: ORS 183.745, 634.006, 634.306, 634.322, 634.372, & 634.900 - 634.915
Hist.: DOA 1-2009(Temp), f. & cert. ef. 1-23-09 thru 7-22-09; DOA 6-2009, f. & cert. ef. 5-7-09

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**Department of Agriculture,
Oregon Processed Vegetable Commission
Chapter 647**

Rule Caption: Amend Commission assessment rates.

Adm. Order No.: OPVC 1-2009

Filed with Sec. of State: 5-14-2009

Certified to be Effective: 7-1-09

Notice Publication Date: 4-1-2009

Rules Amended: 647-010-0010

Subject: These rules establish the assessment rates necessary to fund Commission research projects.

Rules Coordinator: John McCulley—(503) 370-7019

647-010-0010

Assessments

(1) Any first purchaser shall deduct and withhold an assessment of the following amounts from each of the above named vegetable crops:

(a) Beans — \$.995 per ton based on the net weight of the beans delivered.

(b) Sweet Corn — \$.471 per ton based on the gross weight of the sweet corn delivered.

(c) Table Beets — \$.301 per ton based on the net weight of the table beets delivered.

(d) Carrots — \$.261 per ton based on the net weight of the carrots delivered.

(e) Broccoli — \$2.141 per ton based on the net weight of the broccoli delivered.

(f) Cauliflower — \$1.432 per ton based on the net weight of the cauliflower delivered.

(2) From the price paid to the producer thereof, after July 1, 2009, for all of the above named vegetables for processing and grown in Oregon.

Stat. Auth.: ORS 576.051 - 576.595

Stats. Implemented: ORS 576.051 - 576.595

Hist.: PVC 2-1985, f. 7-17-85, ef. 7-22-85; PVC 1-1986, f. 5-30-86, ef. 6-1-86; PVC 2-1987, f. & ef. 6-16-87; PVC 1-1988, f. 4-22-88, cert. ef. 6-1-88; PVC 1-1989, f. 5-4-89, cert. ef. 6-1-89; PVC 1-1990, f. 4-24-90, cert. ef. 6-1-90; PVC 1-1991, f. 5-7-91, cert. ef. 6-1-91; PVC 1-1992, f. 4-15-92, cert. ef. 6-1-92; PVC 1-1993, f. 4-28-93, cert. ef. 6-21-93; PVC 1-1994, f. 4-22-94, cert. ef. 6-21-94; PVC 2-1995, f. 5-24-95, cert. ef. 6-1-95; PVC 1-1996, f. 5-14-96, cert. ef. 1-1-96; PVC 1-1997, f. 5-6-97, cert. ef. 6-1-97; OPVC 1-1998, f. 5-28-98, cert. ef. 6-1-98; OPVC 2-1999 f. 4-26-99, cert. ef. 6-1-99; OPVC 1-2000, f. 5-2-00, cert. ef. 6-1-00; OPVC 2-2001, f. 5-15-01, cert. ef. 6-1-01; OPVC 1-2002, f. 4-26-02, cert. ef. 6-1-02; OPVC 1-2003, f. 5-8-03, cert. ef. 6-1-03; OPVC 2-2004, f. 5-11-04, cert. ef. 6-1-04; OPVC 1-2005, f. 5-13-05, cert. ef. 6-1-05; OPVC 1-2006, f. 5-9-06, cert. ef. 6-1-06; OPVC 1-2007, f. 5-14-07, cert. ef. 6-1-07; OPVC 2-2008, f. 5-2-08, cert. ef. 6-1-08; OPVC 1-2009, f. 5-14-09, cert. ef. 7-1-09

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**Department of Consumer and Business Services,
Insurance Division
Chapter 836**

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

Adm. Order No.: ID 2-2009(Temp)

Filed with Sec. of State: 4-28-2009

Certified to be Effective: 4-28-09 thru 10-24-09

Notice Publication Date:

Rules Adopted: 836-053-0850, 836-053-0855, 836-053-0860, 836-053-0865

Subject: Oregonians who lose their jobs have two options to continue coverage under their group health plan. If their former employer has twenty or more workers, they are eligible under the Consolidated Omnibus Budget Reconciliation Act (COBRA). If their former employer has fewer than twenty 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 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. These rules enact 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 9 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 9/1/08 and before the effective date of HB 2433 and either did not elect or

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whose continuation coverage ended for any reason (e.g., lapse due to nonpayment, 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.

Rules Coordinator: Sue Munson—(503) 947-7272

836-053-0850

Purpose; Authority; Applicability; and Enforcement

(1) OAR 836-053-0850 to 836-053-0885 are adopted under the authority of ORS 731.244 and chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433) for the purpose of implementing continuation of benefits provisions in accordance with chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433) and for the purpose of maximizing the benefit Oregonians may receive under the American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

(2) OAR 836-053-0850 to 836-053-0885 apply to insurers issuing continuation coverage as required under ORS 743.610.

Stat. Auth.: ORS 731.244, OL 2009 HB 2433

Stats. Implemented: ORS 743.610, OL 2009 HB 2433

Hist.: ID 2-2009(Temp), f. & cert. ef. 4-28-09 thru 10-24-09

836-053-0855

Definitions

As used in OAR 836-053-0850 to 836-053-0885:

(1) "Assistance eligible individual" means any covered employee or qualified beneficiary who:

- Is eligible for continuation coverage;
- Elects continuation coverage;
- Is subject to a qualifying event; and
- Is considered an Assistance eligible individual under the American Recovery and Reinvestment Act of 2009 (P.L. 111-5).

(2) "Covered employee" means a certificate holder who has been insured continuously under a policy or similar predecessor policy during the three-month period ending on the date of the termination of employment or membership.

(3)(a) "Qualified beneficiary" means a covered employee under a group health plan or any other individual who, on the day before the qualifying event for that employee, is a beneficiary under that plan as the spouse of the covered employee or as the dependent child of the employee, including a child born or placed for adoption after the qualifying event or during the period the covered employee is eligible for continuation coverage.

(b) An individual is not a qualified beneficiary if:

(A) The individual is eligible for Federal Medicare coverage.

(B) The individual is eligible for any other group health plan. This limitation does not apply to coverage consisting only of:

- Dental, vision, counseling, or referral services;
- Coverage under a health flexible spending arrangement as defined in section 106(c)(2) of the Internal Revenue Code of 1986; or
- Treatment that is furnished in an on-site medical facility maintained by the employer.

(C) An individual is not a qualified beneficiary only for purposes of receiving a premium subsidy if the individual is a domestic partner.

(4) "Qualifying event" means involuntary termination of employment and loss of group health insurance coverage during the period beginning September 1, 2008 and ending December 31, 2009.

Stat. Auth.: ORS 731.244, OL 2009 HB 2433

Stats. Implemented: ORS 743.610, OL 2009 HB 2433

Hist.: ID 2-2009(Temp), f. & cert. ef. 4-28-09 thru 10-24-09

836-053-0860

Notification

(1) An insurer subject to the requirements of ORS 743.610 and chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433) shall provide a notice explaining continuation of benefits directly to individuals losing group coverage, for any reason other than group replacement of coverage, within 10 days following the date of any administrative action taken by an insurer to initiate or document the loss of coverage.

(2) The insurer providing the notice required under section (1) of this rule shall include in the notice at least the following information:

- Contact information for the employee to reach the insurer;
- Forms and instructions about how to complete and return the forms and to whom (i.e., going through employer or direct to insurer);
- A clear statement explaining availability of premium subsidy;

(d) Premium information or directions for determining the premium amount for each qualified beneficiary and instructions for submitting the premium;

(e) A clear statement about who is eligible to continue coverage;

(f) Information about how to enroll in different coverage if allowed by the employer;

(g) Instructions about the employee's responsibility to notify the insurer if the employee becomes ineligible for the subsidy; and

(h) Instructions about how to appeal denials for treatment as an assistance eligible individual.

(3) No later than 30 days after the effective date of chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433), an insurer subject to the requirements of ORS 743.610 and chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433) shall provide a notice explaining continuation of coverage and the right to an additional opportunity to request continuation coverage directly to qualified beneficiaries who experienced a qualifying event between September 1, 2008 and the effective date of chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433). This notice must be sent by the insurer to the qualified beneficiary.

(4) The insurer providing the notice required under section (3) of this rule shall include in the notice at least the following information:

(a) Contact information for the employee to reach the insurer;

(b) Forms and instructions about how to complete and return them and to whom (i.e., going through employer or direct to insurer);

(c) Instruction about the second chance election opportunity, including a clear statement about who is eligible to continue coverage;

(d) A clear statement explaining availability of premium subsidy;

(e) Premium information or directions for determining the premium amount for each qualified beneficiary and instructions for submitting premium;

(f) Information about how to enroll in different coverage if allowed by the employer;

(g) When coverage becomes effective if the second election is made;

(h) Instructions about how to appeal denials for treatment as an assistance eligible individual; and

(i) Instructions about notification if the employee becomes ineligible for the subsidy.

Stat. Auth.: ORS 731.244, OL 2009 HB 2433

Stats. Implemented: ORS 743.610, OL 2009 HB 2433

Hist.: ID 2-2009(Temp), f. & cert. ef. 4-28-09 thru 10-24-09

836-053-0865

Provisions Relating to Premium Subsidy for State Continuation Coverage

(1) In order to maximize the benefit to Oregonians under the federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5), certain qualified beneficiaries are eligible for:

(a) Premium subsidy for continuation of coverage;

(b) An opportunity to elect continuation of coverage that is in addition to the period allowed under ORS 743.610(5);

(c) Continuation of coverage for a period of time that exceeds the period allowed under ORS 743.610(7)(a); and

(d) An option to enroll in different coverage if the employer permits assistance eligible employees to elect enrollment in different coverage.

(2) After receiving the attestation from an employer stating that the employee meets the requirements of an assistance eligible individual and the date of the qualifying event, an insurer is required to accept timely payment of the assistance eligible individual's 35 percent share of the total premium as full payment of the premium and process claims as though 100 percent of the total premium due has been paid.

(3)(a) The following assistance eligible individuals qualify for a second opportunity to elect continuation of coverage if the group health plan remains in effect:

(A) Assistance eligible individuals who did not elect to continue coverage during the period allowed under ORS 743.610(5) prior to the effective date of chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433); and

(B) Assistance eligible individuals who elected continuation coverage during the period allowed under ORS 743.610(5) but whose continuation coverage ended for any reason prior to the effective date of chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433);

(b) Within 31 calendar days following receipt of the required notice from the insurer, assistance eligible individuals who received the notice under paragraph (a) of this subsection must return the following items according to instructions provided by the insurer:

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Department of Corrections Chapter 291

(A) Completed forms for electing state continuation coverage and requesting treatment as an assistance eligible individual;

(B) The individual's tax identification number;

(C) Form for Switching State Continuation Coverage Benefit Options, if offered; and

(D) The initial premium if required.

(c) Assistance eligible individuals who became eligible between September 1, 2008 and the effective date of chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433) are eligible to continue coverage while the group health plan remains in effect, and upon timely payment of their portion of the premium, for the longer of:

(A) Nine months of continuation coverage beginning with the coverage month first following the qualifying event; or

(B) Until November 30, 2009.

(d) The effective date for continuation coverage issued in response to a second election of coverage will be the later of the first day of the coverage month on or after February 17, 2009 or the first day of the coverage month first following the qualifying event.

(4)(a) Within 31 calendar days following receipt of the required notice from the insurer, assistance eligible individuals who become eligible on or after the effective date of chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433) must return the following items according to any instructions provided by the insurer:

(A) Forms for electing state continuation coverage and requesting treatment as an assistance eligible individual;

(B) The individual's tax identification number;

(C) The form for switching state continuation coverage benefit options, if offered; and

(D) The initial premium, if required.

(b) An assistance eligible individual who became eligible on or after the effective date of chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433) is eligible to continue coverage for a period of nine months beginning with the coverage month first following the qualifying event.

(5) An assistance eligible individual may elect to enroll in different coverage as described in subsection (1) (d) of this rule if:

(a) The employer permits assistance eligible individuals to enroll in different coverage;

(b) The premium for the different coverage does not exceed the premium for coverage in which the individual was enrolled at the time of the qualifying event;

(c) The different coverage in which the individual elects to enroll is coverage that is also offered to the active employees of the employer at the time the individual makes the election; and

(d) The different coverage is not:

(A) Coverage that provides only dental, vision, counseling or referral services, or a combination of such services;

(B) A flexible spending arrangement as defined in section 106(c) (2) of the Internal Revenue Code of 1986; or

(C) Coverage that provides coverage for services or treatments furnished in an on-site medical facility maintained by the employer and that consists primarily of first-aid services, prevention and wellness care or similar care, or a combination of such care.

(6) The period of time beginning on the date of the qualifying event and ending with the effective date of continuation coverage shall be disregarded for purposes of determining periods of creditable coverage under ORS 743.754, 743.737, and 743.766.

(7) A premium subsidy is not available to an assistance eligible individual who becomes eligible for coverage under any other group health plan or Medicare. An individual paying a reduced premium for continuation coverage as described in this section must promptly notify the insurer if they become eligible for other group health plan coverage or Medicare.

(8) Assistance eligible individuals who elect continuation on or after September 1, 2008, but before the effective date of chapter ____, Oregon Laws 2009 (Enrolled House Bill 2433) are eligible to continue coverage while the group health plan remains in effect, and upon timely payment of their portion of the premium, for the longer of:

(a) A period of nine months beginning with the coverage month first following the qualifying event; or

(b) Until November 30, 2009.

Stat. Auth.: ORS 731.244, OL 2009 HB 2433

Stats. Implemented: ORS 743.610, OL 2009 HB 2433

Hist.: ID 2-2009(Temp), f. & cert. ef. 4-28-09 thru 10-24-09

Rule Caption: Visiting for Inmates Assigned to Disciplinary Segregation and Intensive Management Unit.

Adm. Order No.: DOC 4-2009

Filed with Sec. of State: 5-15-2009

Certified to be Effective: 5-15-09

Notice Publication Date: 3-1-2009

Rules Amended: 291-127-0240, 291-127-0260

Rules Repealed: 291-127-0260(T)

Subject: The Department recently revised its visiting rules for inmates assigned to the Disciplinary Segregation Unit (DSU) and the Intensive Management Unit (IMU). Under the new provisions, inmates assigned to these units were permitted to visit with only two visitors whom they selected from their visiting list.

Several concerns were raised from inmates and inmate family. The main concern expressed was the inability, under the recent revision, of an inmate house in DSU or IMU to receive visits from more than one of his or her children. A minor child must be accompanied by an adult to visit an inmate; and selection of two visitors from the inmate's visiting list required an inmate with two or more children to make choices to which child would be permitted to visit. This amendment will permit inmates housed in DSU and IMU to receive visits from more than one child. Other modifications allow inmates to increase the maximum number of visitors on the visiting list.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-127-0240

Approval/Denial of Visiting Application; Restrictions

(1) Visiting Application:

(a) Inmates or prospective visitors must submit a completed visiting application form (CD 50D) for each prospective visitor regardless of their age.

(b) The application must be submitted to the Inmate Services Unit. Inmates shall make the final determination which approved visitors are on their visiting list.

(c) Inmates who are returned to custody in a Department of Corrections facility following an escape or a period of parole or post-prison supervision in the community shall be required to submit a new visiting application for each prospective visitor.

(2) Criminal Records Check: All prospective visitors age 15 years and older shall be subject to a criminal records check as part of the visitation approval process.

(3) Letter of Custodial Consent: If the prospective visitor is an emancipated minor child, a notarized letter of custodial consent signed by the custodial parent or legal guardian must be submitted to the Inmate Services Unit as part of the visitation approval process. A signed letter of custodial consent is not required if the prospective visitor is an emancipated minor. Once received, signed letters of custodial consent shall be maintained in the inmate's central file.

(4) Approval/Denial of Visiting Application:

(a) Except when authorization is required from the Institutions Administrator, the Inmate Services Unit will approve or deny the visiting application following receipt of the application and any additional required documentation or requested information (e.g., criminal records check, letter of custodial consent, etc). If the visiting application is approved, the approved visitor's name will be placed on the inmate's visiting list along with the type of visitation authorized (i.e., privileged, basic or video).

(b) Prior to approving or denying the application, Inmate Services Unit staff may:

(A) Verify information submitted in the application;

(B) Check the name of the prospective visitor against the volunteer data base;

(C) Request additional information from the inmate, the prospective visitor, law enforcement agencies, or other reliable sources; and

(D) Interview the inmate or prospective visitor.

(c) Applications to visit with prospective visitors who are eligible to visit an inmate confined in a Department of Corrections facility under these rules will generally be approved unless the Department has reasonable suspicion that permitting the visitation would jeopardize the safety, security, health or good order of the facility, or the safety and security of other

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inmates, staff, visitors, contractors or the community. Specific reasons for denial include, but are not limited to, the following:

(A) The inmate or prospective visitor has previously introduced contraband into a jail or other corrections facility, or there is reasonable suspicion that the inmate or prospective visitor will introduce contraband into a Department of Corrections facility through the visiting process.

(B) The inmate or prospective visitor has previously disrupted the visiting process or violated visiting rules and procedures within a jail or other corrections facility by words or acts, or there is reasonable suspicion that the inmate or prospective visitor will disrupt the visiting process or violate visiting rules and procedures within a Department of Corrections facility by words or acts.

(C) The inmate or proposed visitor has intentionally submitted false information to the Department as part of the visiting application process.

(D) There is reasonable suspicion that the inmate or prospective visitor is engaged in any form of criminal activity in the community or within a Department of Corrections facility.

(E) The prospective visitor has refused to submit to a search based upon reasonable suspicion during a prior visit to any Department of Corrections facility.

(5) A prospective visitor may not be on more than one inmate's approved visiting list at the facility where the inmate is confined, unless the prospective visitor is an immediate family member.

(6) Children Maximum Number of Approved Visitors:

(a) Inmates may be permitted a maximum of 20 approved visitors on their respective visiting lists.

(b) Under 13 Years of Age: The name of each approved visitor shall appear on the inmate's visiting list; however, persons under 13 years of age shall not be counted toward the maximum number of approved visitors, although their names must still appear on the list.

(c) Children Under 18 Years of Age: Children under 18 years of age may visit on any of the regular visiting days when accompanied by an adult visitor on the inmate's approved visiting list. Both visitors must be visiting the same inmate at the same time. Exceptions may be specifically authorized by the facility superintendent or designee.

(7) Denial for Submitting False Information: An inmate or prospective visitor who has intentionally submitted false information to the Department as part of the visiting application process will be denied visitation for at least one year, after which time the inmate may submit a new visiting application for approval in accordance with these rules.

(8) Restriction to Basic Visiting for Drug-Related Activity: An inmate who has been found in violation of the Department's rules of prohibited inmate conduct for drug-related activity, including attempt or conspiracy, may have his/her visits restricted to basic visiting as included in the sanction on the final order in accordance with the rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(9) Notification to Inmate of Decision on Visiting Application: After Inmate Services Unit receives the application, inmates will receive notification whether it has been approved or denied. Some applications may be deferred for further processing.

(a) If the application is approved, the notice will include a designation of the type of visiting that has been authorized (i.e., privileged or basic).

(b) If visiting is denied, the notice shall include the specific grounds for denial upon which the decision is based, and inform the inmate that he/she may request an administrative review as specified in OAR 291-127-0245.

(10) Notification to Prospective Visitor of Decision on Visiting Application/Inquiries:

(a) Inmates are responsible for informing their prospective visitor(s) whether the visiting application has been approved or denied. Copies of the Department of Corrections rule on Visiting (Inmate) will be available for review by prospective visitors at each functional unit's visiting desk or reception area and the Department's website <http://www.oregon.gov/DOC>.

(b) Inquiries by prospective visitors regarding Department decisions to approve or deny an inmate's visiting application must be in writing and directed to the Inmate Services Unit. Department of Corrections staff will not respond to telephone inquiries by prospective visitors regarding Department decisions to approve or deny an inmate's visiting application.

(11) A visitor shall be removed from an inmate's approved visiting list upon written request by either the inmate or the approved visitor. If a visitor is removed from an inmate's approved visiting list at the request of the visitor or inmate, the visitor may not appeal this decision and, the visitor shall not be eligible to again be placed on the inmate's visiting list, or on any other inmate's approved visiting list, for a minimum of 90 days.

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

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

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 24-2008, f. & cert. ef. 9-26-08; DOC 4-2009, f. & cert. ef. 5-15-09

291-127-0260

Time, Length, and Place of Visits

(1) The time, length, and place of visits shall be posted at the visiting desk and visiting room of each Department of Corrections facility.

(2) Termination of Visits: Visits may be terminated by the facility superintendent or designated staff at their discretion at any time due to space limitations or as deemed necessary to maintain the safety, security, health and good order of the facility, or the safety and security of other inmates, staff, visitors, contractors or the community.

(3) Visitors who engage in a disturbance or other inappropriate conduct as defined in these rules, or who loiter in or about a Department of Corrections facility, shall be subject to removal from the facility by Department staff. The officer-in-charge of the facility may notify law enforcement officials for assistance if the visitor refuses to leave the facility when requested by Department staff.

(4) Except for minimum-security facilities, privileged visiting normally occurs five days per week, including state holidays. Due to physical plant design, work environment or staff level, facilities may limit or expand number of days, length, and time of visits at the discretion of the superintendent. The Oregon State Penitentiary will provide visits seven days per week.

(5) Inmates Assigned to General Population:

(a) Visitation for inmates assigned to general population shall take place during regular visiting hours.

(b) Except for minimum-security facilities, visitors will be accommodated on a first come, first serve basis. Facilities may schedule appointments for visiting.

(c) Basic Visiting:

(A) An inmate assigned to general population in a Department of Corrections facility whose visits are restricted to basic visiting shall be permitted eight visiting sessions per month, four of which must occur on weekdays.

(B) Only two visitors shall be allowed. A third person shall be permitted if he/she is under three years of age and is held on the lap. Exceptions may be specifically authorized by the superintendent or designee.

(C) Duration of visits shall be established by the facility superintendent or designee, and shall be limited to no more than one hour in length, depending upon space availability

(6) Disciplinary Segregation/Administrative Segregation:

(a) Inmates assigned to Disciplinary Segregation or Administrative Segregation may be permitted basic visiting with two visitors whom they have selected from their visiting list. The inmate's own children, as defined in OAR 291-127-0250, are exempt from the total of two visitors. The two visitors selected may be changed every six months.

(b) Visits shall be scheduled in advance, and limited to one visit per week.

(c) Duration of visits shall be established by the facility superintendent or designee, and shall be limited to no more than one hour in length, depending upon space availability.

(7) Death Row: Inmates assigned to Death Row who are approved for visiting shall be permitted two basic visits per week with approved visitors on their visiting list. The maximum length of visits is limited to two hours, depending upon space availability. Visits shall be scheduled in advance.

(8) Administrative Housing: Inmates assigned to Administrative Housing may be permitted basic visiting with approved visitors on their visiting list. The facility superintendent or designee shall determine the duration of the visit based upon space availability. Visits shall be scheduled in advance.

(9) Mental Health Infirmary (MHI): Inmates assigned to an MHI at a Department of Corrections facility may be permitted visits with approved visitors on their visiting list in the unit or the main visiting room, subject to recommendation of a psychiatrist and with the approval of the facility superintendent/designee. The facility superintendent or designee shall direct the type of visiting permitted (privileged or basic), upon recommendation of the psychiatrist. No minor children will be permitted to visit with the inmate if the visit occurs in the unit. Visitors must call in advance to schedule a visiting appointment.

(10) Intensive Management Unit (IMU):

(a) Inmates assigned to an Intensive Management Unit or cell may be permitted basic visiting with two visitors whom they have selected from their visiting list. The inmate's own children, as defined in OAR 291-127-0250, are exempt from the total of two visitors. The two visitors selected

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may be changed every six months. Visits will be based on the inmate's program level.

(b) Visits will be conducted in a designated basic visiting area for IMU status inmates. Visits shall be scheduled in advance.

(11) Infirmary: Inmates assigned to the Infirmary at a Department of Corrections facility may be permitted visits as follows:

(a) Inmates who are permanently assigned to the Infirmary at a Department of Corrections facility may be permitted privileged visiting in the main visiting area with approved visitors on their visiting list, upon recommendation of Health Services staff. Visitation by inmates approved for privileged visiting in the main visiting area shall be subject to the 24 visiting point system set forth in OAR 291-127-0250.

(b) Inmates who are patients in the Infirmary, but are not permanently assigned to the Infirmary, and who are approved for privileged visiting may be permitted visits with two adult visitors whom they have selected from their visiting list in the Infirmary, except as otherwise recommended by Health Services staff or the facility superintendent or designee. The two visitors selected may be changed every six months. Visits shall be scheduled in advance.

(c) Inmates participating in a Department of Corrections Hospice program may be permitted extended visitation on a case-by-case basis, upon recommendation of Health Services staff and as authorized by facility superintendent or designee. Visitation in the Hospice program is not a part of the regular visitation program.

(d) Community Hospitalization: Inmates assigned to community hospitalization and under Department of Corrections supervision may be permitted visits as follows:

(A) Inmates assigned to general population and the Infirmary in a Department of Corrections facility prior to their current hospital admission may be permitted visiting during the course of their hospital stay, upon authorization of the facility superintendent and consent of the attending physician or hospital administration.

(i) Visits must be scheduled in advance with institution staff. Visits shall be during normal hospital visiting hours.

(ii) Duration of visits shall be determined by the superintendent/designee.

(B) Inmates assigned to the Disciplinary Segregation Unit, Administrative Segregation Unit, Administrative Housing, Mental Housing Infirmary, and Death Row prior to their current hospital admission will only be permitted visits on a case-by-case basis, upon recommendation of Health Services staff, and as authorized by the facility superintendent or designee.

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

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

Hist.: DOC 10-2000, f. & cert. ef. 4-25-00; DOC 3-2005, f. 3-11-05, cert. ef. 3-14-05; DOC 8-2008(Temp), f. & cert. ef. 4-1-08 thru 9-28-08; DOC 24-2008, f. & cert. ef. 9-26-08; DOC 31-2008(Temp), f. & cert. ef. 12-16-08 thru 6-12-09; DOC 4-2009, f. & cert. ef. 5-15-09

Rule Caption: Inmate Cost of Care Reimbursement.

Adm. Order No.: DOC 5-2009(Temp)

Filed with Sec. of State: 5-15-2009

Certified to be Effective: 5-15-09 thru 11-11-09

Notice Publication Date:

Rules Amended: 291-203-0020, 291-203-0040, 291-203-0050

Subject: ORS 179.640 provides that rules adopted by the Department for determining the ability of inmates to pay reimbursement for their cost of care while incarcerated in an ODOC institution must include a requirement that the Department consider, in addition to other relevant factors, the inmate's personal estate, the inmate's need for funds for personal support after release, and the availability of third-party benefits such as, but not limited to, Medicare or private insurance. These temporary rules amendments are necessary to conform the Department's cost of care reimbursement rules to this statutory requirement.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-203-0020

Definitions

(1) Assets: The total value of an inmate's (subject to the provisions of ORS 179.640(5)) equity in real and personal property of whatever kind or nature. Assets include, but are not limited to, the inmate's stocks, bonds, cash, accounts receivable, moneys due, or any other interests, whether they are self-managed, or held by the individual's authorized representative, or

by any other individual or entity on behalf of the inmate. Assets held in trust are subject to laws generally applicable to trusts.

(2) Authorized Representative: An individual or entity appointed under authority of ORS chapter 125, as guardian or conservator of an inmate, who has the ability to control the inmate's finances, and any other individual or entity holding funds or receiving benefits or income on behalf of the inmate.

(3) Cash Assets/Liquid Reserves: Cash and cash equivalents, accounts receivable, temporary investments such as CDs or Treasury Bills, money market accounts, and bonds that can be cashed at any time.

(3) Charges: The amount the Department has determined that the inmate is required to pay toward the cost of care.

(5) Cost of Care: All services including medical care, room, board, administrative costs and other costs not otherwise excluded by law.

(6) Custody of the Department: The court ordered sentence of an inmate to the Department of Corrections to imprison in a Department operated correctional facility or contracted housing through a county, other state, or other jurisdiction.

(7) Dependents: The individuals for whom an inmate has a legal duty to support.

(8) Distrain Warrant: A warrant or document issued by the Department directed to the sheriff of any county of the state commanding the sheriff to levy upon and sell the real and personal property which is subject to satisfaction of the recoupment lien.

(9) Fair Market Value: The cash price a capable and diligent individual could obtain in a reasonable amount of time for an asset.

(10) Income: All funds received by an inmate, or for an inmate by an authorized representative from any source, whether earned or unearned, after making applicable deductions for state and federal income taxes. Income includes benefits from life insurance, income protection insurance, or any other form of award to the inmate except as prohibited by ORS 179.620(5)(a).

(11) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, probation, or post-prison supervision status.

(12) Personal Estate: All assets including cash, liquid reserves, stocks, bonds, accounts receivable, moneys due, or any other interests, whether they are self-managed, or held by the individual's authorized representative. Personal estate also includes benefits from income protection insurance, governmental retirement or disability insurance, such as Social Security, Veterans, state, federal, and railroad retirement benefits and benefits from life insurance or any other form of award except as prohibited in ORS 179.610(5)(a) and (5)(b).

(13) Primary Automobile: The automobile, if the person has more than one, which the person would choose to keep if required to sell all but one. If the person has only one, it is the primary personal automobile.

(14) Primary Person Residence: The home the inmate owns, or is purchasing, and in which the inmate lived prior to entering the custody of the Department, or in which the inmate will live after leaving the custody of the Department.

(15) Recoupment Liens: A charge or security or encumbrance upon real or personal property that can be used to satisfy the amount due for the inmate's cost of care.

(16) Support for Dependents: The cash necessary to meet the reasonable needs of the dependents, less the amount the dependent receives from any other source. Support for dependents excludes administratively or judicially ordered child and/or spousal support.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 179.040, 179.640, 179.770, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 179.610 - 179.770, 423.020, 423.030, 423.075

Hist.: DOC 2-2003(Temp), f. & cert. ef. 2-7-03 thru 8-6-03; DOC 11-2003, f. & cert. ef. 8-6-03; DOC 13-2004, f. & cert. ef. 10-21-04; DOJ 5-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

291-203-0040

Ability to Pay Order

(1) An inmate and the personal estate of an inmate, or a decedent's estate, is liable for the full cost of care as established in ORS 179.701. The Department may collect charges in advance for inmates with determinate sentences.

(2) The Department shall make a determination of the inmate's ability to pay which is set forth in the Ability to Pay Order. The two types of Ability to Pay Orders are: determination of charges and a modification of charges. Each order shall be given one of these titles to identify the type of determination it sets forth, based on the factors and criteria described in the following sections.

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(3) The inmate's ability to pay will be investigated and an Ability to Pay Order may be issued when the Department is aware of an inmate or the inmate's representative with cash assets or liquid reserves in excess of the current biennial cost of care or \$55,000 whichever is greater. This Ability to Pay threshold is applicable only to the determination of who will be reviewed for an Ability to Pay Order. (ORS 179.640(1)(b)).

(4) The determination of the ability to pay may be assessed at intake or any time during the inmate's sentence, based on notification by sources the Department considers reliable. These sources include, but are not limited to, the District Attorney's Office, the Social Security and Veterans Administration, Oregon Department of Revenue, State of Oregon agencies, or any other sources the Department deems credible.

(5) When determining an inmate's ability to pay, in addition to other relevant factors, the Department will consider the inmate's personal estate, the inmate's need for funds for personal support after release, and the availability of third-party benefits such as, but not limited to, Medicare or private insurance.

Stat. Auth.: ORS 179.040, 179.640, 179.770, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 179.610 - 179.770, 423.020, 423.030, 423.075
Hist.: DOC 11-2003, f. & cert. ef. 8-6-03; DOJ 5-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

291-203-0050

Determination of Charges

(1) The amount determined by the Department to be the inmate's charges shall not exceed the full cost of care for the dates covered by the Ability to Pay Order, less payments and/or credits from any other sources the Department has received, or reasonably anticipates receiving.

(2) Charges will be assessed using the inmate's equity in all assets whether the asset is controlled by the person, or by the person's authorized representative.

(a) Any asset may be liquidated in a lump sum to pay charges assessed the inmate in the Ability to Pay Order.

(b) Equity in each asset will be determined from the fair market value of the asset less any bona fide encumbrance against the asset.

(c) When assets are used as the basis for ongoing charges, the Department will estimate the length of time the assets are expected to last. During the final 60 days of that time period, the Department will review the inmate's financial circumstances for modifying the inmate's charges.

(3) Charges will be assessed using the total amount of all income received either by the inmate or for the inmate by the inmate's authorized representative.

(4) Charges may be assessed using the inmate's equity in a primary personal residence only if:

(a) The inmate is sentenced to death or to life without possibility of parole; and

(b) None of the following individuals reside in the residence:

(A) The inmate's spouse.

(B) The inmate's child or children under age 21, or blind or disabled children over 21.

(C) The inmate's sibling or siblings who own an interest in the residence, and who lived in the residence for at least one year immediately prior to the inmate becoming the custody of the Department.

(D) The inmate's parents or emancipated children who are unable to work to maintain themselves as declared in ORS 109.010.

(5) Charges may be assessed using the inmate's equity in an automobile only if it is not the inmate's primary personal automobile.

(6) Deductions: The Department may allow a deduction from the inmate's assets and income for the following:

(a) Legal Obligations: Legal obligations, other than administratively or judicially ordered child or spousal support, as determined by the Department.

(A) Funds set aside as legal obligations may not be accumulated by, or on behalf of the inmate, or used for purposes other than that for which it was approved.

(B) The inmate must have demonstrated an intent to pay the obligation. The Department may request verification of actual payments.

(C) Any deduction allowed for the financial support of dependents must be used to provide current support. It may not be accumulated by, or on behalf of the inmate, and it may not be used for other purposes.

(b) Personal Support Following Release: Based on a showing of need, the Department may allow a deduction for the inmate's transitional support following his/her release from an ODOC institution for reasonable expenses to live in the community for three months, including rent, utilities, food, public transportation, supervision fees, and miscellaneous expenses.

(c) Personal Support While in Custody of the Department:

(A) Based on a showing of need, the Department may allow a deduction for an inmate's miscellaneous personal expenses while in the custody of the Department that are not provided by the Department and are available for purchase from the institution commissary. These include, but are not limited to, expenses for personal grooming and hygiene items; books, newspapers, or other publications; or snacks or refreshments.

(B) When a deduction is made by the Department for this purpose, the Department shall establish an allowance to reflect a reasonable monthly spending limit for the inmate for purchase from the institution commissary, consistent with the Department's rule on Trust Accounts (Inmate), OAR 291-158.

Stat. Auth.: ORS 179.040, 179.640, 179.770, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 179.610 - 179.770, 423.020, 423.030, 423.075
Hist.: DOC 11-2003, f. & cert. ef. 8-6-03; DOJ 5-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

Department of Environmental Quality Chapter 340

Rule Caption: Amend the Clean Water State Revolving Fund Rules, OAR Chapter 340, Division 54.

Adm. Order No.: DEQ 1-2009(Temp)

Filed with Sec. of State: 4-27-2009

Certified to be Effective: 5-1-09 thru 10-27-09

Notice Publication Date:

Rules Adopted: 340-054-0098, 340-054-0100, 340-054-0102, 340-054-0104, 340-054-0106, 340-054-0108

Rules Amended: 340-054-0024, 340-054-0025, 340-054-0035

Subject: The American Recovery and Reinvestment Act of 2009 was enacted in February to preserve and create jobs as an important means of stimulating the U.S. economy. The U.S. Environmental Protection Agency has allocated \$44 million under the act for a capitalization grant to the Department of Environmental Quality's Clean Water State Revolving Fund. The act stipulates that states must meet certain financial requirements if they accept the grant. DEQ's administrative rules must be amended to include these federal requirements. This temporary rulemaking is necessary to allow DEQ to quickly comply with the Act.

Rules Coordinator: Larry McAllister—(503) 229-6412

340-054-0024

Design Loans and Construction Loans

The Department will administer design loans or construction loans to address point source or nonpoint source pollution. Applications may be submitted in response to the Department's annual solicitation or at any time during the program year. The Department may require different application forms for point source projects and nonpoint source projects.

(1) General Requirements and Provisions. Applicants applying for CWSRF financing for design loans or construction loans must submit:

(a) A fully executed and complete application on a form provided by the Department;

(b) A completed Checklist of Exhibits and Requirements and associated documents;

(c) Evidence that the Applicant has the authority to undertake the project;

(d) Audited financial statements for the previous three years and the Applicant's current budget (unless waived by the Department in its discretion);

(e) All pertinent requirements listed in OAR 340-054-0035; and

(f) Any other information requested by the Department.

(2) Design Loans or Construction Loans. The Department will administer loans for activities that result in the design or construction of sewage facilities, nonpoint source control or estuary management projects. When approved by the Department, security measures intended to prevent intrusion or damage to such facilities or projects, or interruption of a facility or project's processes are eligible design or construction costs. Design loans or construction loans have the following terms and conditions:

(a) The maximum loan amount must be in accordance with OAR 340-054-0025(6);

(b) If not implementing a sponsorship option, the interest rate and corresponding loan terms for design or construction loans must be in accordance with OAR 340-054-0065(5)(f), or 340-054-0065(5)(g).

(c) The loan repayment period (as defined in the loan agreement) must begin on the outstanding principal and interest balance in accordance with OAR 340-054-0065(9); and

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(d) The annual loan fee must be imposed on any unpaid balance in accordance with OAR 340-054-0065(7).

(3) Sponsorship Option for protection or restoration of water resources.

(a) A public agency (sponsoring community) may apply to the Department for a CWSRF loan to finance a sewage collection system or sewage treatment facility project combined with a water resource activity. Within this sponsorship option, the CWSRF program may fund both projects under a single CWSRF loan if the Department determines that the water resource activity meets program eligibility, funds are available, and the ranking of the sewage project allows its funding.

(b) The interest rate for the consolidated financing will be reduced whenever possible to a rate resulting in the semi-annual payment for the joint project being equal to the expected semi-annual payment with a traditional CWSRF loan for the sewage collection system or sewage treatment facility project only.

(c) A public agency that participates in this sponsorship option may either implement the water resource activity itself or may enter into a sponsorship agreement with an implementing partner who will implement the water resource activity. The sponsoring community remains responsible, however, for both the successful completion of the water resource activity and for the repayment of the CWSRF loan. The implementing partner will not be responsible for any repayment to the CWSRF program.

(d) All applicants for the sponsorship option must submit:

(A) A completed sponsorship application and project description using a form provided by the Department;

(B) Evidence that the sponsoring community and implementing partner (if an implementing partner is involved) have authority to undertake the water resource activity;

(C) An executed copy of the sponsorship agreement entered into with the implementing partner, if applicable; and

(D) Any other information requested by the Department.

(e) Financial terms of the sponsorship option will be as follows:

(A) The interest rate for the sponsorship option must be in accordance with OAR 340-054-0065(5)(h); and

(B) The requirements of OAR 340-054-0065 will be applicable to the sponsorship option except as specifically modified in this rule.

(f) The Department will determine the total amount of CWSRF funds to be allocated at the reduced interest rate through the sponsorship option in each program year.

Stat. Auth.: ORS 468.423 - 468.440

Stats. Implemented: ORS 468.429 & 468.439

Hist.: DEQ 10-2003, f. & cert. ef. 5-27-03; DEQ 1-2009(Temp), f. 4-27-09, cert. ef. 5-1-09 thru 10-27-09

340-054-0025

Application Process; Project Priority List; Intended Use Plan; Allocation of Funds

The Department will periodically, but not less than annually, develop and submit an Intended Use Plan (IUP) to EPA as described in section 606 of the CWA and 40 CFR § 35.3150. The IUP will describe the proposed uses of the CWSRF and will include a project priority list numerically ranking all eligible applications received. The Department will develop the IUP using the following processes in this rule.

(1) Notice: The Department will notify interested parties at least annually of the opportunity to submit applications. Interested parties include, but are not limited to, watershed councils, counties, soil and water conservation districts, special districts and all of the incorporated cities listed in the current edition of the Oregon Blue Book.

(2) Applications: For a project to be considered for the project priority list, an Applicant must submit a completed application; the application must address an imminent, actual or threatened water quality problem; and the project must be eligible for funding under OAR 340-054-0015.

(3) Timing: In addition to applications received in response to the solicitation for applications indicated in OAR 340-054-0025(1), the Department will accept applications at any time.

(4) Project Priority List Ranking:

(a) The Department will develop a project priority list by ranking all eligible proposed projects using the criteria in Table 1 of this rule. Projects will be numerically ranked based on the sum of the points awarded each proposed project. A maximum of one hundred (100) points is available for a proposed project.

(b) The Department will update the project priority list and the IUP at least every four months or upon receipt by the Department of five eligible applications, whichever timeframe is shorter. If no eligible applications are

received during a four month period, the project priority list will not be updated. [Table not included. See ED. NOTE.]

(5) Draft Intended Use Plan, Public Notice and Review:

(a) The Department will update the IUP whenever changes are made to the PPL.

(b) With each update the Department will notify all applicants whose projects are included within the draft IUP of their ranking on the PPL.

(c) The Department will provide notice and an opportunity for the public to comment on proposed changes to the IUP, and will make the draft IUP available to the public.

(d) Except for revisions to the IUP resulting from applications for expedited loans, the Department will provide at least 30 days for public comments on the draft IUP. The Department will provide at least 5 days for comment on changes to the IUP resulting from new applications for expedited loans.

(e) During the comment period, any Applicant may request the Department to reevaluate a project's rank on the proposed project priority list or to make other changes to the IUP.

(f) The Department will consider all comments submitted during the comment period before finalizing the IUP.

(6) Allocation of Funds:

(a) During any Department program year (July 1 through June 30), no Borrower on the project priority list (including either loan increases or new project loans) may be allocated more than the greater of \$2.5 million or 15% of the total available funds as reported in the initial IUP for that program year. If CWSRF moneys are available after allocating this limit to each eligible Applicant, additional funds may be allocated above this limit.

(b) The Department will establish the following funding categories within the CWSRF: Expedited Loan Reserve, Small Community Reserve, Planning Reserve, and general fund. The Department will first allocate annual funds to the three reserves in accordance with the criteria in sections (6)(c)(A), (6)(c)(B) and (6)(c)(C). Funds not allocated to one of the reserves will be allocated to the CWSRF general fund.

(c) The Department will assign projects on the priority list to an appropriate reserve or to the CWSRF general fund. Requests for increases to existing loans will be awarded first. Increases will be awarded from the appropriate reserve or the general fund. Following any allocations for increases, the Department will award loans to projects within each reserve and the general fund for new projects as described in sections (6)(c)(A), (6)(c)(B), (6)(c)(C) and (6)(c)(D)

(A) Expedited Loans Reserve. A reserve of \$2 million will be established to fund expedited loans. The Director may increase the cap on this reserve. Individual urgent repair loans are limited to \$150,000. The maximum amount available for a single emergency loan is \$1.85 million. Emergency loans and urgent repair loans will be awarded in rank order. Unused funds still remaining in the expedited loan reserve on May 31 of the program year can be reallocated to the CWSRF general fund.

(B) Small Community Reserve. A maximum of 15% of the total CWSRF monies will be available in each program year for allocation to small community loans. Local community, design or construction projects eligible within this reserve will be awarded loans in rank order.

(i) Each project allocation from this reserve will be for not more than the greater of \$750,000 or 25% of the reserve, until all eligible small community requests have been allocated funds. If reserve funds still remain on March 1st of the program year, these remaining funds may be allocated to any unfunded portions of a small community loan request in the order the loan agreements were executed;

(ii) After reallocating as directed in OAR 340-054-0025(6)(c)(B)(i) above, any funds still remaining in the small community reserve can be moved to the CWSRF general fund.

(C) Planning Loan Reserve. A maximum of \$3 million of the total CWSRF will be available in each program year for allocation to planning loans. Projects will be selected from the project priority list in rank order for this reserve.

(i) Each individual allocation from the planning loan reserve will initially not exceed \$150,000. If reserve funds still remain on March 1st of the program year, these remaining funds may be reallocated to any unfunded portions of planning loan requests in the order the loan agreements were executed;

(ii) After reallocating as directed in OAR 340-054-0025(6)(c)(C)(i) above, any funds still remaining in the planning reserve can be moved to the CWSRF general fund.

(D) General Fund. All new design or construction project loans not funded from a reserve will be allocated from the general fund. Any remaining emergency or urgent repair, small community or planning projects not

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already allocated funds from their respective reserves, or allocated less than the total loan amount requested, may be awarded funding in rank order subject to available funds and the maximum loan amount for the program year.

(E) Loan Increases. Upon request, the Department may increase the funding for previously financed projects up to the maximum loan amount defined for each borrower in section 6(a) of this rule. These loan increases may be offered by either providing an additional loan at the current interest rate or increasing the amount of the existing loan. Awards for loan increases will be awarded in rank order.

(7) Project Priority List Modification:

(a) The following conditions apply to projects on the project priority list.

(A) Ranked projects may remain on the project priority list for up to 36 months while pursuing funding. After 36 months, the Department will notify the Applicant in writing that the project is being removed from the list.

(B) Applicants whose projects are removed from the project priority list because they have exceeded the 36 month limit may resubmit their projects to the program for ranking and incorporation into the next update of the IUP.

(C) The Department may provide one six-month extension to applicants requesting to remain on the list beyond the 36 month limit. Applicants requesting an extension must submit a progress report indicating the status of their effort in pursuing CWSRF financing and an updated time frame indicating when they expect to have completed all requirements necessary to be awarded funding.

(D) The Department may remove a project from the project priority list upon written notice to the applicant at any time the Department determines that the project does not meet eligibility requirements, the Borrower no longer requires CWSRF financing or the Applicant requests removal.

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

Stat. Auth.: ORS 468.423 - 468.440

Stats. Implemented: ORS 468.433 & 468.437

Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 30-1990, f. & cert. ef. 8-1-90; DEQ 1-1993, f. & cert. ef. 1-22-93; DEQ 3-1995, f. & cert. ef. 1-23-95; DEQ 10-2003, f. & cert. ef. 5-27-03; DEQ 1-2009(Temp), f. 4-27-09, cert. ef. 5-1-09 thru 10-27-09

340-054-0035

Final Stage of Application Process for Design Loans or Construction Loans

The Department will administer loans for design or construction of both point source and nonpoint source projects.

(1) In addition to the loan application and items specified in OAR 340-054-0024(1), applicants applying for a CWSRF loan for a design or construction project must submit the following documents to be considered for loan approval:

(a) A planning document that the Department determines adequately documents the efficacy and appropriateness of the proposed project to remediate the identified water pollution control problem. For sewage collection systems or sewage treatment facilities, the planning document must meet the requirements of the Department's CWSRF Procedures Manual (February 1, 2008) and other planning guidance in effect at the time of submittal

(b) In accordance with OAR 340-018-0050, a Land Use Compatibility Statement (LUCS) from the appropriate planning jurisdiction demonstrating compliance with the Department of Land Conservation and Development's (DLCD) acknowledged comprehensive land use plan and statewide land use planning goals.

(c) An environmental review prepared in accordance with the requirements of the EPA approved State Environmental Review Process (SERP) described in the CWSRF Procedures Manual (February 1, 2008).

(d) Any other information requested by the Department.

(2) In addition to the requirements of section (1) of this rule, applicants for a CWSRF loan for the design or construction of sewage collection systems or sewage treatment projects must submit the following documents to be considered for loan approval:

(a) A Department approved sewer use ordinance adopted by all municipalities and service districts serviced by this project that meets the provisions of this section. The sewer use ordinances must prohibit any new connections from inflow sources into the sewage collection system; and require that no wastewater introduced into the sewage collection system contain toxics or other pollutants in amounts or concentrations that have the potential of endangering public safety or adversely affecting the project or precluding the selection of the most cost-effective alternative for the project.

(b) A demonstration that the Applicant has adopted a user charge system that meets the requirements of the User Charge System section of the CWSRF Procedures Manual (February 1, 2008).

(c) For projects serving two or more municipalities, the Applicant must submit the executed inter-municipal agreements, contracts or other legally binding instruments necessary for the financing, building and operation of the proposed sewage collection system or sewage treatment facility.

(d) In accordance with OAR chapter 340, division 052, Applicants for construction-only loans must submit Department approved plans and specifications for the project as applicable.

(e) For projects with estimated costs in excess of \$10 million, the Applicant must submit a value engineering study prepared in accordance with the requirements of the CWSRF Procedures Manual (February 1, 2008).

Stat. Auth.: ORS 468.423 - 468.440

Stats. Implemented: ORS 468.433 & 468.437

Hist.: DEQ 2-1989, f. & cert. ef. 3-10-89; DEQ 1-1993, f. & cert. ef. 1-22-93; DEQ 3-1995, f. & cert. ef. 1-23-95; Administrative correction 10-29-98; DEQ 10-2003, f. & cert. ef. 5-27-03; DEQ 2-2008, f. & cert. ef. 2-27-08; DEQ 1-2009(Temp), f. 4-27-09, cert. ef. 5-1-09 thru 10-27-09

340-054-0098

Definitions

The following definitions apply to OAR 340-054-0098 through OAR 340-054-0108:

(1) "Act" means the American Recovery and Reinvestment Act of 2009, Public Law 111-5, signed into law on February 17, 2009.

(2) "Principal forgiveness" means the portion of the total amount borrowed that is not required to be repaid.

Stat. Auth.: ORS 468.020, 468.440

Stats. Implemented: ORS 468.423 - 468.440

Hist.: DEQ 1-2009(Temp), f. 4-27-09, cert. ef. 5-1-09 thru 10-27-09

340-054-0100

Implementation within the Clean Water State Revolving Fund Program

(1) OAR 340-054-0098 through 340-054-0108 prescribe the use of Act funds through the Clean Water State Revolving Fund (CWSRF) when such funds are available to the department.

(2) When Act funds are available to the department, these funds must be awarded to public agencies in accordance with the Act and are subject to the requirements of the Clean Water State Revolving Fund.

(3) All requirements for projects funded under the Act not specifically addressed in OAR 340-054-0098 through 340-054-0108 are subject to OAR 340-054-0001 through 340-054-0065.

Stat. Auth.: ORS 468.020, 468.440

Stats. Implemented: ORS 468.423 - 468.440

Hist.: DEQ 1-2009(Temp), f. 4-27-09, cert. ef. 5-1-09 thru 10-27-09

340-054-0102

Project Eligibility under the Act

(1) Eligibility for funding under the Act is the same as prescribed in OAR 340-054-0015(1) except for planning as defined in OAR 340-054-0010(38).

(2) The acquisition of land for any purpose, or the development or purchase of an easement are not eligible under the Act.

Stat. Auth.: ORS 468.020, 468.440

Stats. Implemented: ORS 468.423 - 468.440

Hist.: DEQ 1-2009(Temp), f. 4-27-09, cert. ef. 5-1-09 thru 10-27-09

340-054-0104

Use of Funds, Intended Use Plan under the Act

(1) Funding purpose. Notwithstanding OAR 340-054-0020, funding provided under the Act may be used only for the following CWSRF purposes:

(a) To make loans, or purchase bonds,

(b) To pay CWSRF program administration costs to the extent allowed by federal law,

(c) To earn interest on fund accounts.

(2) Loan Increases. Notwithstanding OAR 340-054-0025(6)(c), funds from the Act may not be used to increase a loan executed prior to February 17, 2009.

(3) Existing loan agreement. A borrower with a loan agreement executed prior to October 1, 2008 is not eligible to receive funding under the Act for the project funded with that existing loan.

(4) Loan reserve. Notwithstanding OAR 340-054-0065(2)(c)(B), the required reserve of any individual loan cannot be funded with CWSRF loan proceeds provided from the Act.

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(5) Intended Use Plan (IUP):

(a) A project must be listed in the Intended Use Plan to be eligible for funding under the Act.

(b) Notwithstanding OAR 340-054-0025(5)(d), the department must provide at least 14 days for public comments on the draft Intended Use Plan.

Stat. Auth.: ORS 468.020, 468.440
Stats. Implemented: ORS 468.423 - 468.440
Hist.: DEQ 1-2009(Temp), f. 4-27-09, cert. ef. 5-1-09 thru 10-27-09

340-054-0106

Allocation of Act Funds

Notwithstanding OAR 340-054-0025(6), funds made available by the Act must be allocated as follows:

(1) Project fund limit. Prior to September 1, 2009, an applicant on the project priority list may not be allocated more than \$5 million of funds available under the Act.

(2) Additional funding. If funds are available on or after September 1, 2009, a borrower that has received funding under the Act may be allocated additional funding. The department may allocate the remaining funds to a borrower based on rank order not to exceed 25 percent or \$2 million, whichever is greater. If funds still remain after reallocation, the balance of any remaining funds must be allocated in rank order.

(3) Green Project Reserve. The department must establish a green project reserve with 20 percent of the funding received under the Act for projects to address green infrastructure, water or energy efficiency improvements or other environmentally innovative activities. If the department determines and certifies there are insufficient eligible projects for funding under this reserve, the reserve may be allocated to other eligible projects under the Act.

(4) Funding categories. Funds available under the Act may not be used to establish an Expedited Loan reserve, a Small Community reserve or a Planning reserve.

Stat. Auth.: ORS 468.020, 468.440
Stats. Implemented: ORS 468.423 - 468.440
Hist.: DEQ 1-2009(Temp), f. 4-27-09, cert. ef. 5-1-09 thru 10-27-09

340-054-0108

Financial Terms

Notwithstanding OAR 340-054-0065, the following financial terms apply to any loan funded under the Act.

(1) Interest rates. A loan may be provided at a zero percent interest rate.

(2) Principal forgiveness.

(a) A loan made to a small community as defined in OAR 340-054-0010(48) must include 75 percent principal forgiveness on the total amount borrowed.

(b) All other loans must include 50 percent principal forgiveness on the total amount borrowed.

(c) Principal forgiveness is granted upon execution of the loan agreement.

Stat. Auth.: ORS 468.020, 468.440
Stats. Implemented: ORS 468.423 - 468.440
Hist.: DEQ 1-2009(Temp), f. 4-27-09, cert. ef. 5-1-09 thru 10-27-09

Department of Fish and Wildlife Chapter 635

Rule Caption: Rules for Ocean Commercial Pacific Sardine Fisheries Adopted and Modified.

Adm. Order No.: DFW 38-2009

Filed with Sec. of State: 4-22-2009

Certified to be Effective: 4-22-09

Notice Publication Date: 3-1-2009

Rules Adopted: 635-004-0012, 635-004-0017

Rules Amended: 635-004-0016, 635-006-1015, 635-006-1035, 635-006-1075, 635-006-1085

Rules Repealed: 635-004-0016(T), 635-006-1085(T)

Subject: Adopted and amended rules related to ocean commercial Pacific sardine harvest regulations and establishing the annual management measure for 2009. Modifications are related to permit renewals and transfers, waivers, establishing a lottery system to issue new permits, and rules prohibiting the fishing practice of tendering. Housekeeping and technical corrections were made to ensure rule consistency.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-004-0012

Catching Vessel

(1) A catching vessel is defined as a vessel issued a permit pursuant to OAR 635-006-1035 through 635-006-1095 that lawfully deployed purse seine gear during the current year and pumped resultant catch onboard the same vessel for delivery to a port of landing or fish dealer.

(2) Only a catching vessel may pump fish onboard, directly from the pursed seine of another catching vessel, and lawfully land that catch.

(3) Any catching vessel involved in pumping fish from the pursed seine of another catching vessel must have onboard legal seine gear capable of catching sardine including, but not limited to seine net, skiff, and pumping gear. All gear must be in working order.

(4) Any catching vessels involved in pumping fish from a pursed seine with other catching vessels shall document in the logbooks required under OAR 635-006-1110 the vessel that made the set, any other vessel pumping fish from the pursed seine, as well as all appropriate information on catch and location.

(5) No more than 20% of the landings made by a catching vessel may contain fish pumped from pursed seines of other catching vessels.

Stat. Auth.: ORS 506.119
Stats. Implemented: ORS 506.129
Hist.: DFW 38-2009, f. & cert. ef. 4-22-09

635-004-0016

Harvest Guideline

(1) This rule incorporates, by reference, the sardine management measures for 2009 included in the Pacific Council list of decisions for the November 2008 Pacific Fishery Management Council meeting, and in addition to the extent they are consistent with these rules, Code of Federal Regulations, Title 50 Part 660, as amended to incorporate the standards recommendations of the Pacific Council. Therefore, persons must consult the Federal Regulations in addition to this rule to determine all applicable sardine fishing requirements. Where regulations refer to the fishery management area, that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone.

(2) Notwithstanding the management measures in section (1) above, effective 12:01 a.m. February 20, 2009, the directed fishery for Pacific sardines is closed through June 30, 2009.

(3) For the purposes of permit renewal in OAR 635-006-1075 the federal coastwide maximum harvest guideline referenced in section (1) above is 66,932 metric tons.

[Publications: Publications references are available from the agency.]

Stat. Auth.: ORS 506.119
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 69-2008(Temp), f. & cert. ef. 6-24-08 thru 12-20-08; DFW 89-2008(Temp), f. & cert. ef. 8-6-08 thru 12-31-08; DFW 116-2008(Temp), f. & cert. ef. 9-22-08 thru 12-31-08; DFW 155-2008(Temp), f. 12-30-08, cert. ef. 1-1-09 thru 6-29-09; DFW 14-2009(Temp), f. & cert. ef. 2-23-08 thru 6-30-09; DFW 38-2009, f. & cert. ef. 4-22-09

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.

(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.

[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

635-006-1015

Requirement for Permit

(1) The following provide general requirements for permits:

(a) Gillnet salmon — see ORS 508.775;

(b) Troll salmon — see ORS 508.801 and 508.828;

(c) Shrimp — see ORS 508.880 and 508.883;

(d) Scallop — see ORS 508.840 and 508.843;

(e) Roe-herring:

(A) It is *unlawful* for an individual to operate a vessel in the Yaquina Bay roe-herring fishery without first obtaining a vessel permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is unlawful for a wholesaler, canner or buyer to buy or receive roe-herring taken in the Yaquina Bay roe-herring fishery from a vessel for which the permit required by section (1)(e) of this rule has not been issued.

(f) Sea Urchin:

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(A) It is unlawful for an individual to take or attempt to take sea urchins for commercial purposes without first obtaining a permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is unlawful for a wholesaler, canner, or buyer to buy or receive sea urchins taken in the sea urchin fishery from a person for which the permit required by section (1)(f) of this rule has not been issued.

(g) Ocean Dungeness crab:

(A) Except as provided under the reciprocity provisions of ORS 508.941(3), it is unlawful for an individual to operate a vessel in the ocean Dungeness crab fishery without first obtaining a vessel permit issued pursuant to ORS 508.931 or 508.941. A Dungeness crab vessel permit is not required for vessels that are engaged solely in setting gear for a permitted vessel and which do not retrieve, retain or possess Dungeness crab.

(B) If the Oregon Fish and Wildlife Commission (Commission) establishes a vessel crab pot limitation or allocation system beyond the 2002-03 ocean crab season, August 14, 2001 is the control date for eligibility criteria related to past participation in the ocean fishery.

(C) In addition to certifying that the vessel is free of crab on November 30 each year, as required by OAR 635-005-0045(1), each vessel operator must declare and certify on the Oregon hold inspection certification form the maximum number of pots that will be used in that season's fishery before fishing.

(D) A single delivery license may not be substituted for an ocean Dungeness crab permit. Once a vessel has obtained an ocean Dungeness crab permit, Dungeness crab may be landed by the vessel using a combination of an ocean Dungeness crab permit and a single delivery permit in lieu of a commercial fishing and boat license. However, crab may not be landed more than twice in any one crab season using single delivery permits.

(E) Effective December 1, 2006, the number of crab pots allocated to a permit required under section (A) above will be determined as follows:

(i) The allocation will be based on documented landings of Ocean Dungeness crab into Oregon, Washington (excluding landings from the Puget Sound Fishery), or California, using valid Oregon fish receiving tickets, or equivalent valid documents from the states of Washington or California, from December 1, 1995 through August 14, 2001;

(ii) The crab pot allocation will be the highest number of pots the vessel qualifies for during the six qualifying seasons, December 1 of one year through September 15 of the next year (except through August 14, in 2001);

(iii) A crab pot allocation of 200 shall be assigned to a permit with landings less than 15,020 pounds in the 1995 to 1996 season, and 4,010 pounds in the 1996 to 1997 season, and 5,170 pounds in the 1997 to 1998 season, and 7,083 pounds in the 1998 to 1999 season, and 13,160 pounds in the 1999 to 2000 season, and 8,940 pounds in the 2000 to 2001 season;

(iv) A crab pot allocation of 300 shall be assigned to a permit with minimum landings of 15,020 pounds in the 1995 to 1996 season, or 4,010 pounds in the 1996 to 1997 season, or 5,170 pounds in the 1997 to 1998 season, or 7,083 pounds in the 1998 to 1999 season, or 13,160 pounds in the 1999 to 2000 season, or 8,940 pounds in the 2000 to 2001 season; and

(v) A crab pot allocation of 500 shall be assigned to a permit with minimum landings of 89,020 pounds in the 1995 to 1996 season, or 35,180 pounds in the 1996 to 1997 season, or 39,350 pounds in the 1997 to 1998 season, or 49,450 pounds in the 1998 to 1999 season, or 78,400 pounds in the 1999 to 2000 season, or 37,030 pounds in the 2000 to 2001 season.

(h) Developmental Fisheries: See ORS 506.450 through 506.465 and OAR 635-006-0800 through 635-006-0950.

(i) July 1, 2001 is the control date to establish eligibility criteria for the purpose of future limited entry programs for the commercial groundfish fishery.

(j) Black rockfish/blue rockfish/nearshore fishery — see ORS 508.945.

(k) Brine Shrimp:

(A) It is *unlawful* to take or attempt to take brine shrimp for commercial purposes without first obtaining a brine shrimp fishery permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is unlawful for a wholesaler, canner, or buyer to buy or receive brine shrimp taken in the brine shrimp fishery from a person for which the permit required by this rule has not been issued.

(C) The Oregon Department of Fish and Wildlife (Department) may issue no more than three permits required by section (1)(k) of this rule.

(l) Bay clam dive fishery:

(A) It is unlawful:

(i) To take or attempt to take bay clams, using dive gear, for commercial purposes from subtidal areas in any Oregon estuary without first

obtaining a coast-wide bay clam dive fishery permit issued pursuant to OAR 635-006-1025 through 635-006-1095;

(ii) To take or attempt to take bay clams, using dive gear, for commercial purposes from subtidal areas in Oregon estuaries south of Heceta Head without first obtaining a south-coast bay clam dive fishery permit issued pursuant to OAR 635-006-1025 through 635-006-1095;

(iii) For a wholesaler, canner, or buyer to buy or receive bay clams taken in the bay clam dive fishery from a vessel or person not issued the permit required by this rule.

(iv) To take or attempt to take bay clams where more than two divers operating from any one boat were in the water at the same time or where more than two persons without permits, excluding persons authorized by the Department for the performance of official duties, were on board any boat while harvesting, possessing, or transporting bay clams.

(B) The Department may not issue more than ten coast-wide permits required by section (1)(l)(A)(i) of this rule and five south-coast permits required by (1)(l)(A)(ii) of this rule.

(C) Permits may be issued to individuals or to vessels, designated at the beginning of the year. Designation may not change during the year.

(m) Sardine fishery:

(A) It is unlawful for an individual to operate a vessel in the Sardine fishery without first obtaining a vessel permit issued pursuant to OAR 635-006-1035 through OAR 635-006-1095. The sardine fishery permit is not required for vessels to retain sardines as incidental catch in other fisheries.

(B) It is unlawful for a wholesaler, canner or buyer to buy or receive sardines taken in the Sardine fishery from a vessel for which the permit required by section (1)(m)(A) of this rule has not been issued.

(C) The Department may issue not more than 26 permits required by section (1)(m)(A) of this rule.

(D) The Sardine Advisory Group as defined under OAR 635-006-1065 may advise the Commission on increasing the number of permits, developing criteria for issuing the new permits, and other regulations concerning the sardine fishery.

(2) The permits required by section (1) of this rule are in addition to and not in lieu of the commercial fishing and boat license required by ORS 508.235 and ORS 508.260.

(3) No vessel may hold more than one vessel permit for a given fishery at any one time.

(4) If permits are issued on an individual basis, no individual may hold more than one permit for a given fishery at any one time.

(5) Unless otherwise provided, permits must be purchased by December 31 of the year the permit is sought for renewal.

(6) No vessel permit may be transferred away from a vessel without the lien holder's written permission.

(7) Applications for permits shall be in such form and contain such information as the Department may prescribe. Proof of length of a vessel may be required at the time of application.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109, 506.129 & 508.921-508.941

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96; DFW 92-1998, f. & cert. ef. 11-25-98; DFW 103-2001, f. & cert. ef. 10-23-01; DFW 95-2002, f. & cert. ef. 8-27-02; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 45-2006, f. 6-20-06, cert. ef. 12-1-06; DFW 74-2006, f. & cert. ef. 8-7-06; DFW 96-2006(Temp), f. & cert. ef. 9-8-06 thru 3-6-07; DFW 97-2006(Temp), f. 9-8-06, cert. ef. 9-9-06 thru 3-7-07; DFW 2-2007, f. & cert. ef. 1-12-07; DFW 135-2006(Temp), f. & cert. ef. 12-26-06 thru 6-15-07; DFW 11-2007, f. & cert. ef. 2-14-07; DFW 114-2007, f. & cert. ef. 10-25-07; DFW 3-2008, f. & cert. ef. 1-15-08; DFW 38-2009, f. & cert. ef. 4-22-09

635-006-1035

Eligibility Requirements for a Permit

Eligibility for a limited entry permit is as follows:

(1) Gillnet salmon — see ORS 508.784.

(2) Troll salmon — see ORS 508.810.

(3) Shrimp — see ORS 508.886 and 508.895.

(4) Scallop — see ORS 508.852.

(5) Roe-herring — The ODFW shall issue a permit as per ORS 508.765:

(a) By renewal of previous year's permit;

(b) Through the lottery if a lottery is held in accordance with OAR 635-006-1085.

(6) Sea Urchin — An individual licensed as a commercial fisher under ORS 508.235 is eligible to obtain the permit required by OAR 635-006-1015:

(a) By renewal of previous year's permit; or

(b) Through the lottery if a lottery is held in accordance with OAR 635-006-1085; or

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(c) Through a duly authorized medical transfer of an existing permit in accordance with OAR 635-006-1095;

(d) By combining three currently renewed permits into one new permit as provided in OAR 635-006-1095.

(7) Ocean Dungeness crab:

(a) See ORS 508.931;

(b) For the purposes of eligibility for the Ocean Dungeness Crab Fishery Permit, a boat which received a license waiver issued pursuant to ORS 508.808 shall be considered as having possessed a boat license for that year;

(c) ORS 508.931 and ORS 508.941 require that the vessel be previously licensed in accordance with ORS 508.260 for the purposes of initial eligibility for an ocean Dungeness Crab Fishery Permit. A Single Delivery License may not be substituted for a boat license for this purpose.

(8) Black rockfish/blue rockfish/nearshore fishery — see ORS 508.947.

(9) Brine Shrimp — A commercial fisher licensed under ORS 508.235 is eligible to obtain the permit required by OAR 635-006-1015:

(a) By renewal of previous year's permit; or

(b) Through the lottery if a lottery is held in accordance with OAR 635-006-1085.

(10) Bay clam dive fishery — An individual licensed as a commercial harvester under ORS 508.235 or a vessel is eligible to obtain the permit required by OAR 635-006-1015:

(a) For a South Coast Bay Clam Dive Permit for the year 2006, if a South Coast Bay Clam Dive Permit was issued to the individual or vessel under the Developmental Fisheries Program (OAR 635-006-0900) in 2005 and lawfully made five landings consisting of at least 100 pounds each landing or an annual total of 2,500 pounds of bay clams, using dive gear in Oregon in 2005; or

(b) For a Coast Wide Bay Clam Dive Permit for the year 2006, if a Coast Wide Bay Clam Dive Permit was issued to the individual or vessel under the Developmental Fisheries Program (OAR 635-006-0900) in 2005 and lawfully made five landings consisting of at least 100 pounds each landing or an annual total of 2,500 pounds of bay clams, using dive gear in Oregon in 2005.

(c) After 2006, by renewal of the previous years' permit and satisfaction of the requirements in OAR 635-006-1075(1)(j).

(11) Sardine fishery:

(a) An individual or entity is eligible to obtain the vessel permit required by OAR 635-006-1015:

(A) If issued a Sardine Permit under the Developmental Fisheries Program (OAR 635-006-0900) in 2005; and

(B) Lawfully made landings of sardines into Oregon in 2003 and 2004; and

(C) Lawfully landed:

(i) At least 1,500 metric tons or 35 deliveries in any one year from 2000 through 2004; or

(ii) A total of 100 deliveries of sardines into Oregon in 2000 through 2004.

(b) If the number of permits issued under section (11)(a) of this rule is less than 20, enough permits to reach a total of 20 may be issued under section (11)(c) of this rule to vessels in order of highest total number of deliveries during 2000-2004.

(c) An individual or entity is eligible to obtain the vessel permit under section (11)(b) of this rule if the vessel for which applications is made:

(A) Was not issued a permit under section (11)(a) of this rule; and

(B) Lawfully made landings of sardines into Oregon in 2003 and 2004; and

(C) Lawfully landed:

(i) At least 1,500 metric tons or 35 deliveries in any one year from 2000 through 2004; or

(ii) A total of 100 deliveries of sardines into Oregon in 2000 through 2004.

(d) In addition to those Sardine Fishery Permits previously issued by the Department in calendar year 2006, the Department shall issue a Sardine Fishery Permit to any individual or entity, if that individual or entity held a legally qualified Oregon Developmental Fisheries Permit for Sardines on August 1, 2005, provided that neither the individual or entity has been previously issued an Oregon Sardine Fishery Permit in 2006.

(e) An individual or entity is eligible to obtain the vessel permit required by OAR 635-006-1015:

(A) By renewal of the previous year's permit as specified in OAR 635-006-1075; or

(B) Through the lottery if a lottery is held in accordance with OAR 635-006-1085.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96; DFW 11-2003(Temp), f. & cert. ef. 2-10-03 thru 6-30-03; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 74-2006, f. & cert. ef. 8-7-06; DFW 2-2007, f. & cert. ef. 1-12-07; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 149-2008, f. & cert. ef. 12-17-08; DFW 38-2009, f. & cert. ef. 4-22-09

635-006-1075

Renewal of Permit

(1) An individual who obtained a limited entry permit may renew the permit as follows:

(a) Gillnet salmon — see ORS 508.781;

(b) Troll salmon — see ORS 508.807;

(c) Shrimp — see ORS 508.892;

(d) Scallop — see ORS 508.849;

(e) Roe-herring permit — Permits may be renewed by submission to the Department of a \$75 fee and a complete application;

(f) Sea Urchin permit:

(A) Permits may be renewed by submission to the Department of a \$75 fee and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought; and

(B) The permittee shall have annually lawfully landed 5,000 pounds of sea urchins in Oregon. If a permittee obtained a permit later than January of the prior year (because the permit was obtained through the lottery, or as a result of the Commercial Fishery Permit Board actions or surrender of a permit by a permit holder), the permittee shall not be required to make the 5,000 pound landing requirement by the following January. Instead, at the next renewal thereafter, the permittee shall be required to demonstrate that the 5,000 pound landing requirement was fulfilled during the first full year (twelve-month period) in which the permit was held.

(g) Ocean Dungeness crab permit — see ORS 508.941. A permit which is not renewed by December 31 lapses, and may not be renewed for subsequent years.

(h) Black rockfish/blue rockfish/nearshore fishery — see ORS 508.947.

(i) Brine Shrimp permit:

(A) Permits may be renewed by submission to the Department of a \$75 fee and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought; and

(B) The permittee shall have lawfully landed 5,000 pounds of brine shrimp in Oregon in the prior year.

(j) Bay clam dive fishery:

(A) Permits may be renewed by submitting to the Department a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought and;

(B) The permittee shall have lawfully made five landings consisting of at least 100 pounds each landing or an annual total of 2,500 pounds of bay clams, using dive gear in Oregon in the prior calendar year;

(C) Logbooks required under OAR 635-006-1110 must be turned into an ODFW office by the application deadline for renewal of a permit.

(D) If a permit is transferred under OAR 635-006-1095(10)(d), annual renewal requirements are waived in the year the transfer occurred.

(k) Sardine fishery:

(A) Permits may be renewed for the following year:

(i) by submitting a complete application to the Department date-stamped or postmarked by December 31 of the year the permit is sought for renewal and;

(ii) submitting the logbooks required under OAR 635-006-1110; and

(iii) if during the year preceding the calendar year for which the permit is sought for renewal, the federal coastwide maximum harvest guideline referenced in OAR 635-004-0016 was greater than 100,000 metric tons and the permitted vessel lawfully landed into Oregon either (I) a minimum of 10 landings of sardines of a least 5 metric tons each, or (II) landings of sardines having an aggregate ex-vessel price of at least \$40,000.

(B) The Commercial Fishery Permit Board may waive the landing requirements of section (A)(iii) of this rule if it finds that the failure to meet these requirements is due to the permit holder's illness or injury, or to circumstances beyond the control of the permit holder. Final Orders shall be issued by the Commercial Fishery Permit Board and may be appealed as provided in ORS 183.480 through 183.550.

(C) The Commission may, at its discretion, waive the landing requirements of section (A)(iii) of this rule for all Limited Entry Sardine Permit holders due to unusual market conditions.

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(2) An application for renewal in any limited entry fishery shall be considered complete if it is legible, has all information requested in the form, and is accompanied by the required fee in full. Any application which is not complete shall be returned, and unless it is thereafter resubmitted and deemed complete by December 31 of the permit year sought, the individual shall not be considered to have applied for renewal in a timely manner.

(3) It is the responsibility of the permittee to ensure that an application is complete and is filed in a timely manner. Failure of the Department to return an application for incompleteness or of an individual to receive a returned application shall not be grounds for treating the application as having been filed in a timely and complete manner.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109, 506.129 & 508.921 - 508.941

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96; DFW 92-1998, f. & cert. ef. 11-25-98; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 23-2006, f. & cert. ef. 4-21-06; DFW 2-2007, f. & cert. ef. 1-12-07; DFW 86-2007(Temp), f. & cert. ef. 9-10-07 thru 9-17-07; Administrative correction 10-16-07; DFW 3-2008, f. & cert. ef. 1-15-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 38-2009, f. & cert. ef. 4-22-09

635-006-1085

Lottery for Certain Limited Entry Fisheries

(1) A lottery process is provided in all limited entry fisheries except ocean Dungeness crab.

(2) A lottery for issuance of permits shall be conducted as follows:

(a) Gillnet salmon — see ORS 508.792;

(b) Troll salmon — see ORS 508.819;

(c) Shrimp — see ORS 508.904;

(d) Scallop — see ORS 508.861. If the number of permits issued in accordance with ORS 508.849 falls below 25, the Department in the next succeeding calendar year may issue permits by a lottery system. However, the total number of permits issued shall not exceed 25;

(e) Roe-herring — If the number of permits issued in accordance with OAR 635-006-1035 falls below six, the Department in the next succeeding calendar year may issue permits by a lottery system. However, as a result of any such lottery, the total number of permits issued shall not exceed six;

(f) Sea Urchin:

(A) If the total number of permits which have been renewed, and/or for which an appeal is pending, with the Commercial Fishery Permit Board and/or awarded through a prior lottery, is less than 30, a lottery shall be held on the 4th Friday in April;

(B) An individual must be 18 years of age or older and furnish proof of age to be eligible for the lottery;

(C) An individual may not already hold a valid urchin permit, however, an individual whose permit is at issue in a pending Sea Urchin Permit Board proceeding or before a court of law may participate in the lottery;

(D) If a permittee whose permit is at issue either before the Sea Urchin Permit Board or a court of law is awarded another permit through the lottery and thereafter prevails before the Board or in court, the permittee shall immediately surrender one of the permits to any Department office, so that only one valid permit is held;

(E) An individual who qualifies to participate in the lottery shall send a complete lottery application to the Department, date-stamped or postmarked no later than April 15 of the year for which the permit is to be issued. An individual shall not submit more than one application to participate in the lottery. For successful applicants, the application fee shall apply toward the permit fee of \$75;

(F) The names of lottery applicants shall be drawn to obtain the available permits. All other names of lottery applicants shall be drawn and placed on an alternate list in the order in which they were drawn, and shall be issued permits during the next 24 months as they may become available through Permit Board actions or surrender of permits by a permit holder;

(G) An individual whose name is drawn in the lottery shall thereafter apply on the prescribed form, to the Department to obtain a permit. Such application must be received by the Department within 30 days of the date the notification was mailed to the successful applicant following the lottery;

(H) Any individual who fails to apply for the lottery permit within 30 days shall forfeit such permit. The permit shall then be made available to the first name on the alternate list, and shall be applied for in accordance with section (G) of this rule;

(I) If all permits are not issued by renewal or through the lottery, permits thereafter may be issued on a first come first served basis up to the total number of permits allowed. All applications shall be mailed to the Department and priority shall be based on postmark or date-stamped date;

(J) The Commission may suspend the lottery for up to two years based upon its assessment of the condition of the resource and recommendations of the Sea Urchin Permit Review Board.

(g) Black rockfish/blue rockfish/nearshore fishery — see ORS 508.955. If the number of permits issued in accordance with ORS 508.947 falls below 80 for black rockfish and blue rockfish permits or 50 for black rockfish and blue rockfish permits with a nearshore endorsement, the Department in the next succeeding calendar year may issue permits by a lottery system. However, the total number of permits issued shall not exceed 80 for black rockfish and blue rockfish permits or 50 for black rockfish and blue rockfish permits with a nearshore endorsement.

(h) Brine Shrimp — If the number of permits issued in accordance with OAR 635-006-1035 falls below three, the Department in the next succeeding calendar year may issue permits by a lottery system. However, as a result of any such lottery, the total number of permits issued shall not exceed three;

(i) Bay clam dive fishery — If the number of permits issued in accordance with OAR 635-006-1035 falls below ten for coast-wide permits or five for south-coast permits, the Department may issue permits by a lottery system. However, as a result of any such lottery, the total number of permits issued shall not exceed ten for coast-wide permits or five for south-coast permits;

(j) Sardine fishery:

(A) If the number of permits issued in accordance with OAR 635-006-1035 falls below 24, the Department in the next succeeding calendar year may issue permits by a lottery system. However, as a result of such a lottery the total number of permits issued shall not exceed 26.

(3) Each applicant for a permit lottery shall complete the application form prescribed by the Department.

(4) Application for vessel permits shall only be accepted for vessels, which in the judgment of the Department, are capable of operating the gear necessary to legally participate in the fishery. Vessels of a size or design incapable of harvesting the permitted species are not eligible for the lottery.

(5) Only one application per vessel may be submitted for each permit fishery lottery.

(6) Any application which is not legible, has incomplete information, or is postmarked after the deadline will not be entered in the lottery. Applications for all permits will be accepted at the Salem headquarters office of the Department, and shall be postmarked or date stamped no later than March 31 of the year for which the permit is issued.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; DFW 11-2003(Temp), f. & cert. ef. 2-10-03 thru 6-30-03; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 70-2004(Temp), f. & cert. ef. 7-12-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 149-2008, f. & cert. ef. 12-17-08; DFW 17-2009(Temp), f. 2-25-09, cert. ef. 2-26-09 thru 8-24-09; DFW 38-2009, f. & cert. ef. 4-22-09

Rule Caption: Sport and Commercial Groundfish And Pacific Halibut; and Ocean Commercial Sturgeon Fisheries Rules Amended.

Adm. Order No.: DFW 39-2009

Filed with Sec. of State: 4-27-2009

Certified to be Effective: 4-27-09

Notice Publication Date: 3-1-2009

Rules Amended: 635-004-0005, 635-004-0009, 635-004-0018, 635-004-0019, 635-004-0033, 635-004-0090, 635-039-0080, 635-039-0085, 635-039-0090

Rules Repealed: 635-004-0019(T), 635-004-0033(T), 635-004-0090(T), 635-039-0090(T)

Subject: Amended rules relating to ocean sport and commercial groundfish, Pacific halibut, and ocean commercial sturgeon fisheries. Modification establish the annual management measure for 2009. Housekeeping and technical corrections were made to ensure rule consistency.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-004-0005

Scope of Rules

The Pacific halibut commercial fishery in Oregon is regulated by the federal government and the International Pacific Halibut Commission (IPHC). OAR chapter 635, division 004 incorporates into Oregon Administrative Rules, by reference, **Pacific Halibut Fishery Regulations of 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 as amended by Federal Regulations. Therefore, persons must consult the Federal Regulations in addition to

ADMINISTRATIVE RULES

Division 004 to determine all rules applicable to halibut fishing requirements. It is *unlawful* to take halibut for commercial purposes except as set by Federal Regulations and the IPHC and in accordance with a valid permit issued by the IPHC.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.129

Hist.: FC 241, f. 4-5-72, ef. 4-15-72, Renumbered from 625-010-0725, Renumbered from 635-036-0330; FWC 25-1989(Temp), f. & cert. ef. 4-5-89; FWC 51-1989, f. & cert. ef. 7-28-89; FWC 32-1990(Temp), f. & cert. ef. 4-4-90; FWC 67-1991, f. 6-25-91, cert. ef. 7-1-91; FWC 94-1995(Temp), f. 12-29-95, cert. ef. 1-1-96; FWC 9-1996, f. 3-5-96, cert. ef. 3-8-96; FWC 25-1997, f. 4-22-97, cert. ef. 5-1-97; DFW 91-1998, f. & cert. ef. 11-25-98; DFW 98-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 81-2000, f. 12-22-00, cert. ef. 1-1-01; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 135-2002, f. 12-23-02, cert. ef. 1-1-03; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 120-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 29-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; Suspended by DFW 72-2005(Temp), f. & cert. ef. 7-7-05 thru 10-27-05; DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 39-2009, f. & cert. ef. 4-27-09

635-004-0009

Halibut Seasons

The Pacific halibut commercial seasons in Oregon are regulated by the federal government and the International Pacific Halibut Commission (IPHC). OAR chapter 635, division 004 incorporates into Oregon Administrative Rules, by reference, **Pacific Halibut Fishery Regulations of the IPHC**, 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 as amended by Federal Regulations. Therefore, persons must consult the Federal Regulations in addition to Division 004 rules to determine applicable halibut fishing seasons.

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 3-2007, f. & cert. ef. 1-12-07; DFW 39-2009, f. & cert. ef. 4-27-09

635-004-0018

Scope of Rules

Division 004 incorporates into Oregon Administrative Rules, by reference, the groundfish specifications and management measures for 2009 to the extent they are consistent with **Code of Federal Regulations, Title 50 Part 660, Subpart G** (61FR34572, July 2, 1996), Vol. 74, No. 43, dated March 6, 2009 as amended by Federal Regulations. Therefore, persons must consult the Federal Regulations in addition to Division 004 to determine all applicable groundfish fishing requirements. Where regulations refer to the fishery management area, that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone. A copy of the Federal Regulations may be obtained by contacting the National Oceanic and Atmospheric Administration's National Marine Fisheries Service at www.nwr.noaa.gov or 7600 Sand Point Way NE, Seattle, WA 98115-0070.

Stat. Auth.: ORS 496.138 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 71-1996, f. 12-26-96, cert. ef. 1-1-97; DFW 1-1998, f. & cert. ef. 1-9-98; DFW 91-1998, f. & cert. ef. 11-25-98; DFW 98-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 81-2000, f. 12-22-00, cert. ef. 1-1-01; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 135-2002, f. 12-23-02, cert. ef. 1-1-03; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 133-2006(Temp), f. 12-21-06, cert. ef. 1-1-07 thru 6-29-07; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 128-2007, f. 12-13-07, cert. ef. 1-1-08; DFW 39-2009, f. & cert. ef. 4-27-09

635-004-0019

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, Subpart G, West Coast Groundfish Fisheries**.

(2) The Code of Federal Regulations (CFR), Title 50, Part 660, Subpart G, provides requirements for commercial groundfish fishing in the Pacific Ocean off the Oregon coast. 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 635-004-0018, the National Oceanic and Atmospheric Administration (NOAA), by means of Federal Register/Vol. 73, No. 48/Wednesday December 24, 2008, announced inseason management measures effective January 1, 2009, including, but not limited to, changes to cumulative trip limits and RCA boundaries.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.129

Hist.: DFW 76-1999(Temp), f. 9-30-99, cert. ef. 10-1-99 thru 12-31-99; DFW 81-1999(Temp), f. & cert. ef. 10-12-99 thru 12-31-99; DFW 98-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 23-2005(Temp), f. & cert. ef. 4-8-05 thru 10-4-05; DFW 30-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 43-2005(Temp), f. & cert. ef. 5-13-05 thru 10-17-05;

DFW 68-2005(Temp), 6-30-05, cert. ef. 7-1-05 thru 12-27-05; DFW 114-2005(Temp), f. 9-30-05, cert. ef. 10-1-05 thru 12-31-05; DFW 125-2005(Temp), f. & cert. ef. 10-19-05 thru 12-31-05; DFW 134-2005(Temp), f. & cert. ef. 11-30-05 thru 12-31-05; DFW 147-2005(Temp), f. 12-28-05, cert. ef. 1-1-06 thru 6-28-06; DFW 8-2006(Temp), f. 2-28-06, cert. ef. 3-1-06 thru 8-25-06; DFW 25-2006(Temp), f. 4-28-06, cert. ef. 5-1-06 thru 10-27-06; DFW 55-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-27-06; DFW 110-2006(Temp), f. 9-29-06, cert. ef. 10-1-06 thru 12-31-06; Administrative Correction 1-16-07; DFW 29-2007(Temp), f. & cert. ef. 5-1-07 thru 10-27-07; DFW 58-2007(Temp), f. 7-18-07, cert. ef. 8-1-07 thru 12-31-07; DFW 106-2007(Temp), f. 10-5-07, cert. ef. 10-6-07 thru 12-31-07; DFW 123-2007(Temp), f. 11-26-07, cert. ef. 11-28-07 thru 12-31-07; DFW 126-2007(Temp), f. & cert. ef. 12-11-07 thru 12-31-07; DFW 41-2008(Temp), f. 4-23-08, cert. ef. 5-1-08 thru 10-27-08; DFW 88-2008(Temp), f. & cert. ef. 8-1-08 thru 12-31-08; DFW 146-2008(Temp), f. & cert. ef. 12-4-08 thru 12-31-08; DFW 1-2009(Temp), f. & cert. ef. 1-5-09 thru 5-1-09; DFW 29-2009(Temp), f. & cert. ef. 3-18-09 thru 5-1-09; DFW 41-2009(Temp), f. 4-29-09, cert. ef. 5-1-09 thru 10-27-09; DFW 39-2009, f. & cert. ef. 4-27-09

635-004-0033

Groundfish Restrictions

(1) The season for most species of ocean food fish is open year-round, until catch quotas are met (where applicable). Regulations for the following species or species groups of ocean food fish change throughout the season and the Oregon Administrative Rules and federal regulations should be consulted before fishing:

- (a) Minor Shelf Rockfish;
- (b) Minor Slope Rockfish;
- (c) Black and Yellow Rockfish;
- (d) Brown Rockfish;
- (e) Calico Rockfish;
- (f) China Rockfish;
- (g) Copper Rockfish;
- (h) Gopher Rockfish;
- (i) Grass Rockfish;
- (j) Kelp Rockfish;
- (k) Olive Rockfish;
- (l) Quillback Rockfish;
- (m) Treefish;
- (n) Black Rockfish;
- (o) Blue Rockfish;
- (p) Cabezon;
- (q) Canary Rockfish;
- (r) Greenling;
- (s) Tiger Rockfish;
- (t) Vermilion Rockfish;
- (u) Widow Rockfish;
- (v) Yelloweye Rockfish;
- (w) Yellowtail Rockfish;
- (x) Darkblotched Rockfish;
- (y) Pacific Ocean Perch;
- (z) Longspine Thornyhead;
- (aa) Shortspine Thornyhead;
- (bb) Arrowtooth Flounder;
- (cc) Dover Sole;
- (dd) Petrale Sole;
- (ee) Rex Sole;
- (ff) Other Flatfish;
- (gg) Lingcod;
- (hh) Sablefish;
- (ii) Pacific Whiting.

(2) For the purpose of this rule, "Other nearshore rockfish" means: black and yellow (*Sebastes chrysomelas*); brown (*S. auriculatus*); calico (*S. dalli*); China (*S. nebulosus*); copper (*S. caurinus*); gopher (*S. carnatus*); grass (*S. rastelliger*); kelp (*S. atrovirens*); olive (*S. serranoides*); quillback (*S. maliger*); and treefish (*S. sericeus*).

(3) For the purpose of this rule a "commercial harvest cap" is defined as the total fishery-related mortality for a given species, or species group, that may occur in a single calendar year in Oregon commercial fisheries. For 2009, the commercial harvest cap for black rockfish is 139.2 metric tons.

(4) For the purpose of this rule a "commercial landing cap" is defined as the total landed catch of a given species, or species group, that may be taken in a single calendar year in Oregon commercial fisheries. For 2009, the commercial landing caps are:

- (a) Black rockfish, 137.9 metric tons.
- (b) Black rockfish and blue rockfish combined of 141.9 metric tons.
- (c) Other nearshore rockfish, 14.3 metric tons.
- (d) Cabezon, 31.3 metric tons.
- (e) Greenling, 23.4 metric tons.

(5) For the purpose of this rule, the periods to which cumulative trip limits apply are: January through February (period 1); March through April

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(period 2); May through June (period 3); July through August (period 4); September through October (period 5); and November through December (period 6).

(6) For black and blue rockfish combined, no vessel may land more than:

- (a) 800 pounds in period 1;
 - (b) 1000 pounds in period 2;
 - (c) 1600 pounds in each of periods 3 and 4;
 - (d) 1200 pounds in period 5; and
 - (e) 1000 pounds in period 6.
- (7) In each period, no vessel may land more than:
- (a) 700 pounds of other nearshore rockfish, combined;
 - (b) 2,500 pounds of cabezon; or
 - (c) 450 pounds of greenling species in period 1.
 - (d) 250 pounds of greenling in each of periods 2, 3, 4, 5, and 6.

Stat. Auth.: ORS 506.109 & 506.119
Stats. Implemented: ORS 506.129

Hist.: FWC 73-1982(Temp), f. & ef. 10-27-82; FWC 1-1983 (Temp), f. & ef. 1-6-83; FWC 10-1983, f. & ef. 3-1-83; FWC 23-1983(Temp), f. & ef. 6-14-83; FWC 41-1983(Temp), f. & ef. 9-6-83; FWC 3-1984 f. & ef. 1-26-84; FWC 18-1984 (Temp), f. & ef. 5-4-84, ef. 5-6-84; FWC 36-1984(Temp), f. 7-31-84, ef. 8-1-84; FWC 1-1985(Temp), f. & ef. 1-4-85; FWC 5-1985, f. & ef. 2-19-85; FWC 18-1985(Temp), f. 4-26-85, ef. 4-27-85; FWC 52-1985(Temp), f. 8-30-85, ef. 9-1-85; FWC 65-1985 (Temp), f. & ef. 10-4-85; FWC 82-1985, f. 12-16-85, ef. 1-1-86; FWC 50-1986(Temp), f. & ef. 8-29-86; FWC 81-1986, f. 12-31-86, ef. 1-1-87; FWC 57-1987(Temp), f. & ef. 7-24-87; FWC 104-1987, f. 12-18-87, ef. 1-1-88; FWC 97-1988(Temp), f. & cert. ef. 1-6-88; FWC 103-1988, f. 12-29-88, cert. ef. 1-1-89; FWC 49-1989(Temp), f. & cert. ef. 7-26-89; FWC 69-1990 (Temp), f. 7-24-90, cert. ef. 7-25-90; FWC 122-1990, f. 11-26-90, cert. ef. 11-29-90; FWC 130-1990, f. 12-31-90, cert. ef. 1-1-91; FWC 48-1991(Temp), f. & cert. ef. 5-3-91; FWC 82-1991(Temp), f. 7-30-91, cert. ef. 7-31-91; FWC 83-1991, f. 8-1-91, cert. ef. 7-31-91; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 9-1992, f. 2-20-92, cert. ef. 2-21-92; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 6-1993, f. 1-28-93, cert. ef. 2-1-93; FWC 10-1993, f. & cert. ef. 2-10-93; FWC 1-1994, f. & cert. ef. 1-14-94; FWC 32-1994, f. & cert. ef. 6-3-94; FWC 44-1994, f. 7-26-94, cert. ef. 8-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 45-1995, f. & cert. ef. 6-1-95; FWC 94-1995(Temp), f. 12-29-95, cert. ef. 1-1-96; FWC 9-1996, f. 3-5-96, cert. ef. 3-8-96; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 119-2002(Temp), f. 10-24-02, cert. ef. 10-25-02 thru 12-31-02; DFW 135-2002, f. 12-23-02, cert. ef. 1-1-03; DFW 14-2003(Temp), f. 2-20-03, cert. ef. 2-21-03 thru 8-19-03; DFW 25-2003, f. & cert. ef. 3-26-03; DFW 60-2003(Temp), f. 7-15-03, cert. ef. 7-16-03 thru 12-31-03; DFW 79-2003(Temp), f. & cert. ef. 8-18-03 thru 12-31-03; DFW 102-2003(Temp), f. 9-30-03, cert. ef. 10-1-03 thru 12-31-03; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 76-2004(Temp), f. 7-23-04, cert. ef. 7-28-04 thru 12-31-04; DFW 100-2004(Temp), f. & cert. ef. 9-28-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 120-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 31-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 82-2005(Temp), f. 7-29-05, cert. ef. 8-1-05 thru 12-31-05; DFW 86-2005(Temp), f. & cert. ef. 8-3-05 thru 12-31-05; DFW 119-2005(Temp), f. 10-10-05, cert. ef. 10-11-05 thru 12-31-05; DFW 135-2005(Temp), f. 11-30-05, cert. ef. 12-1-05 thru 12-31-05; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 50-2006(Temp), f. 6-28-06, cert. ef. 7-1-06 thru 12-27-06; DFW 83-2006(Temp), f. 8-10-06, cert. ef. 8-11-06 thru 2-6-07; DFW 108-2006(Temp), f. 9-29-06, cert. ef. 10-1-06 thru 12-31-06; DFW 133-2006(Temp), f. 12-21-06, cert. ef. 1-1-07 thru 6-29-07; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 83-2007(Temp), f. 8-31-07, cert. ef. 9-1-07 thru 12-31-07; DFW 120-2007(Temp), f. 10-30-07, cert. ef. 11-1-07 thru 12-31-07; DFW 123-2007(Temp), f. 11-26-07, cert. ef. 11-28-07 thru 12-31-07; DFW 128-2007, f. 12-13-07, cert. ef. 1-1-08; Administrative Correction 1-24-08; DFW 70-2008(Temp), f. 6-26-08, cert. ef. 7-1-08 thru 12-27-08; DFW 123-2008(Temp), f. 9-30-08, cert. ef. 10-2-08 thru 12-31-08; DFW 154-2008(Temp), f. 12-29-08, cert. ef. 1-1-09 thru 6-29-09; DFW 21-2009(Temp), f. 2-26-09, cert. ef. 3-1-09 thru 8-27-09; DFW 39-2009, f. & cert. ef. 4-27-09

635-004-0090

Size Limit

(1) Except as provided in OAR 635-007-0700 through 635-007-0720 it is unlawful to:

- (a) Take from the waters of this state or to land sturgeon for commercial purposes less than 43 inches or more than 54 inches in fork length;
- (b) Remove the head or tail of any sturgeon taken from the waters of this state or landed for commercial purposes prior to being received at the premises of a wholesale fish dealer or canner;
- (c) To possess, sell, or transport any whole sturgeon under four feet in length taken for commercial purposes in the waters of this state or the Pacific Ocean. Proof of possession, sale, or transportation of any dressed sturgeon under 28 inches in length exclusive of head and tail shall in itself create a permissible inference that the dressed sturgeon was under 43 inches in fork length at the time it was taken.

(2) Any person fishing with commercial fishing gear in the waters of this state who, on lifting, drawing, taking up or removing any such gear finds sturgeon entangled or caught therein which are not within the legal length limits set forth in section (1)(a) of this rule or during a season not open for sturgeon, shall immediately, with care and the least possible injury to the fish, disentangle, release and transfer the fish to the water without violence.

Stat. Auth.: ORS 506.109 & 506.119
Stats. Implemented: ORS 506.129

Hist.: FC 241, f. 4-5-72, ef. 4-15-72; Renumbered from 625-010-0130; Renumbered from 635-036-0120; FWC 39-1981, f. 10-30-81, ef. 1-1-81; FWC 33-1988, f. & cert. ef. 5-24-88; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; FWC 23-1995, f. 3-29-95, cert. ef. 4-1-95; DFW 1-1998, f. & cert. ef. 1-9-98; DFW 144-2005(Temp), f. 12-20-05, cert. ef. 1-1-06 thru 3-31-

06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 157-2008(Temp), f. 12-31-08, cert. ef. 1-1-09 thru 6-29-09; DFW 39-2009, f. & cert. ef. 4-27-09

635-039-0080

Purpose and Scope

(1) The purpose of Division 039 is to provide for management of sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches over which the State has jurisdiction.

(2) Division 039 incorporates, by reference:

(a) The sport fishing regulations of the State, included in the document entitled **2009 Oregon Sport Fishing Regulations**. Therefore, persons must consult the **2009 Oregon Sport Fishing Regulations** in addition to Division 011 and Division 039 to determine all applicable sport fishing requirements for marine fish, shellfish and marine invertebrates.

(b) The Pacific Council Decisions or News documents dated June and November 2008 (copy available from agency); and to the extent consistent with that document, **Title 50 of the Code of Federal Regulations, Part 300, Subpart E** (61FR35550, July 5, 1996) as amended by Federal Regulations, and Title 50 of the Code of Federal Regulations, Part 660, Vol. 74, No. 52, dated March 19, 2009 and Vol. 24, No. 78 (corrections), dated April 24, 2009; to determine regulations applicable to this fishery.

[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.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; Renumbered from 635-39-105 - 635-39-135; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 25-1997, f. 4-22-97, cert. ef. 5-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 91-1998, f. & cert. ef. 11-25-98; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 98-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 81-2000, f. 12-22-00, cert. ef. 1-1-01; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; 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 120-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 33-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 54-2005(Temp), f. 6-10-05, cert. ef. 6-12-05 thru 11-30-05; DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 71-2005(Temp), f. & cert. ef. 7-7-05 thru 11-30-05; DFW 89-2005(Temp), f. & cert. ef. 8-12-05 thru 12-12-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 134-2006(Temp), f. 12-21-06, cert. ef. 1-1-07 thru 6-29-07; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 39-2009, f. & cert. ef. 4-27-09

635-039-0085

Halibut Seasons

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.

[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

635-039-0090

Inclusions and Modifications

(1) The **2009 Oregon Sport Fishing Regulations** provide requirements for sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches, commonly referred to as the Marine 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) For the purposes of this rule, a "harvest target" is defined as the Oregon share of the regional recreational harvest guideline for yelloweye rockfish and canary rockfish that may be impacted (combined landings and

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other fishery related mortality) by the Oregon sport fishery in a single calendar year.

(a) The regional recreational harvest guidelines for these species in 2009 are specified in the Pacific Council Decisions or News documents dated June and November, 2008.

(b) Harvest targets for yelloweye rockfish and canary rockfish effective at the start of the Oregon sport fishery in 2009 are:

(A) Yelloweye rockfish, 2.5 metric tons.

(B) Canary rockfish, 16.0 metric tons.

(c) Harvest targets for yelloweye rockfish and canary rockfish may be revised inseason following consultation with Washington Department of Fish and Wildlife provided that:

(A) Regional recreational harvest guidelines for these species are not projected to be exceeded as a result of any inseason revisions to a harvest target or targets; and

(B) Inseason revisions to the harvest target or targets benefit the Oregon sport fishery.

(3) For the purposes of this rule, a "sport harvest cap" is defined as the amount that may be impacted (combined landings and other fishery related mortality) by the Oregon sport fishery in a single calendar year.

(a) For 2009, the sport harvest cap for black rockfish is 440.8 metric tons.

(4) For the purposes of this rule, "Other nearshore rockfish" means the following rockfish species: black and yellow (*Sebastes chrysomelas*); brown (*S. auriculatus*); calico (*S. dalli*); China (*S. nebulosus*); copper (*S. caurinus*); gopher (*S. carnatus*); grass (*S. rastelliger*); kelp (*S. atrovirens*); olive (*S. serranoides*); quillback (*S. maliger*); and treefish (*S. serripes*).

(5) For the purposes of this rule a "sport landing cap" is defined as the total landings for a given species, or species group, that may be taken in a single calendar year by the ocean boat fishery. For 2009 the sport landing caps are:

(a) Black rockfish and blue rockfish combined, 481.8 metric tons.

(b) Other nearshore rockfish, 13.6 metric tons.

(c) Cabezon, 15.8 metric tons.

(d) Greenling, 5.2 metric tons.

(6) In addition to the regulations for Marine Fish in the 2009 Oregon Sport Fishing Regulations, the following apply for the sport fishery in the Marine Zone in 2009:

(a) Lingcod (including green colored lingcod): 2 fish daily bag limit.

(b) All rockfish ("sea bass" "snapper"), greenling ("sea trout"), cabezon, skates, and other marine fish species not listed in the 2009 Oregon Sport Fishing Regulations in the Marine Zone, located under the category of Species Name, Marine Fish: 7 fish daily bag limit in aggregate (total sum or number). Retention of yelloweye rockfish and canary rockfish is prohibited.

(c) Flatfish (flounder, sole, sanddabs, turbot, and all halibut species except Pacific halibut): 25 fish daily bag limit in aggregate (total sum or number).

(d) Retention of all marine fish listed under the category of Species Name, Marine Fish, except Pacific cod, sablefish, herring, anchovy, smelt, sardine, striped bass, hybrid bass, and offshore pelagic species (excluding leopard shark and soupfin shark), is prohibited when Pacific halibut is retained on the vessel during open days for the all-depth sport fishery for Pacific halibut north of Humbug Mountain. Persons must also consult the Pacific Council Decisions; Title 50 of the Code of Federal Regulations, Part 300, Subpart E (61FR35550, July 5, 1996); and the annual Pacific Halibut Fishery Regulations as amended by Federal Regulations to determine all rules applicable to the taking of Pacific halibut.

(e) Harvest methods and other specifications for marine fish in subsections (6)(a), (6)(b) and (6)(c) including the following:

(A) Minimum length for lingcod, 22 inches.

(B) Minimum length for cabezon, 16 inches.

(C) Minimum length for greenling, 10 inches.

(D) May be taken by angling, hand, bow and arrow, spear, gaff hook, snag hook and herring jigs.

(E) Mutilating the fish so the size or species cannot be determined prior to landing or transporting mutilated fish across state waters is prohibited.

(f) Sport fisheries for species in subsections (6)(a), (6)(b) and (6)(c) and including leopard shark and soupfin shark are open January 1 through December 31, twenty-four hours per day, except that ocean waters are closed for these species during April 1 through September 30, outside of the 40 fathom curve (defined by latitude and longitude) as shown on Title 50 Code of Federal Regulations Part 660 Section 384 Vol. 71, No. 189, dated September 29, 2006. A 20 fathom, 25 fathom, or 30 fathom curve, as shown

on Title 50 Code of Federal Regulations Part 660 Section 391 Vol. 71, No. 189, dated September 29, 2006 may be implemented as the management line as in-season modifications necessitate.

(g) The Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) is defined by coordinates specified in Title 50 Code of Federal Regulations Part 660 Section 390. Within the YRCA, it is unlawful to fish for, take, or retain species listed in subsections (6)(a), (6)(b) and (6)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut using recreational fishing gear. A vessel engaged in recreational fishing within the YRCA is prohibited from possessing any species listed in subsections (6)(a), (6)(b) and (6)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut. Recreational fishing vessels in possession of species listed in subsections (6)(a), (6)(b) and (6)(c) and including leopard shark, soupfin shark, and Pacific halibut may transit the YRCA without fishing gear in the water.

(7) Razor clams may be taken by hand, shovel, or cylindrical gun or tube. The opening of the gun/tube must be either circular or elliptical with the circular gun/tube opening having a minimum outside diameter of 4 inches and the elliptical gun/tube opening having minimum outside diameter dimensions of 4 inches long and 3 inches wide.

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

[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 22-1994, f. 4-29-94, cert. ef. 5-2-94; FWC 29-1994(Temp), f. 5-20-94, cert. ef. 5-21-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 43-1994(Temp), f. & cert. ef. 7-19-94; FWC 83-1994(Temp), f. 10-28-94, cert. ef. 11-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 25-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 26-1995, 3-29-95, cert. ef. 4-2-95; FWC 36-1995, f. 5-3-95, cert. ef. 5-5-95; FWC 43-1995(Temp), f. 5-26-95, cert. ef. 5-28-95; FWC 46-1995(Temp), f. & cert. ef. 6-2-95; FWC 58-1995(Temp), f. 7-3-95, cert. ef. 7-5-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 28-1996(Temp), f. 5-24-96, cert. ef. 5-26-96; FWC 30-1996(Temp), f. 5-31-96, cert. ef. 6-2-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 68-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; 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 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 114-2003(Temp), f. 11-18-03, cert. ef. 11-21-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 83-2004(Temp), f. 8-17-04, cert. ef. 8-18-04 thru 12-31-04; DFW 91-2004(Temp), f. 8-31-04, cert. ef. 9-2-04 thru 12-31-04; DFW 97-2004(Temp), f. 9-22-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 34-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 75-2005(Temp), f. 7-13-05, cert. ef. 7-16-05 thru 12-31-05; DFW 87-2005(Temp), f. 8-8-05, cert. ef. 8-11-05 thru 12-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; DFW 129-2005(Temp), f. & cert. ef. 11-29-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 141-2005(Temp), f. 12-12-05, cert. ef. 12-30-05 thru 12-31-05; Administrative correction 1-19-06; DFW 61-2006, f. 7-13-06, cert. ef. 10-1-06; DFW 65-2006(Temp), f. 7-21-06, cert. ef. 7-24-06 thru 12-31-06; DFW 105-2006(Temp), f. 9-21-06, cert. ef. 9-22-06 thru 12-31-06; DFW 134-2006(Temp), f. 12-21-06, cert. ef. 1-1-07 thru 6-29-07; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 10-2007, f. & cert. ef. 2-14-07; DFW 66-2007(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 73-2008(Temp), f. 6-30-08, cert. ef. 7-7-08 thru 12-31-08; DFW 97-2008(Temp), f. 8-18-08, cert. ef. 8-21-08 thru 12-31-08; DFW 105-2008(Temp), f. 9-4-08, cert. ef. 9-7-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 7-2009(Temp), f. & cert. ef. 2-2-09 thru 7-31-09; DFW 39-2009, f. & cert. ef. 4-27-09

Rule Caption: Amendments to the Fern Ridge, Lower Deschutes, Riverside, and Bridge Creek Areas management plans.

Adm. Order No.: DFW 40-2009

Filed with Sec. of State: 4-27-2009

Certified to be Effective: 4-27-09

Notice Publication Date: 3-1-2009

Rules Amended: 635-008-0055, 635-008-0123, 635-008-0140

Subject: Amendments to Oregon Administrative Rules for the Fern Ridge, Lower Deschutes, Riverside, and Bridge Creek Areas Management Plans. Amendments will guide management activities for the next ten years.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-008-0055

Bridge Creek Wildlife Area

The Bridge Creek Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the 2009 Bridge Creek Wildlife Area Management Plan unless otherwise excluded or restricted by the following rules:

(1) The area is closed to entry during the period December 1 through April 15, except by permit.

(2) Motor vehicles are prohibited except on parking areas, open roads, and up to 300 feet off open roads for the purpose of moving to and from campsites.

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(3) Camping is prohibited except during the period May 1 through November 30, and may not exceed 14 days per stay.

(4) Campfires or open burning is prohibited except at campsites. Open fires are prohibited during designated fire closures.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162
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(1); FWC 53-1994, f. & cert. ef. 8-25-94; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 40-2009, f. & cert. ef. 4-27-09

635-008-0123

Lower Deschutes Wildlife Area

The Lower Deschutes Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the 2009 Lower Deschutes Wildlife Area Management Plan unless otherwise excluded or restricted by the Deschutes River Scenic Waterway Rules and the following additional rules:

(1) Discharging firearms is prohibited except as authorized during game bird and game mammal seasons or by permit.

(2) Unauthorized motor vehicle use is prohibited.

(3) Horses and horseback riding are prohibited except by permit.

(4) Open fires are prohibited except as specified under the Scenic Waterway rules.

(5) Running or training of dogs is prohibited except during authorized bird hunting seasons.

(6) Camping is prohibited on river islands, areas posted "camping prohibited" within the Deschutes River Scenic Waterway and on state lands outside the Deschutes River Scenic Waterway in the Lower Deschutes Wildlife Area (Deschutes Scenic Waterway is an area extending 1/4-mile away from each bank of the river).

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162
Hist.: FWC 71-1984, f. & ef. 10-12-84; FWC 53-1994, f. & cert. ef. 8-25-94; DFW 40-2009, f. & cert. ef. 4-27-09

635-008-0140

Riverside Wildlife Area

The Riverside Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the 2009 Riverside Wildlife Area Management Plan unless otherwise excluded or restricted by the following rules:

(1) Camping is prohibited.

(2) Open fires are prohibited.

(3) Motorized vehicle travel is restricted to open roads.

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(15); FWC 53-1994, f. & cert. ef. 8-25-94; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 40-2009, f. & cert. ef. 4-27-09

Rule Caption: Inseason Actions Implemented by the Federal Government for Commercial Groundfish Fisheries.

Adm. Order No.: DFW 41-2009(Temp)

Filed with Sec. of State: 4-29-2009

Certified to be Effective: 5-1-09 thru 10-27-09

Notice Publication Date:

Rules Amended: 635-004-0019

Subject: Amended rule adopts in-season actions implemented by the federal government for Pacific ocean commercial groundfish fisheries, including changes to cumulative trip limits.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-004-0019

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, Subpart G, West Coast Groundfish Fisheries.**

(2) The **Code of Federal Regulations (CFR), Title 50, Part 660, Subpart G,** provides requirements for commercial groundfish fishing in the Pacific Ocean off the Oregon coast. 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 635-004-0018, the National Oceanic and Atmospheric Administration (NOAA), by means

of **Federal Register/Vol. 74, No. 43/Friday, March 6, 2009,** announced inseason management measures effective March 1, 2009, including, but not limited to, changes to cumulative trip limits and RCA boundaries.

(4) Notwithstanding the regulations as defined in OAR 635-004-0018, the National Oceanic and Atmospheric Administration (NOAA), by means of **Federal Register/Vol. 74, No. 79/Monday, April 27, 2009,** announced inseason management measures effective May 1, 2009, including, but not limited to, changes to cumulative trip limits.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.129

Hist.: DFW 76-1999(Temp), f. 9-30-99, cert. ef. 10-1-99 thru 12-31-99; DFW 81-1999(Temp), f. & cert. ef. 10-12-99 thru 12-31-99; DFW 98-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 23-2005(Temp), F. & cert. ef. 4-8-05 thru 10-4-05; DFW 30-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 43-2005(Temp), f. & cert. ef. 5-13-05 thru 10-17-05; DFW 68-2005(Temp), 6-30-05, cert. ef. 7-1-05 thru 12-27-05; DFW 114-2005(Temp), f. 9-30-05, cert. ef. 10-1-05 thru 12-31-05; DFW 125-2005(Temp), f. & cert. ef. 10-19-05 thru 12-31-05; DFW 134-2005(Temp), f. & cert. ef. 11-30-05 thru 12-31-05; DFW 147-2005(Temp), f. 12-28-05, cert. ef. 1-1-06 thru 6-28-06; DFW 8-2006(Temp), f. 2-28-06, cert. ef. 3-1-06 thru 8-25-06; DFW 25-2006(Temp), f. 4-28-06, cert. ef. 5-1-06 thru 10-27-06; DFW 55-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-27-06; DFW 110-2006(Temp), f. 9-29-06, cert. ef. 10-1-06 thru 12-31-06; Administrative Correction 1-16-07; DFW 29-2007(Temp), f. & cert. ef. 5-1-07 thru 10-27-07; DFW 58-2007(Temp), f. 7-18-07, cert. ef. 8-1-07 thru 12-31-07; DFW 106-2007(Temp), f. 10-5-07, cert. ef. 10-6-07 thru 12-31-07; DFW 123-2007(Temp), f. 11-26-07, cert. ef. 11-28-07 thru 12-31-07; DFW 126-2007(Temp), f. & cert. ef. 12-11-07 thru 12-31-07; DFW 41-2008(Temp), f. 4-23-08, cert. ef. 5-1-08 thru 10-27-08; DFW 88-2008(Temp), f. & cert. ef. 8-1-08 thru 12-31-08; DFW 146-2008(Temp), f. & cert. ef. 12-4-08 thru 12-31-08; DFW 1-2009(Temp), f. & cert. ef. 1-5-09 thru 5-1-09; DFW 29-2009(Temp), f. & cert. ef. 3-18-09 thru 5-1-09; DFW 41-2009(Temp), f. 4-29-09, cert. ef. 5-1-09 thru 10-27-09

Rule Caption: Amend rules related to LOP tags that are transferred to persons not a member of the landowner's immediate family.

Adm. Order No.: DFW 42-2009(Temp)

Filed with Sec. of State: 5-4-2009

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

Notice Publication Date:

Rules Amended: 635-075-0005

Subject: Amend rules related to Landowner preference tags for the hunting of deer or elk that are transferred to a person of the landowner's choosing who is not a member of the landowner's immediate family.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-075-0005

Registration, Application and Tag Issuance Procedures and Limits for All Controlled Hunts

(1) A landowner shall submit a landowner preference registration form to be eligible for a landowner preference tag. A landowner can have only one registration form on file with the department. The registration form is an affidavit certifying ownership, number of acres owned, the county and Wildlife Management Unit where the property is located. This registration form registers the individual and remains valid until the individual registered no longer qualifies as a landowner as defined under OAR 635-045-0002, writes to the department requesting the registration form be deleted, or the department notifies the landowner that a renewal is required.

(2) In addition to having a landowner preference registration form on file with the department, a landowner shall submit a tag distribution form annually. The tag distribution form shall list the names of the landowner, stockholder(s), partner(s), and their immediate family members to receive tags for pronghorn antelope, and the names of the landowner, stockholder(s), partner(s), their immediate family members, and those persons of the landowners' choosing to receive landowner preference tags for deer and elk.

(3) Landowners shall submit registration forms and tag distribution forms prior to September 15 for all controlled 100 series buck deer and bull elk hunts, and through the day prior to the season openings for 600 series antlerless deer, antlerless elk, and doe/fawn pronghorn antelope hunts.

(4) Registration forms and tag distribution forms are available at no charge in any office of the department.

(5) Registration forms, tag distribution forms, and applications shall be received at the Salem headquarters office of the department prior to issuance of any landowner preference tag, except as provided for in OAR 635-075-0007. Landowners are not required to submit proof of ownership with their registration form. Landowners shall be required to submit proof of ownership at the request of the department or the Oregon State Police acting on behalf of the department.

(6) A landowner, stockholder(s), partner(s), and immediate family and those persons of the landowners' choosing wishing to also apply for con-

ADMINISTRATIVE RULES

trolled hunt tags shall apply by the May 15 controlled hunt deadline. Listing a hunt choice other than a landowner preference choice is not required.

(7) Everyone shall follow controlled hunt application procedures and regulations as described in OAR division 060.

(8) The number of landowner preference tags issued is based upon a landowner's acreage. Landowner Preference tags shall be allocated by the following minimum acreage requirements: [Table not included. See ED. NOTE.]

(9) Landowner preference tags for the hunting of deer or elk may be issued to any person of the landowner's choosing, and shall be used for the taking of antlerless animals except as described in OAR 635-075-0005 (8). Season dates of the transferred landowner preference tags shall be the same dates as the original tag.

(10) Landowner preference tags for the hunting of antlered deer or elk that are issued to a person of the landowner's choosing who is not a member of the landowner's, partner's, or stockholder's immediate family may be used to take an antlered animal only as follows:

(a) If the landowner is eligible for two, three, or four preference tags, one of those tags may be so used.

(b) If the landowner is eligible for five, six or seven preference tags, two of those tags may be so used.

(c) If the landowner is eligible for eight, nine or 10 preference tags, three of those tags may be so used.

(d) If the landowner receives 11 or 12 preference tags, four of those tags may be so used.

(e) If the landowner receives 13 or 14 preference tags, five of those tags may be so used.

(11) A landowner who is qualified to receive landowner hunting preference tags may request two additional tags for providing public access and/or two additional tags for wildlife habitat programs. This request shall be made to the Access and Habitat Board with supporting evidence that the access is significant and the habitat programs benefit wildlife. The board may recommend that the commission grant the request. These tags may not be applied to the options as defined in OAR 635-075-0005(8).

(12) No one shall receive both a controlled hunt tag and a landowner preference tag for the same type of hunt. Landowner hunting preference tags shall not be issued to any person successful in the controlled hunt drawing for the same type of hunt.

(13) Landowner preference tags, except as described in OAR 635-075-0007, 635-075-0010, and 635-075-0015 shall only be issued from the headquarters office of the department following the controlled hunt drawings.

[ED. NOTE: Tables 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 35-1982, f. & ef. 6-7-82; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 48-1987, f. & ef. 7-6-87; FWC 20-1988, f. & cert. ef. 3-10-88; FWC 45-1988, f. & cert. ef. 6-13-88; FWC 98-1988, f. & cert. ef. 10-6-88; FWC 14-1990, f. & cert. ef. 2-2-90; FWC 99-1992, f. & cert. ef. 9-25-92; FWC 10-1994, f. & cert. ef. 2-24-94; FWC 14-1994(Temp), f. & cert. ef. 3-1-94; FWC 40-1994, f. & cert. ef. 6-28-94; FWC 7-1996, f. & cert. ef. 2-12-96; FWC 38-1997, f. & cert. ef. 6-17-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 131-2008, f. & cert. ef. 10-14-08; DFW 42-2009(Temp), f. 5-4-09, cert. ef. 5-5-09 thru 10-31-09

Rule Caption: Retention of Trout Allowed at Fishhawk Lake After May 22, 2009.

Adm. Order No.: DFW 43-2009(Temp)

Filed with Sec. of State: 5-5-2009

Certified to be Effective: 5-22-09 thru 10-31-09

Notice Publication Date:

Rules Amended: 635-014-0090

Subject: Amended rule allows retention of trout caught in Fishhawk Lake. Current permanent rule allows catch-and-release only. Rule modifications make trout regulations for Fishhawk Lake consistent with new 2009 stream rules for trout retention on the north coast. Fishhawk Lake is managed under the stream rule for fisheries, not the lake rule, because it impounds Fishhawk Creek which is a productive salmon, steelhead and trout stream, both above and below the lake.

Rules Coordinator: Therese Kucera—(503) 947-6033

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 is open for trout angling May 23 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 May 23 through August 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; DFW 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

Rule Caption: Amend rules to suspend participants from Master Hunter program for violation of the wildlife laws.

Adm. Order No.: DFW 44-2009(Temp)

Filed with Sec. of State: 5-6-2009

Certified to be Effective: 5-7-09 thru 11-3-09

Notice Publication Date:

Rules Amended: 635-048-0080

Subject: Amend rules to suspend hunters from participation in the Master Hunter program for a period of five years if the hunter is convicted of, or pleads guilty to, a violation of the wildlife laws.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-048-0080

Master Hunter Program

The department will administer a voluntary program for hunters which will include but is not limited to instruction on hunting ethics, wildlife management, firearms safety and landowner relations. The department may require completion of this program as a prerequisite for participating in certain controlled hunts. If a Master Hunter is convicted of, or pleads guilty to, a violation of the wildlife laws, the Department will suspend them from the Master Hunter program for a period of five years.

Stat. Auth.: ORS 496 & 497

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 497.360

Hist.: FWC 54-1997, f. & cert. ef. 9-3-97; DFW 44-2009(Temp), f. 5-6-09, cert. ef. 5-7-09 thru 11-3-09

ADMINISTRATIVE RULES

Rule Caption: Rules related to Holding of Cervids.
Adm. Order No.: DFW 45-2009
Filed with Sec. of State: 5-6-2009
Certified to be Effective: 5-6-09
Notice Publication Date: 3-1-2008
Rules Adopted: 635-049-0255
Rules Repealed: 635-049-0200
Subject: Rules that govern holding and propagation of cervids in Oregon, and related issues.
Rules Coordinator: Therese Kucera—(503) 947-6033

635-049-0255 Cervid marking

- (1) Each cervid held under a Type 1 license must be marked with:
 - (a) A permanent, uniquely numbered mark approved in advance by the Department; and
 - (b) One ear tag visible from 50 feet. Licensee's records must match the ear tags number and color to the animal's unique permanent mark. Any lost ear tag must be replaced as soon as possible, consistent with good animal husbandry practices.
- (2) Licensees must register the marks and tags called for in (1) with the Department's headquarters office within 30 days after application. Tags and marks must be used as follows:
 - (a) Placed on each cervid calf or fawn within 30 days after its birth;
 - (b) Present on each newly acquired cervid within 14 days after its acquisition; and
 - (c) Recorded by the holder and noted in any transfer or other transaction records or reports for the cervid.
- (3) In addition to the requirements imposed here, the licensee must also comply with any applicable Department of Agriculture marking and registration requirements.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162, 497.228, 498.002, 498.019, 498.052 & 174.106
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162, 497.228, 498.002, 498.019, 498.052 & 174.106
Hist.: DFW 45-2009, f. & cert. ef. 5-6-09

Rule Caption: Promulgation of Inland Waters Anchovy Season.
Adm. Order No.: DFW 46-2009(Temp)
Filed with Sec. of State: 5-6-2009
Certified to be Effective: 6-1-09 thru 11-1-09
Notice Publication Date:
Rules Adopted: 635-004-0042
Subject: This adopted rule promulgates the commercial Inland Waters Anchovy Season. This rule also sets the season dates; defines the types of gear authorized for the taking of anchovies; methods to be employed in estimating the total weight of fish taken; and recording and reporting requirements for the fishery.
Rules Coordinator: Therese Kucera—(503) 947-6033

635-004-0042 Inland Waters Anchovy Fishery

There is no closed season or area for the commercial taking of anchovies in inland waters except as specified in Oregon administrative rule or as specified:

- (1) The open season for the taking of anchovies is June 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 pursuing 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 such as described in section (4) above, must be returned to the water immediately unharmed.
- (6) All anchovies harvested commercially must be reported on a Commercial Fisherman Transportation Report as described in OAR 635-

006-0165 when caught, and must be reported to a wholesale bait dealer or wholesale fish dealer upon landing and recorded on a fish receiving ticket as described in 635-006-0210.

(7) Wholesale fish and bait dealers may estimate the net weight of fish landed provided such method is approved and authorized in writing by the Oregon Department of Fish and Wildlife (Department).

(8) Those wholesale fish or bait dealers or canners authorized to use the sampling procedure in subsection (7) 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 at any time by the Department or by the Oregon State Police.

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

Rule Caption: Amended the controlled hunt application deadline date for big game species.

Adm. Order No.: DFW 47-2009(Temp)
Filed with Sec. of State: 5-12-2009
Certified to be Effective: 5-12-09 thru 5-20-09

Notice Publication Date:
Rules Amended: 635-060-0008
Subject: Rules were amended to change the controlled hunt application deadline date for pronghorn antelope, bighorn sheep, Rocky Mountain goat, deer and elk from May 15 to May 19, 2009.
Rules Coordinator: Therese Kucera—(503) 947-6033

635-060-0008 Application Deadline Dates

(1) The application deadline for spring black bear controlled hunts is February 10, each year.

(2) The application deadline for pronghorn antelope, bighorn sheep, Rocky Mountain goat, deer and elk controlled hunts is May 15, each year. The application deadline for 2009 has been extended through Tuesday, May 19, 2009.

(3) Applications for the controlled hunts listed in OAR 635-060-0005(1)–(5) above that are hand-delivered by the specified deadline dates or mailed through the U.S. Postal Service and postmarked by the specified deadline dates above will be considered on time (see 635-060-0005(5)).

(4) In the event that tags remain from undersubscribed controlled hunts after the game mammal controlled hunt drawing, the department will issue remaining tags on a first-come, first-serve basis at authorized license agents. Tags issued in this manner are additional tags and may be exchanged for a general season tag only as authorized by OAR 635-060-0046(6) and 635-065-0501(4) and (5). A person may only purchase one first-come, first-serve tag per hunt series. Such tag may be for the person or for someone other than the person.

(5) A hunter who received a tag of his/her choice through the original game mammal controlled hunt drawing process may exchange that tag for a remaining tag in the first-come, first-serve process while tags remain available. Exchanges may be obtained only through the department's regional offices, designated district offices, or the Salem headquarters office of the department and must be made before the start of the seasons for which the tags are issued. The tag being exchanged shall not be reissued.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 48-1989, f. & cert. ef. 7-25-89, FWC 23-1990, f. & cert. ef. 3-21-90; FWC 54-1990, f. & cert. ef. 6-21-90; FWC 18-1991, f. & cert. ef. 3-12-91; FWC 19-1991(Temp), f. & cert. ef. 3-12-91; FWC 14-1992, f. & cert. ef. 3-10-92, cert. ef. 3-13-92 (and corrected 3-13-92); FWC 55-1992(Temp), f. & cert. ef. 7-22-92, cert. ef. 7-24-92; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 46-1993, f. & cert. ef. 8-4-93; FWC 51-1993, f. & cert. ef. 8-25-93; FWC 6-1994, f. & cert. ef. 1-26-94; FWC 45-1994(Temp), f. & cert. ef. 7-29-94; FWC 94-1994, f. & cert. ef. 12-22-95; FWC 21-1996, f. & cert. ef. 5-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 6-1999(Temp), f. & cert. ef. 2-9-99 through 2-19-99; DFW 12-1999(Temp), f. & cert. ef. 2-25-99 thru 6-30-99; Administrative correction 11-17-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 52-2001(Temp), f. & cert. ef. 6-27-01 thru 12-24-01; DFW 32-2002(Temp), f. & cert. ef. 4-17-02 thru 10-13-02; DFW 34-2002, f. & cert. ef. 4-18-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 67-2002(Temp), f. & cert. ef. 6-28-02 thru 12-20-02; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 50-2008(Temp), f. & cert. ef. 5-14-08 thru 5-20-08; Administrative correction, 6-23-08; DFW 47-2009(Temp), f. & cert. ef. 5-12-09 thru 5-20-09

Rule Caption: Columbia River Mainstem Recreational Spring Chinook Closure from Tongue-Rocky Point Upstream to I-5 Bridge.

ADMINISTRATIVE RULES

Adm. Order No.: DFW 48-2009(Temp)
Filed with Sec. of State: 5-14-2009
Certified to be Effective: 5-15-09 thru 6-16-09
Notice Publication Date:

Rules Amended: 635-023-0125
Subject: This amended rule rescinds the recreational salmonid fishery (jack salmon and steelhead) in the mainstem Columbia River from Tongue Point/Rocky Point upstream to the I-5 Bridge, implemented by permanent rule, from 12:01 a.m. May 15, 2009 until further notice. Revisions are consistent with Joint State Action taken May 13, 2009 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-023-0125

Spring Sport Fishery

(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) Effective 12:01 a.m. May 15, 2009 until further notice, the Columbia River recreational fishery for adipose fin-clipped jack Chinook salmon and adipose fin-clipped steelhead is closed from the Rocky Point-Tongue Point line upstream to the I-5 Bridge.

(3) From March 1 through May 15, 2009, the mainstem Columbia River will be open for retention of adipose fin-clipped steelhead and shad only during days and seasons open for retention of adipose fin-clipped spring chinook.

(4) Catch Limits:

(a) Adipose fin-clipped Chinook salmon, adipose fin-clipped steelhead and shad may be retained.

(b) All non-adipose fin-clipped Chinook salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(c) Effective March 1, for the area downstream of Bonneville Dam, catch limits of two adult adipose fin-clipped salmon or two adult adipose fin-clipped steelhead may be retained per day, only one of which may be a Chinook. Catch limits for jacks remain in effect as per the **2009 Oregon Sport Fishing Regulations**.

(d) Effective March 1, the daily bag limit in Oregon's Select Areas may not include more than one adipose fin-clipped Chinook when the recreational fishery in the mainstem Columbia River below the Hayden Island powerlines (west towers) is open to retention of Chinook.

(5) For the mainstem Columbia River salmon and steelhead fishery upstream of the Rocky Point-Tongue Point line to McNary Dam from February 15 through June 15, 2009, it is *unlawful* when fishing from vessels which are less than 30 feet in length, substantiated by Coast Guard documentation or Marine Board registration, to totally remove from the water any salmon or steelhead required to be released.

[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 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04; DFW 36-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 7-31-04; 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 51-2004(Temp), f. 6-9-04, cert. ef. 6-16-04 thru 7-31-04; Administrative correction 8-19-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 35-2005(Temp), f. 5-4-05, cert. ef. 5-5-05 thru 10-16-05; DFW 38-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 44-2005(Temp), f. 5-17-05, cert. ef. 5-22-05 thru 10-16-05; DFW 51-2005(Temp), f. 6-3-05, cert. ef. 6-4-05 thru 7-31-05; Administrative correction 11-18-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 21-2006(Temp), f. 4-13-06, cert. ef. 4-14-06 thru 5-15-06; DFW 27-2006(Temp), f. 5-12-06, cert. ef. 5-13-06 thru 6-15-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; 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 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 33-2007(Temp), f. 5-15-07, cert. ef. 5-16-07 thru 7-30-07; DFW 37-2007(Temp), f. & cert. ef. 5-31-07 thru 7-30-07; DFW 39-2007(Temp), f. 6-5-07, cert. ef. 6-6-07 thru 7-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 13-2008(Temp), f. 2-21-08, cert. ef. 2-25-08 thru 8-22-08; DFW 17-2008(Temp), f. & cert. ef. 2-27-08 thru 8-22-08; DFW 35-2008(Temp), f. 4-17-08, cert. ef. 4-21-08 thru 8-22-08; DFW 49-2008(Temp), f. & cert. ef. 5-13-08 thru 6-15-08; Administrative correction 7-22-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 10-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 6-15-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 48-2009(Temp), f. 5-14-09, cert. ef. 5-15-09 thru 6-16-09

Rule Caption: Amended Commercial Columbia River Select Area Fisheries.

Adm. Order No.: DFW 49-2009(Temp)
Filed with Sec. of State: 5-14-2009
Certified to be Effective: 5-17-09 thru 7-31-09
Notice Publication Date:

Rules Amended: 635-042-0145, 635-042-0160, 635-042-0180
Rules Suspended: 635-042-0145(T), 635-042-0160(T), 635-042-0180(T)

Subject: Amend rules to adopt fishing periods between May 17 and June 12, 2009 in the commercial Columbia River Select Area fisheries. Modifications are consistent with the action taken May 13, 2009 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0145

Youngs Bay Salmon Season

(1) Salmon, white sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay.

(a) The open fishing periods are established in three segments categorized as the winter fishery, paragraph (A); the spring fishery, paragraph (B); and summer fishery, paragraph (C), as follows:

(A) Winter Season:

(i) Entire Youngs Bay: None.

(ii) Upstream of old Youngs Bay Bridge: None.

(iii) Walluski Area: None.

(B) Spring Season:

(i) Entire Youngs Bay: 7:00 p.m. Monday, June 8 to 7:00 a.m. Tuesday, June 9, 2009 (12 hours); 7:00 p.m. Thursday, June 11 to 7:00 a.m. Friday, June 12, 2009 (12 hours).

(ii) Upstream of old Youngs Bay Bridge: 7:00 p.m. Monday, May 18 to 7:00 a.m. Tuesday, May 19, 2009 (12 hours); 7:00 p.m. Thursday, May 21 to 7:00 a.m. Friday, May 22, 2009 (12 hours); 7:00 p.m. Monday, May 25 to 7:00 a.m. Tuesday, May 26, 2009 (12 hours); 7:00 p.m. Thursday, May 28 to 7:00 a.m. Friday, May 29, 2009 (12 hours); 7:00 p.m. Monday, June 1 to 7:00 a.m. Tuesday, June 2, 2009 (12 hours); 7:00 p.m. Thursday, June 4 to 7:00 a.m. Friday, June 5, 2009 (12 hours).

(C) Summer Season: Entire Youngs Bay: 6:00 a.m. Wednesdays to 6:00 a.m. Fridays (48 hours) beginning Wednesday, June 17 through Friday, July 31, 2009 (14 fishing days).

(b) The fishing areas for the winter, spring and summer fisheries are: (A) From June 8 through July 31, 2009 the fishing area is identified as the waters of Youngs Bay with the upper boundary markers at the confluence of the Klaskanine and Youngs rivers.

(B) From May 18 through June 5, 2009, the fishing area extends from the old Youngs Bay Bridge upstream to the confluence of the Youngs and Klaskanine rivers.

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(a) It is *unlawful* to use a gill net having a mesh size that is less than 7-inches during the winter season. It is *unlawful* to use a gill net having a mesh size that is more than 8-inches during the spring and summer seasons.

(b) The use of additional weights or anchors attached directly to the leadline is allowed upstream of markers located approximately 200 yards upstream of the mouth of the Walluski River during all Youngs Bay commercial fisheries.

(3) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fisheries are open. During the fishing periods identified in (1)(a)(A), (1)(a)(B) and (1)(a)(C), the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992(Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95;

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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. & 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. & cert. ef. 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. & cert. ef. 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 34-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. & 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

635-042-0160

Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon, white sturgeon, and shad may be taken for commercial purposes during open fishing periods described as the winter fishery and the spring fishery in paragraphs (1)(a)(A) or (1)(a)(B) of this rule in those waters of Blind Slough and Knappa Slough. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the winter fishery in Blind Slough only in paragraph (A), and the spring fishery in Blind Slough and Knappa Slough in paragraph (B). The seasons are open nightly from 7:00 p.m. to 7:00 a.m. the following morning (12 hours), as follows:

(A) Blind Slough Only: Monday and Thursday nights beginning Monday, May 18 through Friday, May 22, 2009 (2 nights).

(B) Blind and Knappa Sloughs: Monday and Thursday nights beginning Monday, May 25 through Friday, June 12, 2009 (6 nights).

(b) The fishing areas for the winter and spring seasons are:

(A) Blind Slough are those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(B) During the periods identified above in (1)(a)(B), the Knappa Slough fishing area extends downstream to the boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore.

(c) Gear restrictions are as follows:

(A) During the winter fishery, outlined above in (1)(a)(A), gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is

permitted. It is *unlawful* to use a gill net having a mesh size that is less than 7-inches.

(B) During the spring fishery, outlined above in (1)(a)(B), 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 more than 8-inches.

(2) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in (1)(a)(A) and (1)(a)(B) the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

(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. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 16-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. 3-23-06 & cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. 4-7-06, cert. ef. 4-9-06 thru 7-27-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 75-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. 9-1-06, cert. ef. 9-5-06 thru 12-31-06; DFW 98-2006(Temp), f. & cert. ef. 9-12-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; 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 8-31-08; 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 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09

635-042-0180

Deep River Select Area Salmon Season

(1) Salmon, shad, and white sturgeon may be taken for commercial purposes from the US Coast Guard navigation marker #16 upstream to the Highway 4 Bridge.

(2) The fishing seasons are open:

(a) Winter season: None.

(b) Spring season: Sunday and Wednesday nights from 7:00 p.m. to 7:00 a.m. (12 hours) beginning May 17 through June 11, 2009 (8 nights).

(3) Gill nets may not exceed 100 fathoms in length and there is no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. Nets may not be tied off to stationary structures and may not fully cross navigation channel.

(a) During the winter season, outlined above in (2)(a), it is unlawful to use a gill net having a mesh size that is less than 7-inches;

(b) During the spring season, outlined above in (2)(b) it is unlawful to use a gill net having a mesh size that is more than 8-inches.

(4) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in (2)(a) and (2)(b) above, the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

ADMINISTRATIVE RULES

(5) Transportation or possession of fish outside the fishing area (except to the sampling station) is unlawful until WDFW staff has biologically sampled individual catches. After sampling, fishers will be issued a transportation permit by agency staff. A sampling station will be established downstream of the Highway 4 Bridge at Stephen's dock.

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. & 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. & cert. ef. 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. & cert. ef. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 39-2004(Temp), f. & cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. & cert. ef. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. & cert. ef. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. & cert. ef. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. & cert. ef. 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. & 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 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. & cert. ef. 8-8-06, cert. ef. 9-4-06 thru 12-31-06; DFW 103-2006(Temp), f. & cert. ef. 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. & 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. & cert. ef. 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. & cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. & cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 6-2008(Temp), f. & cert. ef. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. & cert. ef. 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. & cert. ef. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. & cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. & cert. ef. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 23-2009(Temp), f. & cert. ef. 3-5-09, cert. ef. 3-6-09 thru 4-30-09; DFW 35-2009(Temp), f. & cert. ef. 4-7-09, cert. ef. 4-8-09 thru 4-30-09; DFW 49-2009(Temp), f. & cert. ef. 5-17-09 thru 7-31-09

Rule Caption: Allow Sales of Fish Caught During Columbia River Treaty Tribal Spring-Summer Salmon Fisheries.

Adm. Order No.: DFW 50-2009(Temp)

Filed with Sec. of State: 5-14-2009

Certified to be Effective: 5-16-09 thru 7-31-09

Notice Publication Date:

Rules Amended: 635-041-0076

Subject: This amended rule allows the sales of fish caught in the Treaty Tribal spring Chinook salmon fisheries in the Columbia River mainstem and tributaries beginning at 6:00 a.m. Saturday, May 16, 2009.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0076

Spring-Summer Salmon Season

(1) Chinook, steelhead, walleye, carp, and shad may be taken for commercial purposes from the mainstem Columbia River, Zone 6, beginning 6:00 a.m. Saturday, May 16, 2009 until further notice.

(a) Gear is restricted to subsistence fishing gear: hoopnets, dipnets, and rod and reel with hook-and-line.

(b) 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.

(2) 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, May 16, 2009 until further notice.

(a) Allowable sales include Chinook, steelhead, walleye, carp, and shad. Fish may NOT be sold on USACE Property below Bonneville Dam, but may be caught and transported off USACE property for sale.

(b) Closed areas, except the Spring Creek sanctuary, as set forth in OAR 635-041-0045 remain in effect.

(3) Sales of fish caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; Drano Lake/Little White Salmon River; and 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.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 39-2006(Temp), f. & cert. ef. 6-8-06 thru 7-31-06; DFW 46-2006(Temp), f. & cert. ef. 6-20-06 thru 7-31-06; DFW 49-2006(Temp), f. & cert. ef. 6-26-06, cert. ef. 6-27-06 thru 7-31-06; DFW 56-2006(Temp), f. & cert. ef. 7-3-06 thru 7-31-06; DFW 58-2006(Temp), f. & cert. ef. 7-10-06 thru 7-31-06; Administrative correction 8-22-06; DFW 46-2007(Temp), f. & cert. ef. 6-15-07, cert. ef. 6-16-07 thru 9-13-07; DFW 49-2007(Temp), f. & cert. ef. 6-22-07, cert. ef. 6-26-07 thru 9-13-07; DFW 53-2007(Temp), f. & cert. ef. 7-6-07 thru 7-31-07; Administrative correction 9-16-07; DFW 45-2008(Temp), f. & cert. ef. 5-2-08, cert. ef. 5-5-08 thru 7-31-08; DFW 47-2008(Temp), f. & cert. ef. 5-9-08, cert. ef. 5-11-08 thru 7-31-08; DFW 62-2008(Temp), f. & cert. ef. 6-13-08, cert. ef. 6-16-08 thru 8-31-08; DFW 68-2008(Temp), f. & cert. ef. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 71-2008(Temp), f. & cert. ef. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; DFW 80-2008(Temp), f. & cert. ef. 7-10-08 thru 8-31-08; DFW 87-2008(Temp), f. & cert. ef. 7-25-08 thru 8-31-08; DFW 94-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; Administrative correction 10-21-08; DFW 50-2009(Temp), f. & cert. ef. 5-16-09 thru 7-31-09

Rule Caption: Amend rules related to application deadline date for big game species and Shipping and Handling Fees.

Adm. Order No.: DFW 51-2009(Temp)

Filed with Sec. of State: 5-14-2009

Certified to be Effective: 5-14-09 thru 6-1-09

Notice Publication Date:

Rules Amended: 635-060-0008, 635-010-0170

Rules Suspended: 635-010-0170(T)

Subject: Rules were amended to change the controlled hunt application deadline date for pronghorn antelope, bighorn sheep, Rocky Mountain goat, deer and elk from May 15 to June 1, 2009. Amend rule to waive the shipping and handling fees for purchases via mail-order through June 1, 2009.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-060-0008

Application Deadline Dates

Application Deadline Dates

(1) The application deadline for spring black bear controlled hunts is February 10, each year.

(2) The application deadline for pronghorn antelope, bighorn sheep, Rocky Mountain goat, deer and elk controlled hunts is May 15, each year. The application deadline for 2009 has been extended through Monday June 1, 2009.

(3) Applications for the controlled hunts listed in OAR 635-060-0005 (1)-(5) above that are hand-delivered by the specified deadline dates or mailed through the U.S. Postal Service and postmarked by the specified deadline dates above will be considered on time (see 635-060-0005(5)).

(4) In the event that tags remain from undersubscribed controlled hunts after the game mammal controlled hunt drawing, the department will issue remaining tags on a first-come, first-serve basis at authorized license agents. Tags issued in this manner are additional tags and may be exchanged for a general season tag only as authorized by OAR 635-060-0046 (6) and 635-065-0501(4) and (5). A person may only purchase one first-come, first-serve tag per hunt series. Such tag may be for the person or for someone other than the person.

(5) A hunter who received a tag of his/her choice through the original game mammal controlled hunt drawing process may exchange that tag for a remaining tag in the first-come, first-serve process while tags remain available. Exchanges may be obtained only through the department's regional offices, designated district offices, or the Salem headquarters office of the department and must be made before the start of the seasons for which the tags are issued. The tag being exchanged shall not be reissued.

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

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

Hist.: FWC 48-1989, f. & cert. ef. 7-25-89; FWC 23-1990, f. & cert. ef. 3-21-90; FWC 54-1990, f. & cert. ef. 6-21-90; FWC 18-1991, f. & cert. ef. 3-12-91; FWC 19-1991(Temp), f. & cert. ef. 3-12-91; FWC 14-1992, f. & cert. ef. 3-10-92, cert. ef. 3-13-92 (and corrected 3-13-92); FWC 55-1992(Temp), f. & cert. ef. 7-24-92; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 46-1993, f. & cert. ef. 8-4-93; FWC 51-1993, f. & cert. ef. 8-25-93; FWC 6-1994, f. & cert. ef. 1-26-94; FWC 45-1994(Temp), f. & cert. ef. 7-29-94; FWC 94-1994, f. & cert. ef. 12-22-95; FWC 21-1996, f. & cert. ef. 5-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 6-1999(Temp), f. & cert. ef. 2-9-99 through 2-19-99; DFW 12-1999(Temp), f. & cert. ef. 2-25-99 thru 6-30-99; Administrative correction 11-17-99; DFW 92-1999, f. & cert. ef. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. & cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 52-2001(Temp), f. & cert. ef. 6-27-01 thru 12-24-01; DFW 32-2002(Temp), f. & cert. ef. 4-17-02 thru 10-13-02; DFW 34-2002, f. & cert. ef. 4-18-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 67-2002(Temp), f. & cert. ef. 6-28-02 thru 12-20-02; DFW 118-2003, f. & cert. ef. 12-4-03, cert. ef. 1-1-04; DFW 50-2008(Temp), f. & cert. ef. 5-14-08 thru 5-20-08; Administrative correction 6-23-08; DFW 47-2009(Temp), f. & cert. ef. 5-12-09 thru 5-20-09; DFW 51-2009(Temp), f. & cert. ef. 5-14-09 thru 6-1-09

ADMINISTRATIVE RULES

635-010-0170

Licenses, Tags or Documents Available by Mail Order, Fax or Internet

(1) All licenses, tags, permits or validations sold by the Department over the Internet fall into one of three categories concerning how the sale is made: Instant; Temporary; or Postal. Postal transactions are also available by mail order or fax.

(a) Instant: means that the internet purchase results in an immediate sale and printing of the item, allowing the purchaser to make immediate use of item purchased. No other action is required to complete the transaction. The items in this category are:

(A) Daily Angling Licenses: one-, two-, three-, four- and seven-day licenses;

- (B) Three-day Nonresident Shellfish licenses;
- (C) Three-day Nonresident Bird Hunting Licenses;
- (D) Big Game controlled hunt applications;
- (E) Game Bird controlled hunt applications;
- (F) Sauvie Island Daily parking permits;
- (G) Band-tailed Pigeon permits;
- (H) Black Brant Permits;
- (I) Sage Grouse Permits;
- (J) Fern Ridge Reservation Permits;
- (K) Klamath Reservation Permits; and
- (L) Sauvie Island Reservation Permits.

(b) Temporary: means that the internet purchase results in an immediate sale and printing of the item, allowing the purchaser to make limited use (10 days) of the item purchased. The Department will send the final, permanent item to the purchaser via postal mail. The items in this category are:

- (A) HIP Migratory Bird Validations;
- (B) HIP Upland Bird Validations;
- (C) HIP Crow Validations;
- (D) Nonresident Game Bird Validations;
- (E) Upland Game Bird Validations;
- (F) Waterfowl Bird Validations;
- (G) Sauvie Island Annual Parking Permits;
- (H) Sea Duck Permits; and
- (I) all annual hunting and angling licenses.

(c) Postal: means that the internet purchase results in an immediate sale and the printing of a transaction receipt, but that the Department mails the actual item to the purchaser via postal mail. The privilege(s) purchased is not valid until the purchaser receives the item. The items in this category are:

- (A) Combined Hunting Tags;
- (B) Combined Angling Tag;
- (C) Hatchery Harvest Tag;
- (D) All Big Game Tags (controlled hunt and general season);
- (E) Pheasant Tags;
- (F) NW Oregon Goose Permit; and
- (G) Turkey Tags.

(2) The Department will charge shipping and handling fee of \$2.00 per session whenever a person makes a purchase via Internet, fax, or mail order. This fee is in addition to all other document costs and covers the processing, printing, and postal mailing of the requested documents. The \$2.00 shipping and handling fee will be waived for purchases made via mail order through June 1, 2009.

Stat. Auth.: ORS 496 & 497

Stats. Implemented: ORS 496 & 497

Hist.: DFW 130-2008, f. & cert. ef. 10-14-08; DFW 147-2008(Temp), f. & cert. ef. 12-6-08 thru 6-6-09; DFW 51-2009(Temp), f. & cert. ef. 5-14-09 thru 6-1-09

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Department of Forestry Chapter 629

Rule Caption: Delegates authorization of statutory modifications and waivers within a stewardship agreement to the State Forester.

Adm. Order No.: DOF 3-2009

Filed with Sec. of State: 5-7-2009

Certified to be Effective: 5-11-09

Notice Publication Date: 1-1-2009

Rules Amended: 629-021-0700

Subject: The proposed rule amendment delegates the authority to allow limited statutory modifications and waivers as a term of a stewardship agreement from the Board of Forestry to the State Forester. Under ORS 527.736(4), modification or waivers may only be con-

sidered for the following statutes: ORS 527.676, 527.740, 527.750 and 527.755.

Rules Coordinator: Mary Schmelz—(503) 945-7210

629-021-0700

Decision Authority

(1) The State Forester is delegated full authority by the Board of Forestry to implement the provisions of ORS 541.423 and 527.736(4), including but not limited to review of management plans and preparation and approval of stewardship agreements.

(2) Prior to approving a stewardship agreement, the Departments will provide public notice and 21 days for comment on the proposed agreement.

(3) When the Departments determine that comments from the review process are adequately addressed, the stewardship agreement will be approved.

(4) The Departments will give notice of approval, termination, and revisions of a stewardship agreement to each other, to the Oregon Department of Fish and Wildlife, and to the Oregon Watershed Enhancement Board.

(5) If the management plan includes potential chemical application operations related to forest operations, the State Forester will give notice of approval of a stewardship agreement to:

(a) Any person with surface water rights pursuant to ORS Chapter 537 who, under the provisions of 527.670(6), has previously requested in writing from the State Forester copies of notifications and written plans for chemical application operations within ten upstream miles of the water right location; and

(b) The community water system manager of any community water system where the surface water drainage area upstream of the intake is 100 square miles or less and the management plan includes potential aerial chemical application operations within 100 feet, or ground-based chemical application operations within 50 feet, of the Type D or domestic use portions of Type F streams that provide water used by the community water system.

(6) The Departments will notify persons who submitted timely comments of the approval of a stewardship agreement. Any person who submitted timely comments and who is adversely affected by the operations conducted under an approved or amended stewardship agreement may file a written request for a hearing to the appropriate Department.

(7) As provided for in ORS 568.912 and 527.700(1) and (2) a landowner may appeal an order denying approval of a stewardship agreement.

Stat. Auth.: ORS 526.016(4) & 526.041(1)

Stats. Implemented: ORS 541.423 & 527.736(4)

Hist.: DOF 11-2006, f. 11-20-06, cert. ef. 11-21-06; DOF 3-2009, f. 5-7-09, cert. ef. 5-11-09

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Department of Geology and Mineral Industries Chapter 632

Rule Caption: Provide better enforcement, clarify existing language, and maintain proper protection of off-site resources.

Adm. Order No.: DGMI 1-2009

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Rules Adopted: 632-030-0026, 632-030-0041, 632-030-0049, 632-030-0052

Rules Amended: 632-030-0005, 632-030-0010, 632-030-0015, 632-030-0016, 632-030-0017, 632-030-0018, 632-030-0019, 632-030-0020, 632-030-0021, 632-030-0022, 632-030-0024, 632-030-0025, 632-030-0027, 632-030-0030, 632-030-0033, 632-030-0035, 632-030-0040, 632-030-0042, 632-030-0045, 632-030-0056, 632-030-0070

Subject: This proposed rule addresses readability and housekeeping issues, and is directly related to the passage of SB 149 by the 2007 legislative session. Provisions include survey and marking, late fees, clarification and addition of application requirements, total exemptions, permit processing time frame, and emergency and temporary operating permits.

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ADMINISTRATIVE RULES

632-030-0005

Purpose and Application of These Rules

(1) These rules implement the purposes of the Mined Land Reclamation Act as established in ORS 517.760.

(2) These rules prescribe procedures for obtaining an operating permit and for complying with the other requirements of the Oregon Mined Land Reclamation Act. These rules apply to all operating permits, including those for non-aggregate mineral mines and chemical process mines, except where the provisions of OAR chapter 632, division 35 or 37 control. These rules do not address exploration activities. The requirements for exploration permits are addressed in OAR chapter 632, division 33.

(3) Applicants seeking operating permits from the Department should be aware that other state, federal, and local agencies may require the applicant to obtain approval prior to operation. For example, the Department of Environmental Quality may require permits for air quality and water quality. Where reasonable, the Department will coordinate with other agencies to avoid duplication on the part of applicants. An operating permit from the Department does not constitute authorization to proceed without approval of other agencies, if required. It is the applicant's responsibility to obtain other necessary permits.

Stat. Auth.: ORS 516.090(2)(a), 517.740 & 517.840(1)(d)

Stats. Implemented: ORS 517.760

Hist.: GMI 5, f. 12-20-73, ef. 1-11-74; GMI 1-1980, f. 2-29-80, ef. 3-1-80; GMI 2-1982, f. & ef. 8-13-82; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 1-1988, f. 3-30-88, cert. ef. 3-11-88; GMI 2-1997, f. & cert. ef. 10-14-97; DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0010

Definitions

In addition to the definitions provided in ORS 517.750, the following definitions apply to OAR 632-030-0005 through 632-030-0070:

(1) "Affected," as used in ORS 517.750(15)(a), means the disturbance by excavation or any other surface mining of any land surface during any stage of mineral production, or the covering of any land surface by surface mining refuse either by intentional placement, slope failure, or deposition of eroded materials.

(2) "Aggregate" means crushed or uncrushed gravel, stone, rock, or sand of a quality typically used in concrete or road construction.

(3) "A Period of 12 Consecutive Calendar Months," as used in ORS 517.750(15) and these rules, begins on the date surface mining begins.

(4) "Complete Application" means an application that is determined to be complete by the Department that includes the appropriate fee, forms, and site characterization, operational and mine closure details, and other documentation required under this rule division.

(5) "Compliance Order" means an order requiring compliance with an operating permit, reclamation plan, the Mined Land Reclamation Act, or the rules adopted thereunder as provided in ORS 517.860 and OAR 632-030-0070.

(6) "Intensification" means a change of permitted mining activity over that approved by the local government that may warrant a reconsideration of the local government land-use decision, such as a significant increase in volume of production inside a mine permit boundary or the act of increasing the permit boundary. Intensification would not include an increase in the bonded area to be mined, within a larger area covered in the original operating permit.

(7) "Limited Exemption Area" means land that is exempt from reclamation requirements under ORS 517.770 and OAR 632-030-0017.

(8) "Mined Land Reclamation Act" or "Act" means the statutes codified at ORS 517.702 to 517.992.

(9) "Permit Area" means the area covered by an operating permit issued by the Department and defined by boundaries submitted on a map acceptable to the Department under OAR 632-030-0015. The permit area is generally a contiguous parcel and may include multiple excavation and/or processing areas. The permit area may include, but is not limited to, haul roads, buffers, setbacks, reclaimed areas, and areas used for the storage or disposition of any mine product or mine waste material from the surface mining operation, even though separate from the area of extraction. The permit area may be redefined by a permit amendment.

(10) "Reclamation in a timely manner" means a schedule of reclamation based on mine progression and may require partial or concurrent reclamation where possible, considering the mine plan and available mineral resources or both. The Department may specify a timeframe within which reclamation must occur to protect adjacent natural resources.

(11) "Substantial Modification" includes an intensification of, or a significant change in, mine operation or reclamation. For example, substantial modification includes mine dewatering if not previously permitted as part of the original mine plan or reclamation plan approval or mine oper-

ation activities that render the approved reclamation plan unattainable or infeasible to implement or accomplish.

(12) "Suspension Order" means a written Department order to suspend mining operations issued under ORS 517.880 and OAR 632-030-0040.

Stat. Auth.: ORS 183.341, 197.180 & 517.740

Stats. Implemented: ORS 517.750

Hist.: GMI 5, f. 12-20-73, ef. 1-11-74; GMI 7, f. 11-7-74, ef. 12-11-74; GMI 1-1980, f. 2-29-80, ef. 3-1-80; GMI 2-1982, f. & ef. 8-13-82; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 1-1988, f. 3-30-88, cert. ef. 3-11-88; GMI 1-1992, f. & cert. ef. 6-17-92; GMI 2-1997, f. & cert. ef. 10-14-97; DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2000, f. & cert. ef. 7-20-00; DGMI 1-2001, f. & cert. ef. 8-6-01; DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0015

Information Requirements; Surveys; Marking

(1) Information Requirements. The Department may require any information needed to ascertain whether surface mining has occurred or is occurring and the status of any proposed or existing permit. Any production records, mineral assessments, and trade secrets submitted by a mine operator or landowner to the Department will be kept confidential as provided in ORS 517.901.

(2) Surveys and Marking.

(a) Applicants for new operating permits or amendments must survey the permit area, all excavation areas, setbacks, and buffers, and provide a map that shows all areas of excavation, setbacks, buffers, buildings, haul roads, stockpiles, wells, ponds, and floodways. Surveys must be conducted by a professional land surveyor as required by ORS 672.

(b) After issuance of the permit and prior to mining, the operator must mark the boundaries for all excavation areas, stockpiles, setbacks, and buffers. Unless otherwise authorized by the Department in writing, the marking must be accomplished by placing clearly visible markers, approved by the Department, at a distance of no more than 200 feet on center. The Department may grant extensions for marking areas that are subject to a phased operation plan. The Department may waive marking requirements or allow greater distances where topography or other conditions make marking unreasonable. Any extension or waiver must be approved by the Department in writing.

(c) Operators of previously permitted operations with a total disturbed area in excess of 20 acres must survey the permit area and provide a map that complies with the requirements in subsection 2(a) of this rule. The survey must be completed and submitted to the Department for review upon adoption of these rules and within 12 months after the permit anniversary date. Upon receipt of a written request from an operator, the Department may grant extensions to this requirement for good cause shown. Extensions must be authorized by the Department in writing. Within three months after the Department notifies the operator that the survey is adequate, the operator must mark boundaries in the permit area as provided in subsection 2(b) of this rule.

(d) The Department may require any operator of a previously permitted operation that is not subject to subsection (2)(c) of this rule to provide a survey or marking or both if the Department determines that surveying or marking is needed for effective or efficient implementation or enforcement of the permit, reclamation plan, Department rules or the Act. The operator will be notified of such requirement in writing and will be allowed a reasonable time to accomplish the survey or marking requirements.

(3) The Department may require an operator to update the surveys or maps required under this rule if the operation is subject to a notice of violation under ORS 517.860, a suspension order under ORS 517.880, or a significant modification of the operating permit.

Stat. Auth.: ORS 183.341, 197.180, 517.740 & 517.800(3) & (4)

Stats. Implemented: ORS 517.740, 517.800 & 517.850

Hist.: GMI 5, f. 12-20-73, ef. 1-11-74; GMI 7, f. 11-7-74, ef. 12-11-74; GMI 1-1980, f. 2-29-80, ef. 3-1-80; GMI 2-1982, f. & ef. 8-13-82; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 1-1988, f. 3-30-88, cert. ef. 3-11-88; GMI 4-1990, f. 9-6-90, cert. ef. 10-10-90; GMI 3-1991, f. 10-21-91, cert. ef. 11-1-91; GMI 1-1992, f. & cert. ef. 6-17-92; GMI 1-1993, f. 10-29-93, cert. ef. 11-4-93; GMI 2-1997, f. & cert. ef. 10-14-97; DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2000, f. & cert. ef. 7-20-00; DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0016

Total Exemptions

(1) Activities that would be included in the definition of surface mining in ORS 517.750(15) except for the fact that they are under the thresholds for excavation or disturbance in ORS 517.750(15)(a) and 517.755 or excluded under ORS 517.750(15)(b) are exempt from regulation under this rule division.

(a) The Department may require information to be provided by any person conducting mining activities to establish a total exemption.

(b) For operations producing less than 5,000 cubic yards of material per year and disturbing less than one acre of land per year that lose their

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total exemption under ORS 517.755 when mining operations affect more than five acres of land, all areas and operations at the site are subject to the Act and the rules adopted thereunder. When multiple mining areas are located within one parcel or contiguous parcels, the yards produced and disturbed acreage shall be calculated based on the total of all sites within the parcel or contiguous parcels.

(c) Excavation or other land disturbance operations reasonably necessary for farming include only the term "farming" as used in ORS 517.750(15)(b)(B) and means "farm use" as defined in ORS 215.203 but does not include other uses permitted in exclusive farm-use zones under ORS 215.213 or 215.283. Farm excavation or other land disturbance operations are reasonably necessary only if it substantially contributes to the profitability of the farm use and other alternatives to accomplish the same objective are significantly more expensive or otherwise impractical. Farming does not include excavation for ponds intended for recreational or aesthetics purposes or for fish or wildlife habitat.

(2) An operator may apply for a total exemption certificate, if desired. The application must be made to the Department using the established form. The Department may require the operator claiming this exemption to provide data to establish the validity of the exemption. The data required may include, but is not limited to:

- (a) The name of the operator;
- (b) Location of the excavation;
- (c) Size of the site;
- (d) Date of commencement of the excavation;
- (e) A summary of the previous 36 months' activities and an estimate of the activity for the succeeding 36 months; and

(f) An explanation of why the activity is exempt.

Stat. Auth.: ORS 517

Stats. Implemented: ORS 517.750

Hist.: GMI 5, f. 12-20-73, ef. 1-11-74; GMI 7, f. 11-7-74, ef. 12-11-74; GMI 1-1980, f. 2-29-80, ef. 3-1-80; GMI 2-1982, f. & ef. 8-13-82; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 2-1986, f. 9-19-86, ef. 9-22-86; GMI 1-1988, f. 3-30-88, cert. ef. 3-11-88; GMI 2-1997, f. & cert. ef. 10-14-97; DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2000, f. & cert. ef. 7-20-00; DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0017

Limited Exemption

(1) For the purposes of this rule:

(a) "Expansion" means lateral expansion consequential to surface mining into land surfaces previously not affected by surface mining.

(b) "Lands within the surfaces and contours of surface mines in existence on July 1, 1972," means land affected by surface mining before July 1, 1972, that have not been adequately reclaimed.

(2) The following mining operations are exempt from reclamation except as provided in ORS 517.775:

(a) Lands within the surfaces and contours of surface mines in existence on July 1, 1972, or vertical extensions of those surfaces and contours, provided the Department issued a certificate of exemption to the mining operation on or before October 31, 2000; and

(b) Lands within the surfaces and contours of surface mining operations that are owned or operated by a person who, on July 1, 1972, was a party to a surface mining contract that was valid on January 1, 1971, provided the Department issued a certificate of exemption to the mining operation on or before September 20, 1985.

(3) The holder of a limited exemption certificate shall renew the limited exemption annually by submitting the renewal form and fee to the Department before the certificate expires. A certificate of exemption terminates if the landowner or operator does not renew the certificate annually. The Department may request information to determine continued eligibility.

(4) No surface mining is permitted outside of the limited exemption area without an operating permit unless the expansion qualifies for a total exemption from regulation under ORS 517.750(15) and OAR 632-030-0016. Expansion of a site operating under a limited exemption certificate before the operating permit is issued constitutes surface mining without a permit and is prohibited by ORS 517.790. The operating permit issued for an expanded site applies only to the expansion area; the area within the limited exemption boundary retains its limited exemption status so long as the limited exemption certificate is properly maintained.

(5) For sites operating under a limited exemption certificate, the landowner or operator must submit a closure plan to the Department for approval prior to the exemption renewal date in the year 2010, or at least one year prior to the completion of mining, whichever comes first. The closure plan must be signed by the landowner and by the operator if the operator is different from the landowner. For purposes of this section, "landowner" means the owner of the surface of the land or the owner of the mineral

estate if the mineral estate owner is different from the surface land owner. The closure plan must reasonably control erosion and must reasonably ensure that there will be no off-site impacts to surface or ground water from the mined land. The closure plan must include, but is not limited to:

(a) Name and address of the landowner;

(b) Name and address of the mine operator and holder of the limited exemption certificate if different from the landowner;

(c) The commodity or commodities mined at the site;

(d) A map or maps showing the boundary of the area subject to the limited exemption, existing topography, springs, surface waters, wetlands, and final slope configuration, and also showing whether final slopes are cut slopes or fill slopes and how any drainage will be managed;

(e) Detailed stabilization and sediment control measures;

(f) Detailed revegetation measures including a description of soils, seed bed preparation, mulching, fertilization, plant species, seeding or planting rates, and seeding or planting dates;

(g) Design plans for any sediment control structures to be constructed or installed on the site;

(h) A description of all stockpiles, petroleum products and any toxic or hazardous substances or materials stored on the site and a description of how these stockpiles, products, substances, or materials will be managed or removed from the site; and

(i) Removal of refuse, structures, foundations, abandoned equipment, or metal debris.

(6) If the limited exemption is terminated, all mining allowed under the exemption must cease immediately and the landowner or operator must:

(a) Immediately begin implementation of the closure plan required under section (8) of this rule; or

(b) If no closure plan has been submitted to the Department, submit a closure plan to the Department within 30 days and begin implementing the closure plan within 30 days after approval by the Department; or

(c) Within 30 days, submit an application to the Department for a new operating permit (for sites previously operating only under a limited exemption certificate) or an amendment to the existing operating permit (for sites operating under both a limited exemption certificate and an operating permit).

Stat. Auth.: ORS 517

Stats. Implemented: ORS 517.770 & 517.775

Hist.: GMI 5, f. 12-20-73, ef. 1-11-74; GMI 7, f. 11-7-74, ef. 12-11-74; GMI 1-1980, f. 2-29-80, ef. 3-1-80; GMI 2-1982, f. & ef. 8-13-82; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 1-1988, f. 3-30-88, cert. ef. 3-11-88; GMI 2-1997, f. & cert. ef. 10-14-97; DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2000, f. & cert. ef. 7-20-00; DGMI 2-2003, f. & cert. ef. 8-22-03; DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0018

County Authority; City or County Operations

(1) Columbia County is the only county operating its own mined land reclamation program under ORS 517.780(1) and mining operations in Columbia County are exempt from regulation under these rules.

(2)(a) When any city or county elects to exempt from these rules any city or county owned or operated sites according to the provisions of ORS 517.780(2), it must adopt the required ordinance for all city and county operated sites and notify the Department of its action. A copy of the ordinance must be provided with the notification. The city or county ordinance must meet the requirements of ORS 517.780(2);

(b) Each city or county that operates under its own ordinance under ORS 517.780(2) must annually supply the Department with a list of sites covered by the exemption. The information provided for each site on the list must include the following: legal description, land ownership, acreage affected, acres reclaimed, and status;

(c) Any city or county exercising an exemption under ORS 517.780(2) must designate a surface mining administrator and notify the Department of the name of the administrator. The portion of each property mined by the city or county under this exemption must be under the exclusive control of the city or county. Reclamation of each site must be completed before the city or county relinquishes control of the site;

(d) In order to maintain an exemption under ORS 517.780(3), a city or county may not produce more than 5,000 cubic yards of material per year for a purpose other than city or county-owned projects or for on-site use by the landowner.

(e) A city or county surface mining operations operating under this exemption may not disturb more than one acre of land unless the city or county has in place an ordinance that ensures an enforceable reclamation plan is in place that ensures that natural resources will be protected during mining and reclamation and that all disturbed lands will be reclaimed in a timely manner returned and suitable for the beneficial use or uses allowed under the applicable comprehensive plan and land-use regulations.

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Stat. Auth.: ORS 516.090(2)(a), 517.740 & 517.840(1)(d)
Stats. Implemented: ORS 517.780
Hist.: DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0019

Surface Mining on Federal Lands

To the maximum extent permitted by law, surface mining conducted on federal lands is subject to the Act and these rules. The Department will coordinate with agencies of the federal government to minimize conflict or duplication in operating, reclamation, and security requirements. The Department may enter into formal agreements with federal agencies to establish the means by which these rules are carried out.

Stat. Auth.: ORS 516.090(2)(a), 517.740 & 517.840(1)(d)
Stats. Implemented: ORS 517.760 & 517.840
Hist.: DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0020

Procedures for Applying for an Operating Permit

(1) The applicant shall submit the required application forms and such additional information as may be required by the Department for each separate surface mining operation.

(2) The applicant shall submit a reclamation plan as defined in OAR 632-030-0025. The reclamation plan must include a map acceptable to the Department as provided in OAR 632-030-0015 and 632-30-025(2).

(3) The application must be accompanied by the application fee.

(4) The applicant must submit a performance bond or alternative form of security acceptable to the Department for the purpose of assuring performance of the reclamation plan, other requirements of ORS 517.750 to 517.900, all rules thereunder, and permit conditions. A performance bond or alternative form of security must be in effect and approved by the Department under OAR 632-030-0021 prior to any disturbance of the land.

(5) If the applicant fails to meet the requirements of sections (1) through (4) of this rule within 12 months after the application is submitted, the application is deemed to have been withdrawn. The applicant may resubmit an application without prejudice, but the new application must be accompanied by a new application fee.

Stat. Auth.: ORS 517
Stats. Implemented: ORS 517.790 & 517.810
Hist.: GMI 5, f. 12-20-73, ef. 1-11-74; GMI 7, f. 11-7-74, ef. 12-11-74; GMI 1-1980, f. 2-29-80, ef. 3-1-80; GMI 2-1982, f. & ef. 8-13-82; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 1-1988, f. 3-30-88, cert. ef. 3-11-88; GMI 2-1997, f. & cert. ef. 10-14-97; DGMI 1-2000, f. & cert. ef. 7-20-00; DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0021

Performance Bonds and Alternative Forms of Security

(1) No Operating Permit shall be issued or renewed until a bond or alternative form of security for a surface mining site is accepted by the Department. The bond or other security must be maintained until the Department determines that the surface mining site has been reclaimed in accordance with the approved reclamation plan.

(2) The Department may accept performance bonds, security deposit assignments, letters of credit, or other security as authorized by ORS 517.810. Performance bonds must be provided by surety companies authorized to do business in Oregon. The security document submitted must be in a form acceptable to the Department.

(3) A security submitted for multiple surface mining sites under the provisions of ORS 517.810(4) must be accompanied by a list showing the permits covered by the security, the amount of the bond applicable to each surface mining site, and the number of acres bonded at each site. The Department may accept a multiple site bond for sites operated by all members of an established trade association.

(4) The Department shall determine the amount of the bond or other security required by estimating the cost of reclamation if the Department were to perform the reclamation. The Department may seek the advice of other agencies to determine the appropriate security amounts.

(5) The Department may consider when determining the amount of security:

- (a) The size and geometry of the area proposed for disturbance and the projected disturbance over the next 12 months;
- (b) Supervision;
- (c) Mobilization;
- (d) Costs of equipment;
- (e) Equipment capability;
- (f) Costs of labor;
- (g) Removal or disposition of debris, junk, equipment, structures, foundations, and unwanted chemicals;
- (h) Reduction of hazards such as in-water slopes, highwalls, landslides, or other mass failure;

- (i) Disposition of oversize, rejects, scalplings, overburden;
 - (j) Backfilling, contouring, or regrading and topsoil replacement;
 - (k) Draining, establishment of drainage, and erosion control;
 - (l) Soil tests;
 - (m) Seedbed preparation, seeding, mulching, fertilizing, netting, tackifiers, or other stabilizing agents;
 - (n) Tree and shrub planting;
 - (o) Fencing;
 - (p) Liability insurance.
- (6) Cost estimate information shall be derived from sources such as:
- (a) Comparable costs from similar projects;
 - (b) Catalog prices;
 - (c) Guides and cost estimates obtained from appropriate government and private sources;
 - (d) Operator estimates;
 - (e) Equipment handbooks.

(7) Seed mixes, fertilizer rates, and other requirements will be derived from departmental experience combined with advice from such sources as the Oregon Department of Agriculture, Natural Resources Conservation Service, Oregon State University Extension Service, the Department of Transportation, the Bureau of Land Management, US Forest Service, and private sector experts.

(8) The applicant may submit reclamation cost estimates for consideration by the Department.

(9) The security amount shall be based on the total cost of reclamation. However, the Department may allow for the amount of the bond to be calculated and adjusted based upon the total area expected to be in a disturbed condition in the following year as a result of the surface mining or exploration if:

(a) The Department determines that it can calculate the lesser amount with reasonable accuracy, and

(b) The applicant agrees in writing to increase the security amount as directed by the Department based upon new information or changes in the areas disturbed by surface mining.

(10) Security amounts shall not include construction of structures or comparable features such as "housing developments" or "industrial construction" even if included in a reclamation plan.

(11)(a) The Department may reduce the bond or alternative form of security by an amount not to exceed 50 percent for a surface mine aggregate site that meets the following conditions:

(i) The permittee has had a valid Operating Permit at the site for ten years; and

(ii) The permittee can demonstrate substantial financial ability to perform the reclamation in the approved reclamation plan.

(b) The Department will consider the compliance history of the permittee in any bond reduction determination.

(12) A decision of the Department regarding the estimated cost of reclamation or the type of acceptable security may be appealed to the Governing Board as provided in ORS 183.310 to 183.550.

Stat. Auth.: ORS 517
Stats. Implemented: ORS 517.760
Hist.: DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2000, f. & cert. ef. 7-20-00; DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0022

Fees

(1) The fees applicable to this rule division are the maximum fees allowed by ORS 517.800 except as provided below.

(2) Annual Fees are due on the anniversary date of the issuance of the operating permit unless a different renewal date is established by the Department. The Department will provide the permittee with 180 days advance notice before establishing a new renewal date. The Department will prorate annual fees at the permittee's request if a new renewal date is established.

(3) A permittee or holder of a limited exemption certificate must renew the operating permit or limited exemption certificate annually, on or before the last day of the month shown on the permit or certificate as the renewal month. The annual fee must be paid and the annual report form returned prior to renewal. A permittee must pay all delinquent fees owed to this Department prior to renewal of the permit;

(4) The Department will impose a late fee equal to five percent of the amount of any annual fee that is more than 60 days past due.

(5) The fees established by this rule also apply to emergency permits issued pursuant to ORS 517.832 and temporary operating permits issued under ORS 517.834.

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(6) The Department may waive the fee for a minor amendment in those situations where significant administrative resources are not needed to process the amendment.

Stat. Auth.: ORS 517

Stats. Implemented: ORS 517.800

Hist.: GMI 2-1997, f. & cert. ef. 10-14-97; DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2000, f. & cert. ef. 7-20-00; DGMI 2-2003, f. & cert. ef. 8-22-03; DGMI 3-2003, f. 8-29-03, cert. ef. 9-1-03; DGMI 1-2005(Temp), f. & cert. ef. 8-3-05 thru 1-30-06; DGMI 1-2006, f. & cert. ef. 1-10-06; DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0024

Inspections

(1) As provided by ORS 517.850, the Department may, after reasonable notice, inspect any surface mining site to determine status or compliance with the Act, the rules adopted thereunder, or any permit conditions. The Department may report the results of these inspections to the permittee in writing.

(2) Initial inspections will be conducted by the Department on all new sites that have not been previously inspected by the Department. On all other sites, routine inspections may be conducted by the Department. Reasons for the inspections include, but are not limited to:

- (a) Determining existing environmental conditions;
- (b) Reviewing the proposed mine operation;
- (c) Reviewing the proposed reclamation plan; and
- (d) Collecting data to calculate the amount of the reclamation bond.

(3) Annual and compliance inspections may be conducted by the Department. Reasons for the inspection include, but are not limited, to:

- (a) Reviewing operating permit compliance;
- (b) Investigating complaints; and
- (c) Evaluating the adequacy of the amount of the bond or alternative form of security.

Stat. Auth.: ORS 516.090(2)(a), 517.740 & 517.840(1)(d)

Stats. Implemented: ORS 517.830, 517.840 & 517.850

Hist.: DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0025

Requirements for an Operating Permit and Reclamation Plan

(1) An applicant for an operating permit shall submit a reclamation plan to the Department as required in OAR 632-030-0020. The information that the Department may require in a reclamation plan includes, but is not limited to, the following:

(a) The name(s) and address(es) of all owners of the surface estate and mineral estate;

(b) The legal structure (e.g., corporation, partnership, individual) of the applicant;

(c) The name and mailing address for correspondence;

(d) The name and mailing address of the applicant's resident agent;

(e) A description of the present land use and planned beneficial use of the site following mining. The applicant must demonstrate that the planned beneficial use is compatible with the affected local government's acknowledged comprehensive plan and land-use regulations;

(f) The identification and characterization of the soils present, including any areas that have wetlands and hydric soils;

(g) The identification of any fish or wildlife species that may be present that is listed or proposed for listing by either federal or state as sensitive, threatened, or endangered or otherwise may require buffers for protection;

(h) A general list of equipment to be used and a description of mining methods including interim slope angles during the life of the mine;

(i) Provisions for the backfilling, recontouring, decompaction, topsoil replacement, seedbed preparation, mulching, fertilizing, selection of plant species, seeding or planting rates, weed control, and schedules;

(j) The characterization of the ground and surface water based on available wells, drill logs, location of springs, and surface drainages within one mile of the proposed operation may be required. The Department may also require the collection and submission of additional hydrologic data to evaluate the mine development and reclamation plan;

(k) Stream hydrology and other hydrologic information for floodplain sites;

(l) Ground water characterization and/or measures to prevent significant adverse impacts to surface or ground water quantity or quality;

(m) Other baseline information necessary to evaluate the mine development and reclamation plan;

(n) A list and procedures for the handling and use of any materials toxic to plant and/or animal life, acid forming materials or radioactive material which will be at the mine site. The Department may also require an analysis of process water, reagents, wastes, or other materials involved in the mining and processing operations;

(o) Procedures for the salvage, storage, and replacement of topsoil or acceptable substitute. The Department may require the applicant to submit a chemical and physical analysis of the seedbed and subsoil;

(p) Procedures for the stable storage of overburden. This may include a description of the pre-mine topography, method for placement of overburden, height of lifts, compaction standards, final height, and slope configurations, and/or a geotechnical design and construction plans for a storage pile or fill proposed as a final reclamation feature;

(q) Provisions for adequate setbacks to protect adjacent property and public safety;

(r) Provisions to protect and maintain access to utilities when a utility company right-of-way exists;

(s) Visual screening of the proposed operation may be required when the operating area is visible from a public road or residential area. Techniques for visual screening include, but are not limited to, vegetation, fencing, berms, setbacks, or buffer strips along the property boundary;

(t) Procedures for surface water, stream, and floodplain protection and operational and post-mine hydrologic controls may include, but are not limited to:

(A) Procedures to protect surface water quality and to control erosion include the following:

(i) rock lined ditches, rock lined haul roads, or work areas;

(ii) detention ponds and sedimentation basins;

(iii) rock check dams and grade control structures;

(iv) temporary diversions;

(v) flocculation systems and/or surface disposal systems;

(vi) runoff and pond sizing calculations.

(B) Procedures to protect or reconstruct waterways or drainage patterns impacted by mine related disturbances or reclamation by the design and construction of a post-mine drainage control plan to convey storm water and surface water off the property in a manner that will provide long-term stability to the reclaimed land.

(C) Procedures to protect natural resources.

The Department may determine it is in the best interest of protection of natural resources and final reclamation to require procedures to integrate flood water passage plans, storm water controls, or fish ingress/egress plans at adjoining mine sites. Such a requirement by the Department is not considered a permit amendment.

(D) Procedures to promote final reclamation and floodplain stability or protection of streams, riparian buffers, and operational setbacks may require detailed engineering and planning for:

(i) pond bank and channel bank weirs or other headcut protection plans;

(ii) floodwater conveyance channels or structures;

(iii) flood berms;

(iv) protection of channel migration zone;

(v) protection or stabilization of stream channel buffers.

(u) A proposed time schedule for surface mining and reclamation and a description of how concurrent reclamation, if applicable, will be accomplished during the life of mine.

(v) Additional steps planned to enhance fish or wildlife habitat or to create wetlands for sites where fish or wildlife habitat or wetland construction is part of the designated post-mining land use;

(w) Procedures for the removal or disposal of all equipment, refuse, structures, and foundations from the permit area except permanent structures that are part of an approved reclamation plan;

(x) Final slope configurations and how they will be stabilized;

(y) A plan for the control of noxious weeds may be required;

(z) Provisions to protect fish and wildlife species by providing operational setbacks;

(aa) Fish ingress/egress plans for floodplain sites; and

(bb) Procedures for placement of imported fill and the protection of fill quality.

(A) Imported fill placed inside an operating permit boundary and used as reclamation backfill or other subsurface placement must meet the Oregon Department of Environmental Quality definition of clean fill as provided in OAR 340-093-0030, and includes soil, rock, seasoned asphalt, or concrete free of other contaminants.

(B) Within a 100-year floodplain, no concrete or asphalt rubble may be backfilled unless the Department determines there is no significant risk to public health, safety, or the environment. Generally, rubble must be placed outside of recent channel migration zones and buried a minimum of 10 feet deep. The Department must approve the fill disposal plan in writing.

(cc) If the affected local government designates a post-mine land use or uses through a comprehensive plan amendment or zone change, or

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requires a conservation easement to be established after reclamation, the plan submitted to the Department must specifically address how the post-mine land use(s) will be established.

(2) In addition to the requirements set out in OAR 632-030-0015(2), the Department may require maps, aerial photographs, or design drawings of appropriate scale. Information that typically may be required on maps, aerial photographs or design drawings includes but is not limited to:

- (a) Permit area boundary, property lines, and property line setbacks;
 - (b) Maximum extraction boundary delineating mine phases and reclamation sequence;
 - (c) Waste rock, rejects, overburden, and soil storage areas and stockpiles;
 - (d) Processing plant and location of existing or proposed visual screens;
 - (e) Ancillary facilities location;
 - (f) Haul roads;
 - (g) Typical pre- and post-mine cross sections and topographic plan views;
 - (h) Existing watercourses, including irrigation ditches, streams, rivers, and ponds;
 - (i) Setback and buffer strips for wetlands and stream drainages;
 - (j) Storm and/or wastewater control structures, ponds, and ditches;
 - (k) Location of any engineered structures or engineered fill;
 - (l) Reconstructed watercourses, ponds, and location of fish egress/ingress channels;
 - (m) Location of the 100-year FEMA floodplain boundary or a site-specific hydrologic study that identifies the 100-year floodplain boundary based on hydraulic modeling;
 - (n) Proposed and existing mine areas and backfill locations;
 - (o) Location of existing and proposed dikes and berms;
 - (p) Post-mining topography;
 - (q) Location of any well within 1,000 feet of permit boundary. Where dewatering is proposed, location of any well within 1,500 feet of permit boundary;
 - (r) Land-use authority boundary; and
 - (s) Nest setbacks, to the extent they limit mineral extraction, for eagles or other species specifically protected by city or county land-use conditions or state or federal laws.
- (3) The applicant should contact the Department for recommendations regarding scale and amount of detail required. The applicant may be required to submit extra copies of materials to be circulated to other agencies.

(4) The applicant must provide proof of ownership of surface and mineral rights or document to the satisfaction of the Department that the requirements of ORS 517.790(3) are met.

Stat. Auth.: ORS 183.341, 197.180, 516.090(2)(a), 517.740 & 517.840(1)(d)
Stats. Implemented: ORS 517.790
Hist.: GMI 5, f. 12-20-73, ef. 1-11-74; GMI 7, f. 11-7-74, ef. 12-11-74; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 2-1986, f. 9-19-86, ef. 9-22-86; GMI 1-1988, f. 3-30-88, cert. ef. 3-11-88; GMI 1-1992, f. & cert. ef. 6-17-92; DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0026

On-Site Construction Waiver

The Department may, in its discretion, waive the requirements for preparation and approval of a reclamation plan if the requirements of ORS 517.790(2)(a) through (c) are satisfied and specific plans or functionally similar requirements approved and enforced by a governmental entity are sufficient to ensure that property will be converted to the new use in a timely fashion.

Stat. Auth.: ORS 516.090, 517.810 & 517.840
Stats. Implemented: ORS 517.750 - 517.992
Hist.: DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0027

Minimum Standards for a Reclamation Plan

A reclamation plan submitted under 632-030-0025 must meet the following minimum standards:

- (1) Final slopes must be stable. Reclaimed cutbanks may not have slopes exceeding 1-1/2 horizontal to 1 vertical (1-1/2H:1V). Final slopes may be blasted or sculpted to blend into adjacent landforms or for creation of habitat. The Department may require the submission of a reclamation blast plan to assure stable slopes will be created and adjacent property will be protected. The Department may also grant exceptions for slopes steeper than 1-1/2H:1V when the applicant can document that the slopes will be stable and if the steeper slopes:
 - (a) Blend into the adjacent terrain;
 - (b) Existed prior to mining; or

- (c) Are consistent with the approved subsequent beneficial use.
- (2) Interim and final above-water cutslopes for sites located within the boundaries of a 100-year floodplain can be no steeper than 3H:1V.
- (3) Slope requirements.
 - (a) Fill slopes must be 2 horizontal to 1 vertical (2H:1V) or flatter.
 - (b) Fill slopes steeper than 2H:1V may be approved if technical data supporting slope stability is approved by the Department.
 - (c) In unconsolidated material or when slope length exceeds 100 linear feet, 3H:1V slopes or flatter may be required to assure long-term stability.
 - (d) Complex slope formations may be necessary to enhance habitat and post-mine landscape diversity.
 - (e) Flatter slopes (5H:1V to 10H:1V) will be needed where wetland creation is proposed.

(f) For sites within the 100-year floodplain, final above-water fill slopes can only be placed over cutslopes that are 3H:1V, or flatter, unless the Department agrees in writing to a different ratio based on a determination that the flood potential is very low.

(4) Generally, final revegetation with native species of all disturbed areas consistent with future use is required unless the Department finds it unreasonable. The Department will, in most instances, consider revegetation successful if it provides a similar plant density in terms of ground or canopy cover and it is comparable to undisturbed areas in similar landscape positions. In arid or semi-arid regions, the Department may allow three years of growth prior to a revegetation evaluation. Otherwise, revegetation will be evaluated after one growing season. Vegetation test plots may be required to ensure establishment feasibility and/or long-term habitat goals in the reclamation plan. Vegetation monitoring may also be required to insure success of the approved plan.

(5) Establishment of 3H:1V slopes from ordinary high-water level extending to six feet below ordinary low-water level for permanent water impoundments is required. In addition to the 3H:1V slopes, the Department may approve other sloping configurations where horizontal benches are incorporated as habitat features.

(a) Other above- and below-water bank sloping may be approved for constructed alcoves or other habitat features or projects.

(b) Establishment of a stable slope angle or benching for below-water slopes to insure an adequate foundation for the proposed in-water and above-water slopes or fills is required.

(c) A geotechnical study may be required to address slope stability.

(6) All stream channels and stream banks must be rehabilitated using procedures that minimize bank erosion, channel scour, and sedimentation; and maximize habitat.

(7) Reclamation must be completed in a timely manner. If there is no production at a mine site for a period of five or more consecutive years, the permittee shall submit a report to the Department on the remaining reserves. The report must include an estimate of the quantity of the remaining mineral reserves. The report must be signed by a professional geologist or include drill logs or other quantitative analysis acceptable to the Department. If the submission of such data poses a financial hardship to the permittee, the Department will attempt to work with the permittee to provide the necessary geologic expertise as Department staff resources allow or the Department may waive this requirement. Any waiver provided by the Department must be in writing and must specify the duration for which the requirement is waived.

(8) If the Department determines that the reserves are insignificant or the operator is unlikely to be able to economically mine the site in the reasonably foreseeable future, the Department will order reclamation and may establish a reasonable period for its completion.

Stat. Auth.: ORS 517
Stats. Implemented: ORS 517.800
Hist.: DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2000, f. & cert. ef. 7-20-00; DGMI 1-2001, f. & cert. ef. 8-6-01; DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0030

Department Action on Reclamation Plan and Operating Permit Application; Provisional Operating Permits; Local Government Actions

- (1) Within 90 days after receiving an application for an operating permit:
 - (a) the Department will issue the operating permit or
 - (b) notify the applicant if the Department determines that either the permit application or the proposed reclamation plan is not complete.
 - (c) If the Department determines the application is incomplete it will notify the applicant of the information or documentation needed to make the submittal complete. A notice of an incomplete submittal does not con-

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stitute a denial of the operating permit application and proposed reclamation plan.

(d) The Department will determine the adequacy of the operating permit application and proposed reclamation plan by taking the following actions:

(A) Inspect the site in accordance with OAR 632-030-0024 and file an inspection report;

(B) Circulate the complete operating permit application, including the proposed reclamation plan, draft operating permit, an inspection report or an evaluation to appropriate federal, state, and local agencies for review and comment.

(C) Notify the affected local government in writing that an operating permit application and proposed reclamation plan have been received by the Department, accompanied by a request that a determination be made if a local land-use permit pursuant to ORS 215.428 or 227.178 or a comprehensive plan amendment is required.

(D) Determine the appropriate amount of the reclamation bond or alternative form of security; and

(E) Notify the applicant of any deficiencies that will be addressed by attaching conditions to the operating permit.

(2) The Department will ensure consistency with local government land-use plans and regulations as follows:

(a) Applications involving a local land-use permit and a request by the affected local jurisdiction that it act first: If the affected local government informs the Department under subsection (1)(d)(C) of this rule that the application involves an aggregate site that requires a local-land use permit issued pursuant to ORS 215.428 or 227.178, and the local government requests that the application not be decided by the Department until the local government has taken final action, the Department will make its final decision on the operating permit and reclamation plan no later than 165 days after the date a complete land-use application is submitted to the local government, unless the applicant agrees to allow additional time under ORS 215.428 or 227.178. The Department will not approve the operating permit and reclamation plan or modification to existing permits if the application for the local land-use permit is denied by the local jurisdiction. However, in a situation where action on the local land-use permit is still pending, the Department may initiate its review of the application for its technical acceptability before the local government makes its final decision. The results of the Department's technical review will be provided to the local government and the applicant. For the purposes of this section, a requirement for review of a site plan is not a local land-use permit.

(b) Applications involving a comprehensive plan amendment: If the affected local government informs the Department under subsection (1)(d)(C) of this rule that the application involves an aggregate site that requires a comprehensive plan amendment, and the local government requests that the application not be decided until the local government has taken final action on the plan amendment, the Department will not make its final decision on the operating permit and reclamation plan until the local government has taken final action on the plan amendment. The Department will make its final decision on an application within 45 days of the date that the local government has taken final action on the plan amendment unless a longer period is required under subsection (2)(a) of this rule. For applications for new operating permits or intensification or substantial modification to existing operating permits the Department will not approve the operating permit or intensification or substantial modification if the application for the comprehensive plan amendment is denied by the local jurisdiction.

(c) If the affected local government does not request that the Department delay a decision on an operating permit and a reclamation plan as provided in subsection (2)(a) or (b) of this rule, the Department will give the local government opportunity to review and comment on the application in the manner described in subsection (1)(d)(B) of this rule. If the local government fails to respond in writing within 30 days of mailing, the Department will issue its decision within 45 days of receipt of complete application. Local government approval must also be obtained before operation under the permit can begin.

(d) If no local government permit or approval is required, the applicant shall provide a written statement to that effect from the local government to the Department.

(3) (a) The Department will notify the affected local government of the Department's decision under subsections (2) (a), (b), and (c) of this rule to approve or deny an operating permit and reclamation plan, including any requirements and conditions imposed by the Department.

(b) Any conditions and requirements imposed by the Department on an operating permit and reclamation plan, including any modifications made pursuant to OAR 632-030-0035, issued subsequent to a final local

land-use approval must be compatible with the requirements and conditions of the local government land-use plan and permit, including any conditions established to comply with statewide planning Goal 5, unless more stringent Department requirements are necessary to comply with the provisions of ORS 517.750 to 517.900. Any issue concerning the compatibility of the Department's permit decision with the requirements and conditions of the local government comprehensive plan or land-use permit may be addressed in accordance with the Department's dispute resolution process as set forth in OAR 632-001-0015(6).

(4) Within 60 days after the receipt of a deficiency list or permit conditions, the applicant shall comply with the additional requirements prescribed by the Department or file a written notice of appeal of the decision to the Department in accordance with OAR 632-030-0056. Failure to comply with the additional requirements or file a notice of appeal within the 60-day period, unless an extension is granted by the Department, may result in the application for an operating permit being denied. As provided in ORS 517.830(2), the Department may issue a provisional operating permit to the applicant pending the outcome of the appeal, subject to the requirements of sections (1) through (3) of this rule.

(5) The Department may determine that the applicant's reclamation plan is technically acceptable if it adequately provides for reclamation of surface mined lands as required by OAR Chapter 632, Division 30, without issuing an operating permit, and so advise the local government.

(6) The Department may attach conditions to the operating permit. These conditions may be added to reflect special concerns which are not adequately addressed in the reclamation plan and fall within the scope of these rules. The permittee may appeal these conditions by filing a written notice of appeal in accordance with OAR 632-030-0056.

(7) The approval of the reclamation plan and the issuance of the operating permit by the Department does not constitute a finding of compliance with statewide planning goals or local regulations implementing acknowledged comprehensive land-use plans. The permittee is responsible for obtaining local land-use approval before commencing the proposed surface mining activity. When issued by the Department, a statement placed on the operating permit and approved reclamation plan under subsection (2)(c) of this rule, will inform the applicant that:

(a) Issuance of the operating permit and approval of the reclamation plan is not a finding of compliance with the statewide planning goals (ORS 197.225) or compatibility with the acknowledged comprehensive plan; and

(b) The applicant must receive any land-use approval required from the affected local government before commencing surface mining authorized under the approved operating permit and reclamation plan.

(8) The Department may not issue, amend, renew, or transfer an operating permit to a person if person is not complying with the terms of an operating permit, reclamation plan, the provisions of the Act, or these rules. The Department may refuse to issue, amend, renew or transfer an operating permit to a person that has not substantially complied with an operating permit, a reclamation plan, the provisions of the Act, or these rules. For purposes of this rule, a person includes a subsidiary or other entity in which the person has a substantial financial interest.

Stat. Auth.: ORS 183.341, 197.180 & 517.740
Stats. Implemented: ORS 517.740 & 517.810

Hist.: GMI 5, f. 12-20-73, ef. 1-11-74; GMI 7, f. 11-7-74, ef. 12-11-74; GMI 1-1980, f. 2-29-80, ef. 3-1-80; GMI 2-1982, f. & ef. 8-13-82; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 1-1988, f. 3-30-88, cert. ef. 3-11-88; GMI 1-1992, f. & cert. ef. 6-17-92; DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2000, f. & cert. ef. 7-20-00; DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0033

Reclamation by the Department

(1) If a mine operator fails to comply with an order issued under ORS 517.860 or 517.880, the Department may perform the reclamation outlined in the reclamation plan to the extent possible given the condition of the site.

(2) The Department may perform alternative reclamation depending on site conditions.

(3) The Department may reclaim the site to:

(a) Eliminate or minimize hazards to the health and safety of the public;

(b) Eliminate or minimize any pollution or erosion or reestablish setbacks or buffers outside the excavation boundary;

(c) Mitigate impacts to natural resources by enhancing wildlife habitat or restoring a drainage;

(d) Be compatible with local agency regulations or an approved secondary beneficial use and with federal and state laws.

Stat. Auth.: ORS 517

Stats. Implemented: ORS 517.800

Hist.: DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2000, f. & cert. ef. 7-20-00; DGMI 1-2009, f. & cert. ef. 5-15-09

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632-030-0035

Modification of an Operating Permit

(1) The modification of an operating permit may be initiated at any time by the permittee or by the Department. The term "modification," as used in this rule, means any modification, including but not limited to, "intensification" or "substantial modification," as defined in OAR 632-030-0010(6) and (11). The Department may circulate applications for intensification or substantial modifications to local government pursuant to ORS 517.830 and OAR 632-030-0030.

(2) An operating permit may be modified by approval of the Department after timely notice and opportunity for review as provided by ORS 517.830(5) and OAR 632-030-0030 in order to assure compliance with existing laws and land-use requirements or to accommodate unforeseen developments that may affect the operating permit and reclamation plan as previously approved.

(3) The Department may modify an operating permit or reclamation plan without the consent of the operator only as allowed by ORS 517.831. The Department initiation of a modification must be based on the potential for: substantial harm to off-site property, harm to threatened or endangered species, or channel changes or unstable pit walls. Therefore, a determination of substantial harm to off-site property may include likely effects when there is substantial evidence. For the three types of sites or concerns listed here, the substantial evidence may include on-site or off-site physical or biological indicators and other data:

(a) Substantial harm to off-site property: documentation by the Department of a loss of lateral support of a property line, slope movement, failure planes, tension cracks, vegetation displacement, or other indicators of slope instability, or geotechnical reports, slope measurements, or other monitoring data submitted by others.

(b) Harm to threatened or endangered species: documentation by the Department that threatened or endangered species are likely present and mine activities have stranded threatened or endangered fish on the floodplain or mine activities have caused harm to threatened or endangered species or a take is likely to occur.

(c) Channel changes or unstable pit walls: documentation by the Department that stream bank erosion, channel migration, local geomorphic trends, site hydrology during flooding, and/or channel hydraulic conditions present clear indicators that pit wall stability is in jeopardy during future flood events.

(4) Substantial harm to off-site property justifying a modification under this rule and the Act includes, but is not limited to:

(a) Loss of vegetation or other effects due to embankment failure, pit wall, or storage pile failure

(b) Loss of vegetation or other effects due to erosion, headcutting, channel avulsion, and/or channel migration that has resulted in or is likely to result in a breach into or pit capture of a floodplain gravel mine

(c) Deposition of vegetation, soil, rock, other geologic materials, or mined materials or mine refuse

(d) Impacts to jurisdictional wetlands, sloughs, bogs, stream channels, or other natural features or constructed flood levees, revetments, or irrigation reservoirs, irrigation ditches, and intakes.

Stat. Auth.: ORS 183.341, 197.180, 516.090(2)(a), 517.740 & 517.840(1)(d)
Stats. Implemented: ORS 517.740 & 517.840

Hist.: GMI 5, f. 12-20-73, ef. 1-11-74; GMI 1-1980, f. 2-29-80, ef. 3-1-80; GMI 2-1982, f. & ef. 8-13-82; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 1-1988, f. 3-30-88, cert. ef. 3-11-88; GMI 1-1992, f. & cert. ef. 6-17-92; DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2001, f. & cert. ef. 8-6-01; DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0040

Maintaining an Operating Permit

(1) The Department may revoke, terminate, or refuse to renew an operating permit as provided in ORS 517.862.

(2) Prior to the anniversary date of an operating permit, the operator shall submit the required annual fee and file the annual report. The annual report must include production figures that provide a legal and accurate report of all materials mined or excavated. If requested by the Department, the operator must also submit an updated site plan map. The permittee shall maintain an operating permit until mining and reclamation, including revegetation (if required), have been completed.

(3) If the Department determines that the permittee has not complied or is not complying with the approved reclamation plan, permit conditions, the Act, or the rules adopted thereunder, the Department will take appropriate action including one or more of the following: a notice of violation under ORS 517.860, a compliance order under ORS 517.860, a suspension order under ORS 517.880, recovery against the bond or alternative form of security under ORS 517.860, and an assessment of civil penalties under ORS 517.992.

Stat. Auth.: ORS 517

Stats. Implemented: ORS 517.740 & 517.800

Hist.: GMI 5, f. 12-20-73, ef. 1-11-74; GMI 1-1980, f. 2-29-80, ef. 3-1-80; GMI 2-1982, f. & ef. 8-13-82; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 1-1988, f. 3-30-88, cert. ef. 3-11-88; GMI 2-1997, f. & cert. ef. 10-14-97; DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2000, f. & cert. ef. 7-20-00; DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0041

Permit and Exemption Transfer

(1) An operating permit may be transferred as provided in ORS 517.833, subject to the following requirements:

(a) A person requesting transfer must submit a completed application on a form prescribed by the Department.

(b) The application must be signed by the applicant, current permittee, landowner, and mineral estate owner if different from the landowner.

(c) The applicant must submit the transfer application fee as provided and not to exceed in ORS 517.800.

(d) The applicant must submit a bond or alternative form of security acceptable to the Department.

(2) Prior to approving a permit transfer, the Department may review the existing operating permit and reclamation plan and the transfer of the permit may be denied or conditioned based on the failure of existing operations to comply with the permit, plan, provisions of the Mined Land Reclamation Act, or these rules. In addition, the Department may review existing operations to determine whether an amendment to operating permit or reclamation plan is appropriate under ORS 517.831 or 517.835.

(3) A limited exemption may be transferred subject to the following requirements:

(a) A person requesting transfer must submit a completed application on a form prescribed by the Department.

(b) The application must be signed by the applicant, current exemption holder, landowner, and mineral estate owner if different from the landowner.

(c) The applicant must submit the transfer application processing charge not to exceed \$250.

Stat. Auth.: ORS 516.090, 517.810, 517.833 & 517.840

Stats. Implemented: ORS 517.750 - 517.992

Hist.: DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0042

Termination of Operating Permits

(1) An operating permit is deemed to terminate by operation of law if any of the conditions set out in ORS 517.880 exist. The Department will notify the operator of the termination and the right to review.

(2) A permittee may request termination of a permit if:

(a) A permit has never been used;

(b) The required local land-use approvals are denied; or

(c) The requirements of an approved reclamation plan are complete.

(3) Reclamation obligations incurred prior to the date of cancellation of any bond or alternative form of security continue until the site is reclaimed.

Stat. Auth.: ORS 516.090(2)(a), 517.740 & 517.840(1)(d)

Stats. Implemented: ORS 517.800, 517.810 & 517.830

Hist.: DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0045

Obtaining Bond Release

(1) The permittee shall notify the Department in writing when the reclamation has been completed.

(2) The Department will inspect the reclaimed site. If the permittee has fulfilled the requirements of the approved reclamation plan, the bond or alternative form of security will be released. The Department may authorize a reduction in the security amount if the reclamation is partially complete.

Stat. Auth.: ORS 183.341, 197.180, 516.090(2)(a), 517.740 & 517.840(1)(d)

Stats. Implemented: ORS 517.810, 517.840 & 517.870

Hist.: GMI 5, f. 12-20-73, ef. 1-11-74; GMI 1-1980, f. 2-29-80, ef. 3-1-80; GMI 2-1982, f. & ef. 8-13-82; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 1-1988, f. 3-30-88, cert. ef. 3-11-88; GMI 1-1992, f. & cert. ef. 6-17-92; DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0049

Emergency Operating Permits

The Department may issue an emergency operating permit as authorized under ORS 517.832. An emergency operating permit is subject to the following additional limitations:

(1) The emergency operating permit may not be for a term in excess of three months and may be terminated by the Department on 48-hour notice.

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(2) The operator may continue operations at the site after three months only if the emergency operating permit is replaced by a temporary, provisional, or regular operating permit. The operator must follow the procedures for applying for the temporary, provisional, or regular operating permit.

(3) The operator is required to provide notice of the proposed emergency operating permit to all federal agencies and public bodies as defined in ORS 174.109 that may be affected by the emergency operating permit and to provide the Department with the names of the agencies and public bodies notified and the manner of notification. The Department may require additional notification or deny the emergency operating permit if it determines that the notice is inadequate.

(4) The Department will not issue or will terminate an emergency operating permit upon receipt of an objection from an affected federal agency or public body.

(5) An operator seeking an emergency permit must pay a fee to the Department in an amount determined by the Department to be adequate to cover the additional costs for staff and other related expenses.

(6) The Department may waive the requirement for a bond or alternate form of security for an emergency operating permit.

Stat. Auth.: ORS 516.090, 517.800, 517.810, 517.832 & 517.840
Stats. Implemented: ORS 517.750 - 517.992
Hist.: DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0052

Temporary Operating Permits

The Department may issue a temporary operating permit as authorized under ORS 517.834. A temporary operating permit is subject to the following additional limitations:

(1) The operator must provide 14 days' prior notice to adjacent property owners and all potentially affected federal agencies and public bodies. Public notice must be published in a newspaper that is broadly circulated in the areas adjacent to the proposed mine. Notice to property owners, federal agencies, and public bodies must be in writing and sent by U.S. mail or comparable means. The operator must provide the Department with documentation of the entities notified and the manner of notification. Notification must be in a form approved by the Department and must inform the recipients of the right to submit comments on the proposed temporary operating permit to the Department.

(2) A temporary operating permit may be issued for a term not to exceed 6 months, during which time the operator must apply for a regular operating permit. The operator must cease all excavation and processing and reclaim the site if the Department has not issued a provisional or regular operating permit before the term of the temporary operating permit expires.

Stat. Auth.: ORS 516.090, 517.810, 517.834 & 517.840
Stats. Implemented: ORS 517.750 - 517.992
Hist.: DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0056

Appeals

(1) Prior to the initiation of an administrative appeal of any Departmental order, notice, fee, or other action made pursuant to the Act or the rules adopted thereunder, the applicant or permittee may first request that the State Geologist informally review and resolve the matter. The State Geologist will provide a written decision within 30 days of receipt of such an informal request. If the State Geologist is unable to resolve the informal request, the applicant or permittee may request a contested case hearing by the Board or its designee for final resolution of the matter. Appeals must be filed within 30 days of receipt of the order, notice, other action being appealed, or receipt of State Geologist written decision except as otherwise provided by OAR 632-030-0030(4) and by the applicable provisions of ORS 183.310 through 183.550. A final determination by the Board must be made before any appeal for judicial review under ORS 183.480 is allowed.

(2) An applicant or permittee requesting a hearing for consideration of any appeal shall state the reasons for requesting the hearing and the objections to the Department's order, notice, fee, or other action in accordance with ORS 183.430 - 183.470.

Stat. Auth.: ORS 516.090(2)(a), 517.740 & 517.840(1)(d)
Stats. Implemented: ORS 517.890
Hist.: GMI 7, f. 11-7-74, ef. 12-11-74; GMI 1-1980, f. 2-29-80, ef. 3-1-80; GMI 2-1982, f. & ef. 8-13-82; GMI 2-1985, f. 11-19-85, ef. 11-20-85; GMI 1-1988, f. 3-30-88, cert. ef. 3-11-88; DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2009, f. & cert. ef. 5-15-09

632-030-0070

Penalty Warning; Civil Penalty

(1) Applicability. This section of these rules applies to the imposition of civil penalties under ORS 517.992(2) for violations of statutes, rules, orders, and permit conditions not related to a chemical process mine.

(2) Definitions. For purposes of this rule:

(a) "Compliance Order" means an order issued under ORS 517.860(1)(b). The compliance order also may be used for informal disposition of proceedings through stipulation, agreed settlement, consent order, or default;

(b) "Notice of Violation" means a notice issued under ORS 517.860(1)(a);

(c) "Notice of Civil Penalty" means a notice that imposes a civil penalty under ORS 517.992(2);

(d) "Violation" means conduct for which a penalty may be imposed under ORS 517.992(2).

(3) Notice of Civil Penalty — Form and Service. A Notice of Civil Penalty shall be in a form and shall be served in the manner required by ORS 183.415.

(4) Appeals — Consolidation. Any person issued a Notice of Civil Penalty shall have the right to a contested case hearing. The hearing must be requested in writing within 20 days of the date of service.

(5) Civil Penalty — Classification:

(a) Civil penalties imposed under ORS 517.992(2) will be coordinated with other agencies to avoid duplication of penalty for the same violation and be in accordance with the following schedule:

(A) Class 1. Violation that poses no potential threat to human health, safety, or the environment: no more than \$1,000 per day;

(B) Class 2. Violation that poses a potential threat to human health, safety, or the environment, or repeat Class 1 Violation: no more than \$3,000 per day. Potential threats to human health, safety, or the environment include, but are not limited to, actions that increase instability, erosion, or an unsafe condition at the site;

(C) Class 3. Violation that poses an immediate but remediable threat to the environment or a repeat Class 2 violation: no more than \$6,000 per day. For the purposes of this rule, an "immediate but remediable threat to the environment" means that without a quick response and considering such factors to include, but not limited to slope and erodibility, damage will occur and that upon remediation there will be no lasting effect of that damage.

(D) Class 4. Violation that:

(i) Poses an immediate threat to human health or safety;

(ii) Causes actual human injury;

(iii) Poses a threat to the environment that is immediate and not remediable;

(iv) Causes actual damage to the environment; or

(v) Is a repeat Class 3 violation: \$1,000 to \$10,000 per day.

(b) Each day of a continuing violation may be treated as a separate violation for purposes of imposing a civil penalty.

Stat. Auth.: ORS 516.090(2)(a), 517.740 & 517.840(1)(d)

Stats. Implemented: ORS 517.992

Hist.: GMI 1-1994, f. & cert. ef. 7-21-94; DGMI 1-1999, f. & cert. ef. 1-7-99; DGMI 1-2009, f. & cert. ef. 5-15-09

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Department of Human Services, Administrative Services Division and Director's Office Chapter 407

Rule Caption: Abuse Reporting and Protective Services in Community Programs and Community Facilities.

Adm. Order No.: DHSD 3-2009

Filed with Sec. of State: 5-1-2009

Certified to be Effective: 5-1-09

Notice Publication Date: 4-1-2009

Rules Amended: 407-045-0250, 407-045-0260, 407-045-0280, 407-045-0290, 407-045-0300, 407-045-0310, 407-045-0320, 407-045-0330, 407-045-0340, 407-045-0350, 407-045-0360

Rules Repealed: 407-045-0270

Subject: These amendments update and clarify the process by which community programs conduct abuse investigations as the Department's designees. The rules require community county programs to designate at least one employee to conduct protective services investigations, require that these investigators be trained in core competencies, update and clarify definitions, require certain notices be sent in a uniform manner, identify timelines in which investigations must

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be completed, provide a process for requesting extensions when timelines cannot be met, and standardize the types of information to be included in an investigative report.

Rules Coordinator: Jennifer Bittel—(503) 947-5250

407-045-0250

Purpose

These rules, OAR 407-045-0250 to 407-045-0360, prescribe standards and procedures for the investigation, assessment for, and provision of protective services in community programs and community facilities, and the nature and content of the abuse investigation and protective services report.

Stat. Authority: ORS 179.040 & 409.050

Stats. Implemented: ORS 430.735 - 430.765, 443.400 - 443.460, 443.705 - 443.825

Hist.: MHD 5-1994, f. 8-22-94 & cert. ef. 9-1-94; Renumbered from 309-040-0200, OMAP 87-2004, f. 11-10-04, cert. ef. 12-1-04; Renumbered from 410-009-0050, DHSD 5-2007, f. 6-29-07, cert. ef. 7-1-07; DHSD 3-2009, f. & cert. ef. 5-1-09

407-045-0260

Definitions

As used in these rules the following definitions apply:

(1) "Abuse" means one or more of the following:

(a) Any death caused by other than accidental or natural means or occurring in unusual circumstances;

(b) Any physical injury by other than accidental means or that appears to be at variance with the explanation given for the injury;

(c) Willful infliction of physical pain or injury;

(d) Sexual harassment or exploitation including but not limited to any sexual contact between an employee of a community facility or community program, provider, or other caregiver and the adult. For situations other than those involving an employee, provider, or other caregiver and an adult, sexual harassment or exploitation means unwelcome verbal or physical sexual contact including requests for sexual favors and other verbal or physical conduct directed toward the adult;

(e) Neglect that leads to physical harm or significant mental injury through withholding of services necessary to maintain health and well-being;

(f) Abuse does not include spiritual treatments by a duly accredited practitioner of a recognized church or religious denomination when the adult voluntarily consents.

(2) "Abuse Investigation and Protective Services Report" means a completed report.

(3) "Adult" means an individual who is 18 years of age or older who:

(a) Has a developmental disability and is currently receiving services from a community program or facility or was previously determined eligible for services as an adult by a community program or facility; or

(b) Has a mental illness and is receiving services from a community program or facility.

(c) Receives services from a community program or facility or care provider which is licensed or certified by or contracts with the Department of Human Services (Department); and

(d) Is the alleged abuse victim.

(4) "Adult Protective Services" means the necessary actions taken to prevent abuse or exploitation of the adult, to prevent self-destructive acts, and to safeguard an allegedly abused adult's person, property, and funds.

(5) "Brokerage" or "Support Service Brokerage" means an entity, or distinct operating unit within an existing entity, that performs the functions listed in OAR 411-340-0120(1)(a) through (g) associated with planning for and implementation of support services for adults with developmental disabilities.

(6) "Care Provider" means an individual or facility that has assumed responsibility for all or a portion of the care of an adult as a result of a contract or agreement.

(7) "Community Facility" means a community residential treatment home or facility, community residential facility, adult foster home, community residential training home or facility, or a facility approved by the Department's Addictions and Mental Health Division (AMH) for acute care services or crisis respite facility.

(8) "Community Program" means the community mental health or developmental disabilities program as established in ORS 430.610-430.700.

(9) "Designee" means the community program.

(10) "Department" means the Oregon Department of Human Services.

(11) "Inconclusive" means there is insufficient evidence to conclude the alleged abuse occurred or did not occur by a preponderance of the evi-

dence. The inconclusive determination may be used only in the following circumstances:

(a) After diligent efforts have been made, the protective services investigator is unable to locate the individual alleged to have committed the abuse, or cannot locate the alleged victim or another individual who might have information critical to the investigation; or

(b) Relevant records or documents are unavailable, or there is conflicting or inconsistent information from witnesses, documents, or records, with the result that after the investigation is complete, there is insufficient evidence to support a substantiated or not substantiated conclusion.

(12) "Law Enforcement Agency" means any city or municipal police department, county sheriff's office, the Oregon State Police, or any district attorney.

(13) "Mandatory Reporter" means any public or private official who, while acting in an official capacity, comes in contact with and has reasonable cause to believe that the adult has suffered abuse, or that any individual with whom the official comes in contact while acting in an official capacity has abused the adult. Pursuant to ORS 430.765(2), psychiatrists, psychologists, clergy, and attorneys are not mandatory reporters with regard to information received through communications that are privileged under ORS 40.225-20.295

(14) "Not Substantiated" means the preponderance of evidence establishes the alleged abuse did not occur.

(15) "OIT" means the Department's Office of Investigations and Training.

(16) "Provider Agency" means an entity licensed or certified to provide services, or which is responsible for the management of services to clients.

(17) "Public or Private Official" means:

(a) Physician, naturopathic physician, osteopathic physician, psychologist, chiropractor, or podiatrist, including any intern or resident;

(b) Licensed practical nurse, registered nurse, nurse's aide, home health aide, or employee of an in-home health services organization;

(c) Employee of the Department, county health department, community mental health or developmental disabilities program or private agency contracting with a public body to provide any community mental health services;

(d) Peace officer;

(e) Member of the clergy;

(f) Licensed clinical social worker;

(g) Physical, speech, or occupational therapist;

(h) Information and referral, outreach, or crisis worker;

(i) Attorney; or

(j) Any public official who comes in contact with adults in the performance of the official's duties.

(18) "Substantiated" means that the preponderance of the evidence establishes the abuse occurred.

(19) "Unbiased Investigation" means an investigation that is conducted by a community program that does not have an actual or potential conflict of interest with the outcome of the investigation.

Stat. Authority: ORS 179.040 & 409.050

Stats. Implemented: ORS 430.735 - 430.765, 443.400 - 443.460, 443.705 - 443.825

Hist.: MHD 5-1994, f. 8-22-94 & cert. ef. 9-1-94; Renumbered from 309-040-0210, OMAP 87-2004, f. 11-10-04, cert. ef. 12-1-04; Renumbered from 410-009-0060, DHSD 5-2007, f. 6-29-07, cert. ef. 7-1-07; DHSD 3-2009, f. & cert. ef. 5-1-09

407-045-0280

Training for Individuals Investigating Reports of Alleged Abuse

(1) The Department shall provide sufficient and timely training and consultation to community programs to ensure that the community program is able to conduct a thorough and unbiased investigation and reach a conclusion about the abuse. Training shall include initial and continuing education of any individual designated to conduct protective services investigations.

(2) The training shall address the cultural and social diversity of the State of Oregon.

Stat. Authority: ORS 179.040 & 409.050

Stats. Implemented: ORS 430.735 - 430.765, 443.400 - 443.460, 443.705 - 443.825

Hist.: OMAP 87-2004, f. 11-10-04, cert. ef. 12-1-04; Renumbered from 410-009-0080, DHSD 5-2007, f. 6-29-07, cert. ef. 7-1-07; DHSD 3-2009, f. & cert. ef. 5-1-09

407-045-0290

General Duties of the Community Program and Initial Action on Report of Alleged Abuse

(1) For the purpose of carrying out these rules, community programs are the designee of the Department.

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(2) Mandatory reporters must report abuse, when the reporter has reasonable cause to believe abuse has occurred, to the community program and to a local law enforcement agency when the reporter believes a crime may have been committed.

(3) Each community program shall designate at least one employee to conduct protective services investigations. Community programs shall require their designated protective services investigators to participate in training, and to demonstrate an understanding of investigative core competencies.

(4) If the Department or community program has reasonable cause to believe abuse occurred, it must immediately notify the appropriate public licensing or certifying agency and provide a copy of the abuse investigation and completed protective services report.

(5) If the Department or community program has reasonable cause to believe that an individual licensed or certified by any state agency to provide care has committed abuse, it must immediately notify the appropriate state licensing or certifying agency and provide that agency with a copy of the abuse investigation and completed protective services report.

(6) The Department or community program may share information prior to the completion of the abuse investigation and protective services report if the information is necessary for:

- (a) The provision of protective services; or
- (b) The function of licensing and certifying agencies or law enforcement agencies.

(7) Each community program must establish an after hours reporting system.

(8) Upon receipt of any report of alleged abuse, the community program must begin:

- (a) Investigation into the nature and cause of the alleged abuse within one working day of receipt of the report;
- (b) Assessment of the need for protective services; and
- (c) Provision of protective services, if protective services are needed.

(9) The community program receiving a report alleging abuse must document the information required by ORS 430.743(1) and any additional reported information. The community program must attempt to elicit the following information from the individual making a report:

- (a) The name, age, and present location of the adult;
- (b) The names and addresses of individuals, programs, or facilities responsible for the adult's care;

(c) The nature and extent of the alleged abuse, including any evidence of previous abuse of the adult or by the individual alleged to have committed the abuse;

(d) Any information that led the individual making the report to suspect abuse had occurred;

(e) Any information that the individual believes might be helpful in establishing the cause of the abuse and the identity of the individual alleged to have committed the abuse;

- (f) The date of the incident;

(10) The community program shall maintain all reports of abuse in a confidential location.

(11) If there is reason to believe a crime has been committed, the community program must contact the law enforcement agency with jurisdiction in the county where the report is made.

(12) If there is reasonable cause to believe that abuse has occurred, the community program must determine if the adult is in danger or in need of immediate protective services and shall provide those services immediately. Under these circumstances the community program must also advise the provider agency, brokerage, or guardian about the allegation, and must include any information appropriate or necessary for the health, safety, and best interests of the adult in need of protection.

(13) The community program shall immediately, but no later than one working day, notify the Department it has received a report of abuse, in the format provided by the Department.

(14) If the community program determines from the report that there is no reasonable cause to believe abuse occurred, the community program shall notify the provider agency or brokerage within two working days that a protective services investigation shall not commence and explain the reasons for that decision. The community program shall document the notice and maintain a record of all notices.

(15) If the community program determines that a report will be assigned for investigation, the community program must notify the provider agency, brokerage, guardian, and any other individual with responsibility for providing services and protection, unless doing so would compromise the safety, health, or best interests of the adult in need of protection, or would compromise the integrity of the abuse investigation or a criminal

investigation. The notice shall include information that the case will be assigned for investigation, identify the investigator, and provide information regarding how the assigned investigator may be contacted. The notice must be provided within five working days from the date the report was received.

(16) The community program or law enforcement agency shall notify the appropriate medical examiner in cases where the community program or law enforcement agency finds reasonable cause to believe that an adult has died as a result of abuse or where the death occurred under suspicious or unknown circumstances.

Stat. Authority: ORS 179.040 & 409.050

Stats. Implemented: ORS 430.735 - 430.765, 443.400 - 443.460, 443.705 - 443.825

Hist.: MHD 5-1994, f. 8-22-94 & cert. ef. 9-1-94; Renumbered from 309-040-0230, OMAP 87-2004, f. 11-10-04, cert. ef. 12-1-04; Renumbered from 410-009-0090, DHSD 5-2007, f. 6-29-07, cert. ef. 7-1-07; DHSD 3-2009, f. & cert. ef. 5-1-09

407-045-0300

Investigation of Alleged Abuse

(1) Investigation of abuse shall be thorough and unbiased. Community programs shall not investigate allegations of abuse made against employees of the community program. Investigations of community program staff shall be conducted by the Department or other community program not subject to an actual or potential conflict of interest.

(2) In conducting an abuse investigation, the investigator must:

- (a) Make in-person contact with the adult;

(b) Interview the adult, witnesses, the individual alleged to have committed the abuse, and other individuals who may have knowledge of the facts of the abuse allegation or related circumstances. Interviews must be conducted in-person where practicable. The investigator must attempt to elicit the date of birth for each individual interviewed and shall obtain the date of birth of any individual alleged to have committed the alleged abuse.

- (c) Review all evidence relevant and material to the complaint; and

(d) Photograph the adult consistent with forensic guidelines, or arrange for the adult to be photographed, to preserve evidence of the alleged abuse and of the adult's physical condition at the time of investigation, unless the adult knowingly refuses.

(3) All records necessary for the investigation shall be available to the community program for inspection and copying. A community facility shall provide community programs access to employees, the adult, and the premises for investigation purposes.

(4) When a law enforcement agency is conducting a criminal investigation of the alleged abuse, the community program shall also perform its own investigation as long as it does not interfere with the law enforcement agency investigation under the following circumstances:

- (a) There is potential for action by a licensing or certifying agency;

- (b) Timely investigation by law enforcement is not probable; or

(c) The law enforcement agency does not complete a criminal investigation.

(5) When a law enforcement agency is conducting an investigation of the alleged abuse, the community program must communicate and cooperate with the law enforcement agency.

Stat. Authority: ORS 179.040 & 409.050

Stats. Implemented: ORS 430.735 - 430.765, 443.400 - 443.460, 443.705 - 443.825

Hist.: MHD 5-1994, f. 8-22-94 & cert. ef. 9-1-94; Renumbered from 309-040-0240, OMAP 87-2004, f. 11-10-04, cert. ef. 12-1-04; Renumbered from 410-009-0100, DHSD 5-2007, f. 6-29-07, cert. ef. 7-1-07; DHSD 3-2009, f. & cert. ef. 5-1-09

407-045-0310

Assessment for and Provision of Protective Services to the Adult

The community program shall ensure that appropriate and necessary protective services are provided to the adult to prevent further abuse and must be undertaken in a manner that is least intrusive to the adult and provide for the greatest degree of independence available within existing resources. Assessment for the provision of protective services may include:

- (1) Arranging for the immediate protection of the adult;

(2) Contacting the adult to assess his or her ability to protect his or her own interest or give informed consent;

(3) Determining the ability of the adult to understand the nature of the protective service and his or her willingness to accept services;

(4) Coordinating evaluations to determine or verify the adult's physical and mental status, if necessary;

(5) Assisting in an arranging for appropriate services and alternative living arrangements;

(6) Assisting in or arranging the medical, legal, financial, or other necessary services to prevent further abuse;

(7) Providing advocacy to assure the adult's rights and entitlements are protected; and

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(8) Consulting with the community facility, program, brokerage, or others as appropriate in developing recommendations or requirements to prevent further abuse.

Stat. Authority: ORS 179.040 & 409.050
Stats. Implemented: ORS 430.735 - 430.765, 443.400 - 443.460, 443.705 - 443.825
Hist.: MHD 5-1994, f. 8-22-94 & cert. ef. 9-1-94; Renumbered from 309-040-0250, OMAP 87-2004, f. 11-10-04, cert. ef. 12-1-04; Renumbered from 410-009-0110, DHSD 5-2007, f. 6-29-07, cert. ef. 7-1-07; DHSD 3-2009, f. & cert. ef. 5-1-09

407-045-0320

Abuse Investigation and Protective Services Report

(1) The Department shall provide abuse investigation and protective services report formats.

(2) Upon completion of the investigation, and within 45 calendar days of the date the community program determines a report alleging abuse shall be assigned for investigation, the community programs shall prepare an abuse investigation and protective services report. This 45-day time period does not include an additional five-day period allowing OIT to review and approve the report. The protective services report shall include:

(a) A statement of the allegations being investigated, including the date, location, and time;

(b) A list of protective services provided to the adult.

(c) An outline of steps taken in the investigation, a list of all witnesses interviewed, and a summary of the information provided by each witness;

(d) A summary of findings and conclusion concerning the allegation of abuse;

(e) A specific finding of “substantiated,” “inconclusive,” or “not substantiated;”

(f) A plan of action necessary to prevent further abuse of the adult;

(g) Any additional corrective action required by the community program and deadlines for completing these actions;

(h) A list of any notices made to licensing or certifying agencies;

(i) The name and title of the individual completing the report; and

(j) The date the report is written.

(3) In cases in which, for good cause shown, the protective services investigator cannot complete the report within 45 days, the investigator shall submit a request for extension of time to OIT.

(a) An extension may be granted for good cause shown which includes but is not limited to:

(A) When law enforcement is conducting an investigation;

(B) A material party or witness is temporarily unavailable;

(C) New evidence is discovered;

(D) The investigation is complex (e.g. large numbers of witnesses need to be interviewed taking into account scheduling difficulties and limitations, consultation with experts, or a detailed review of records over an extended period of time is required); or,

(E) For some other mitigating reason.

(b) When granting an extension, OIT shall consult with the program about the need for an extension and determine the length of the extension as necessary.

(c) The community program shall notify the provider agency, brokerage, and guardian when an extension is granted and advise them of the new report due date.

(4) A copy of the final abuse investigation and protective services report shall be provided to the Department within five working days of the report's completion and approval by OIT.

(5) The community program must provide notice of the outcome of the investigation, or assure that notice is provided, to the guardian, accused individual, and to any law enforcement agency which previously received notice of the initial report. Notice of outcome shall be provided to a reporter upon the reporter's request. Notice of outcome must be made within five days after the date the case is completed and approved by OIT. The community program must document how the notice required by this section was provided.

(6) A centralized record of all abuse investigation and protective services reports shall be maintained by community programs for all abuse investigations conducted in their county, and by the Department for all abuse investigations in the state.

Stat. Authority: ORS 179.040 & 409.050
Stats. Implemented: ORS 430.735 - 430.765, 443.400 - 443.460, 443.705 - 443.825
Hist.: MHD 5-1994, f. 8-22-94 & cert. ef. 9-1-94; Renumbered from 309-040-0260, OMAP 87-2004, f. 11-10-04, cert. ef. 12-1-04; Renumbered from 410-009-0120, DHSD 5-2007, f. 6-29-07, cert. ef. 7-1-07; DHSD 3-2009, f. & cert. ef. 5-1-09

407-045-0330

Disclosure of the Abuse Investigation and Protective Services Report and Related Documents

(1) Portions of the abuse investigation and protective services report and underlying investigatory documents are confidential and not available for public inspection. Pursuant to ORS 430.763, names of abuse reporters, witnesses, and the alleged abuse victim are confidential and shall not be available for public inspection. Investigatory documents, including portions of the abuse investigation and protective services report that contains “individually identifiable health information,” as that term is defined under 192.519 and 45 CFR 160.103, are confidential under federal Health Insurance Portability and Accountability Act (HIPAA) privacy rules, 45 CFR parts 160 and 164, and ORS 192.520 and 179.505–179.509.

(2) Notwithstanding section (1) of this rule, the Department shall make available the confidential information, including any photographs, if appropriate, to any law enforcement agency, public agency that licenses or certifies facilities or licenses or certifies the individuals practicing therein, and any public agency providing protective services for the adult. The Department shall make the protective services report and underlying investigatory materials available to any private agency providing protective services for the adult and to the protection and advocacy system designated pursuant to ORS 192.517(1).

(3) Individuals or entities receiving confidential information pursuant to this rule shall maintain the confidentiality of the information and shall not redisclose the confidential information to unauthorized individuals or entities, as required by state or federal law.

(4) The community program shall prepare a redacted version of the final completed abuse investigation report within 10 days after the date of the final report. The redacted report shall not contain any confidential information which is prohibited from disclosure pursuant to state or federal law. The redacted report shall be submitted to the provider agency and brokerage.

(5) The community program shall provide a redacted version of the written report to the public for inspection upon written request.

(6) When the abuse investigation and protective services report is conducted by a community program, as the Department's designee, the protective services investigation may be disclosed pursuant to this rule either by the community program or the Department.

Stat. Authority: ORS 179.040 & 409.050
Stats. Implemented: ORS 430.735 - 430.765, 443.400 - 443.460, 443.705 - 443.825
Hist.: MHD 5-1994, f. 8-22-94 & cert. ef. 9-1-94; Renumbered from 309-040-0270, OMAP 87-2004, f. 11-10-04, cert. ef. 12-1-04; Renumbered from 410-009-0130, DHSD 5-2007, f. 6-29-07, cert. ef. 7-1-07; DHSD 3-2009, f. & cert. ef. 5-1-09

407-045-0340

Prohibition Against Retaliation

(1) A community facility, community program, or individual shall not retaliate against any individual who reports suspected abuse in good faith, including the adult.

(2) Any community facility, community program, or individual that retaliates against any individual because of a report of suspected abuse shall be liable, according to ORS 430.755, in a private action to that individual for actual damages and, in addition, a civil penalty up to \$1,000, notwithstanding any other remedy provided by law.

(3) Any adverse action creates a presumption of retaliation if taken within 90 days of a report of abuse. For purposes of this subsection, “adverse action” means any action taken by a community facility, community program, or individual involved in a report against the individual making the report or against the adult because of the report and includes but is not limited to:

(a) Discharge or transfer from the community facility, except for clinical reasons;

(b) Termination of employment;

(c) Demotion or reduction in remuneration for services; or

(d) Restriction or prohibition of access to the community facility or its residents.

(4) Adverse action may also be evidence of retaliation after 90 days even though the presumption no longer applies.

Stat. Authority: ORS 179.040 & 409.050
Stats. Implemented: ORS 430.735 - 430.765, 443.400 - 443.460, 443.705 - 443.825
Hist.: MHD 5-1994, f. 8-22-94 & cert. ef. 9-1-94; Renumbered from 309-040-0280, OMAP 87-2004, f. 11-10-04, cert. ef. 12-1-04; Renumbered from 410-009-0140, DHSD 5-2007, f. 6-29-07, cert. ef. 7-1-07; DHSD 3-2009, f. & cert. ef. 5-1-09

ADMINISTRATIVE RULES

407-045-0350

Immunity of Individuals Making Reports in Good Faith

(1) Any individual who makes a good faith report and who had reasonable grounds for making the report shall have immunity from civil liability with respect to having made the report.

(2) The reporter shall have the same immunity in any judicial proceeding resulting from the report as may be available in that proceeding.

Stat. Authority: ORS 179.040 & 409.050

Stats. Implemented: ORS 430.735 - 430.765, 443.400 - 443.460, 443.705 - 443.825

Hist.: OMAP 87-2004, f. 11-10-04, cert. ef. 12-1-04; Renumbered from 410-009-0150, DHSD 5-2007, f. 6-29-07, cert. ef. 7-1-07; DHSD 3-2009, f. & cert. ef. 5-1-09

407-045-0360

Department Investigation of Alleged Abuse

(1) If determined necessary or appropriate, the Department may conduct an investigation rather than allow the community program to investigate the alleged abuse or in addition to the investigation by the community program. Under such circumstances, the community program must receive authorization from the Department before conducting any separate investigation.

(2) The community program shall make available all records necessary for the investigation to the Department for inspection and copying. The community facilities and community programs must provide the Department access to employees, the adult, and the premises for investigation purposes.

Stat. Authority: ORS 179.040 & 409.050

Stats. Implemented: ORS 430.735 - 430.765, 443.400 - 443.460, 443.705 - 443.825

Hist.: MHD 5-1994, f. 8-22-94 & cert. ef. 9-1-94; Renumbered from 309-040-0290, OMAP 87-2004, f. 11-10-04, cert. ef. 12-1-04; Renumbered from 410-009-0160, DHSD 5-2007, f. 6-29-07, cert. ef. 7-1-07; DHSD 3-2009, f. & cert. ef. 5-1-09

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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 8-2009(Temp)

Filed with Sec. of State: 4-20-2009

Certified to be Effective: 5-1-09 thru 10-28-09

Notice Publication Date:

Rules Amended: 461-110-0330, 461-110-0530, 461-135-0070, 461-155-0030

Subject: OAR 461-110-0330 about the composition of filing groups in the Temporary Assistance for Needy Families (TANF) program is being amended to state that the spouse and each dependent child of a caretaker relative, and a needy caretaker relative who is applying for TANF for a relative child in his or her care, are included in the TANF filing group for eligibility determination. The filing group is the group of individuals whose circumstances are considered in the eligibility determination process.

OAR 461-110-0530 about the composition of financial groups (the individuals whose income and resources count in determining eligibility and benefits) in the Temporary Assistance for Needy Families (TANF) program is being amended to state that a caretaker relative, other than a parent, who chooses not to be included in the need group (the group of individuals whose basic and special needs are used in determining eligibility and benefit level) must have income less than the non-needy countable income limit standard for the filing group (the individuals whose circumstances are considered in the eligibility determination process) of the caretaker relative to be excluded from the financial group; that only the spouses and dependent children of a caretaker relative, other than a parent, who chooses not to be included in the need group and has income less than the non-needy countable income limit standard for the filing group of the caretaker relative may be excluded from the financial group; and that an individual in the filing group solely due to the requirements of OAR 461-110-0310(1)(b)(individuals in the filing group but not the household) may be excluded from the financial group.

OAR 461-135-0070 about specific eligibility (the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits) requirements in the Med-

ical Assistance Assumed (MAA), Medical Assistance to Families (MAF), and Temporary Assistance for Needy Families (TANF) programs is being amended to state that a need group (the individuals whose basic and special needs are used in determining eligibility and benefit level) is not eligible for TANF program benefits when a caretaker relative in the need group left his or her most recent employment for a reason that would disqualify the caretaker relative from unemployment compensation benefits, unless the employment ended 12 or more months before the TANF program date of request (the day the request for benefits was received by the Department). This rule also is being amended to state that when a need group is ineligible for TANF program benefits based on the disqualification from unemployment compensation benefits, the need group still may be eligible for MAA or MAF program benefits. This rule also is being amended to state that "most recent employment" means the last employment in which the individual worked or was hired to work at least 100 hours per month.

OAR 461-155-0030 about the income and payment standards in the Temporary Assistance for Needy Families (TANF) program is being amended to state that a caretaker relative choosing not to be included in the need group (the group of individuals whose basic and special needs are used in determining eligibility and benefit level) when determining TANF program eligibility makes the need group subject to the no-adult countable income limit standard and the filing group (the individuals whose circumstances are considered in the eligibility determination process) subject to the non-needy countable income limit standard for the filing group. This rule is also being amended to state the non-needy countable income limit standard for the filing group.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-110-0330

Filing Group; EXT, MAA, TANF

(1) In the EXT and MAA programs, a filing group must include a *dependent child* (see OAR 461-001-0000) or unborn child and the following household members (even if the member is not an applicant or does not meet nonfinancial *eligibility* (see 461-001-0000) requirements):

(a) Each *parent* (see OAR 461-001-0000) of a *dependent child* in the filing group.

(b) Each *parent* of an unborn child in the filing group.

(c) Each *sibling* (see OAR 461-001-0000) of a *dependent child* in the filing group, except as specified in subsection (4)(a) of this rule. The *sibling* must be under the age of 18, or 18 years of age and attending school full time.

(d) For a *needy caretaker relative* (see OAR 461-001-0000) of the *dependent child* in the filing group, the *spouse* (see 461-001-0000) and each *dependent child* of the *needy caretaker relative*.

(e) A *caretaker relative*.

(2) In the TANF program, a filing group must include a *dependent child* or unborn child and the following household members (even if the member is not an applicant or does not meet nonfinancial *eligibility* requirements):

(a) Each *parent* of a *dependent child* in the filing group.

(b) Each *parent* of an unborn child in the filing group.

(c) Each *sibling* of a *dependent child* in the filing group, except as specified in subsection (4)(a) of this rule. The *sibling* must be under the age of 18, or 18 years of age and attending school full time.

(d) A *caretaker relative* of the *dependent child* in the filing group, and the *spouse* and each *dependent child* of the *caretaker relative*.

(3) A *dependent child* is not included in the filing group if he or she has been or will be receiving foster care payments for more than 30 days, is receiving adoption assistance, or is receiving Title IV-E subsidized guardianship payments.

(4) The parents of a *minor parent* (see OAR 461-001-0000) are not in the filing group of the *minor parent* if:

(a) The *minor parent* does not live with his or her parent; or

(b) The parents of the *minor parent* are in the household of the *minor parent* but are not applying for MAA or TANF for the *minor parent* or any sibling of the *minor parent*.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.049, 414.042 & 418.005

Stats. Implemented: ORS 411.060, 411.070, 412.049, 414.042 & 418.005

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 13-1991, f. & cert. ef. 7-1-91; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 22-1995,

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f. 9-20-95, cert. ef. 10-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09

461-110-0530

Financial Group

(1) Except as provided in section (4) of this rule, a *financial group* refers to the filing group members whose income and resources count in determining *eligibility* (see OAR 461-001-0000) and benefits.

(2) In the EXT, MAA, MAF, REF, REFM, and SAC programs, the *financial group* consists of each individual in the filing group, except the following:

(a) A *caretaker relative* (see OAR 461-001-0000) other than a *parent* (see 461-001-0000) who chooses not to be included in the *need group* (see 461-110-0630); and

(b) An individual who receives SSI benefits.

(3) In the OHP program, the *financial group* consists of each individual in the filing group (including those receiving SSI benefits), except a *caretaker relative* (other than a parent) who chooses not to be included in the *need group*.

(4) In the OSIP and OSIPM programs:

(a) When individuals live in a *standard living arrangement* (see OAR 461-001-0000), all members of the filing group are in the *financial group*.

(b) When individuals live in a *nonstandard living arrangement* (see OAR 461-001-0000), the *financial group* consists only of the individual applying for benefits, except that the *community spouse* (see 461-001-0030) is included in the *financial group* to determine initial *eligibility*. At initial *eligibility*, the resources of the *community spouse* are considered and the provisions of 461-160-0580 apply. The income of the *community spouse* is not considered in determining initial *eligibility*, and the *community spouse* is not included in any other *eligibility group*.

(5) In the TANF program, the *financial group* consists of each individual in the filing group except the following:

(a) A *caretaker relative*, other than a *parent*, who chooses not to be included in the *need group* and has income less than the *non-needy countable income limit standard* (see OAR 461-155-0030) for the filing group of the *caretaker relative*;

(b) The spouse of a *caretaker relative*, when the *caretaker relative* meets the requirements under subsection (a) of this section;

(c) A *dependent child* of a *caretaker relative* when the *caretaker relative* meets the requirements under subsection (a) of this section;

(d) An individual in the filing group solely due to the requirements of OAR 461-110-0310(1)(b); and

(e) An individual who receives SSI benefits.

(6) For all programs other than EXT, MAA, MAF, OHP, OSIP, OSIPM, REF, REFM, SAC, and TANF, the *financial group* consists of all the individuals in the filing group.

Stat. Auth.: ORS 411.060, 411.816 & 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.049 & 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; 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 17-2008, f. & cert. ef. 7-1-08; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09

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.

(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) The *need group* (see OAR 461-110-0630) is not eligible for TANF benefits if a *caretaker relative* in the *need group* was separated from his or her *most recent employment* for reasons that would or do result in disqualification from Oregon Employment Department unemployment compensation (UC) benefits, unless the UC benefits disqualification is from employment that ended more than 12 months before the *date of request* (see 461-115-0030). "Most recent employment" means the last employment in which he or she worked or was hired to work at least 100 hours per month.

(4) If the *need group* is not eligible for TANF benefits solely under section (3) of this rule, the *need group* may still be eligible for MAA or MAF.

(5) 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.

(6) 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.

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(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.

(7) 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.

(8) If a parent or *caretaker relative* covered by section (6) or (7) 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 411.060 & 412.049

Stats. Implemented: ORS 411.060, 414.047 & 412.049

Hist.: AFS 80-1989, 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; SSP 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

461-155-0030

Income and Payment Standards; MAA, MAF, REF, SAC, TANF

In the MAA, MAF, REF, SAC, and TANF programs, the income standards are as follows:

(1) The Countable Income Limit Standard is the amount set as the maximum countable income limit.

(a) For each *need group* (see OAR 461-110-0630) in the REF and TANF programs containing an adult and for all need groups in the MAA, MAF, and SAC programs, the following table is used: [Table not included. See ED. NOTE.]

(b) In the TANF program, a *caretaker relative* (see OAR 461-001-0000) who chooses not to be included in the *need group* is subject to the “no-adult countable income limit standard” for the *need group* under subsection (c) of this section. The “non-needy countable income limit standard” for the filing group is as follows: [Table not included. See ED. NOTE.]

(c) In the REF and TANF programs, when the *need group* contains no adults, the “no adult countable income limit standard” is calculated as follows:

(A) Refer to the Countable Income Limit Standard for need groups with adults. Use the standard for the number of individuals in the *household group* (see OAR 461-110-0210).

(B) Divide the standard in paragraph (A) of this subsection by the number of individuals in the *household group*. Round this figure down to the next lower whole number if the figure is not a whole number.

(C) Multiply the figure from paragraph (B) of this subsection by the number of individuals in the *need group*. The result is the standard.

(2) The Adjusted Income/Payment Standard is used as the adjusted income limit and to calculate cash benefits for need groups with an adult.

(a) For need groups containing an adult in the REF and TANF programs and for all need groups in the MAA, MAF and SAC programs, the following table is used: [Table not included. See ED. NOTE.]

(b) For the REF and TANF programs, when the *need group* contains no adult, the No-Adult Adjusted Income/Payment Standard is calculated as follows:

(A) Refer to the Adjusted Income/Payment Standard for need groups with adults. Use the standard for the number of individuals in the *household group*.

(B) Divide the standard in paragraph (A) of this subsection by the number of individuals in the *household group*. Round this figure down to the next lower whole number if the figure is not a whole number.

(C) Multiply the figure from paragraph (B) of this subsection by the number of individuals in the need group.

(D) Add \$12 to the figure calculated in paragraph (C) of this subsection.

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

Stat. Auth.: 411.060, 411.070 & 412.049

Stats. Implemented: 411.060, 411.070 & 412.049

Hist.: AFS 80-1989, f. & cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 6-2007(Temp), f. 6-29-07, cert. ef. 7-1-07 thru 9-30-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09

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

Adm. Order No.: SSP 9-2009(Temp)

Filed with Sec. of State: 5-1-2009

Certified to be Effective: 5-1-09 thru 10-28-09

Notice Publication Date:

Rules Amended: 461-120-0125, 461-135-0082, 461-135-0405, 461-135-0900, 461-190-0360, 461-193-0031

Subject: OAR 461-120-0125 about alien status requirements, OAR 461-135-0082 about client eligibility for the Refugee Case Services Project (RCSP) program, OAR 461-135-0900 about specific eligibility requirements in the Refugee Assistance (REF) and Refugee Assistance Medical (REFM) programs, and OAR 461-193-0031 about specific eligibility requirements for the RCSP program are being amended to lengthen the time period for which Afghan special immigrants (SIV) meet alien status requirements in all Department administered programs except the Food Stamp, REF, and REFM programs and to lengthen the time period for which Afghan special immigrants (SIV) are eligible for RCSP, REF, and REFM program benefits.

OAR 461-135-0405 about the specific requirements for the Employment Related Day Care (ERDC) program that apply to children in a Head Start program is being amended to state that when the Department has begun paying a Head Start agency for a child's child care under a contract a child is no longer presumed eligible for ERDC program benefits if the child's caretaker is found ineligible for ERDC program benefits due to self-employment income.

OAR 461-190-0360 about support service payments to clients for transportation and other costs in the Oregon Food Stamp Employment Transition (OFSET) program is being amended to state that the Department may pay a client no more than \$60 for transportation and other costs over the eight week OFSET program participation period. The rule had set a limit of \$40 per month.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-120-0125

Alien Status; Not REF or REFM

In all programs except the REF and REFM programs:

(1) For purposes of this chapter of rules, an individual is a “qualified non-citizen” if he or she is any of the following:

(a) A non-citizen who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (8 U.S.C. 1101 et seq).

(b) A refugee who is admitted to the United States as a refugee under section 207 of the INA (8 U.S.C. 1157).

(c) A non-citizen who is granted asylum under section 208 of the INA (8 U.S.C. 1158).

(d) A non-citizen whose deportation is being withheld under section 243(h) of the INA (8 U.S.C. 1253(h)) (as in effect immediately before April 1, 1997) or section 241(b)(3) of the INA (8 U.S.C. 251(b)(3)) (as amended by section 305(a) of division C of the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, 110 Stat. 3009-597 (1996)).

(e) A non-citizen who is paroled into the United States under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) for a period of at least one year.

(f) A non-citizen who is granted conditional entry pursuant to section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7)) as in effect prior to April 1, 1980.

(g) A non-citizen who is a “Cuban and Haitian entrant” (as defined in section 501(3) of the Refugee Education Assistance Act of 1980).

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(h) In all programs except the Food Stamp program — a battered spouse or dependent child who meets the requirements of 8 U.S.C. 1641(c) and is in the United States on a conditional resident status, as determined by the U.S. Citizenship and Immigration Services.

(i) In the Food Stamp program — a non-citizen who has been battered or subjected to extreme cruelty in the United States by a spouse or parent or by a member of the spouse or parent's family residing in the same household as the non-citizen at the time of the abuse; a non-citizen whose child has been battered or subjected to battery or cruelty; or a non-citizen child whose parent has been battered.

(2) An individual meets the alien status requirements if he or she is one of the following:

(a) An American Indian born in Canada to whom the provisions of section 289 of the INA (8 U.S.C. 1359) apply.

(b) A member of an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Act (25 U.S.C. 450b(e)).

(3) In the ERDC and TANF programs, an individual meets the alien status requirements if he or she is one of the following:

(a) An individual who is a *qualified non-citizen*.

(b) A non-citizen who is currently a victim of domestic violence or who is at risk of becoming a victim of domestic violence.

(c) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), as amended.

(d) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).

(e) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the Immigration and Nationality Act. Such an individual meets the alien status requirements for a maximum of eight months as follows:

(A) If the individual enters the United States with the special immigrant status, the month that the individual enters the United States counts as the first month.

(B) If the individual is granted special immigrant status after entering the United States, then the month in which the special immigrant status was granted counts as the first month.

(4) In the BCCM, MAA, MAF, OHP, OSIPM, QMB, and SAC programs, a qualified non-citizen meets the alien status requirements if he or she satisfies one of the following situations:

(a) Was a *qualified non-citizen* before August 22, 1996.

(b) Physically entered the United States before August 22, 1996, and was continuously present in the United States between August 22, 1996, and the date *qualified non-citizen* status was obtained. An individual is not continuously present in the United States if he or she is absent from the United States for more than 30 consecutive days or for a total of more than 90 days.

(c) Is an individual granted any of the following alien statuses:

(A) Refugee — under section 207 of the INA.

(B) Asylum — under section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) Cubans and Haitians who are either public interest or humanitarian parolees.

(E) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(F) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106 386, 114 Stat. 1464 (2000), as amended.

(G) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).

(H) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the Immigration and Nationality Act. Such an individual meets the alien status requirements for a maximum of eight months as follows:

(i) If the individual enters the United States with the special immigrant status, the month that the individual enters the United States counts as the first month.

(ii) If the individual is granted special immigrant status after they have already entered the United States, then the month in which the special immigrant status was granted counts as the first month.

(d) Meets the alien status requirements in section (2), (7), or (8) of this rule.

(e) In the OSIPM program, is receiving SSI benefits.

(f) In the QMB program, is receiving SSI and Medicare Part A benefits.

(5) In the GA and GAM programs, an individual meets the alien status requirement if he or she is one of the following:

(a) An individual who is blind or has a disability was lawfully residing in the United States on August 22, 1996, and is now a *qualified non-citizen*.

(b) An individual granted one of the following statuses, but only for seven years following the date the status is granted:

(A) Refugee — under section 207 of the INA.

(B) Asylum — under section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(E) Cubans and Haitians who are either public interest or humanitarian parolees.

(F) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106 386, 114 Stat. 1464 (2000), as amended.

(G) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).

(c) An individual who meets one of the alien status requirements in section (2) or (7) of this rule.

(d) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the Immigration and Nationality Act. Such an individual meets the alien status requirements for a maximum of eight months as follows:

(A) If the individual enters the United States with the special immigrant status, the month that the individual enters the United States counts as the first month.

(B) If the individual is granted special immigrant status after they have already entered the United States, then the month in which the special immigrant status was granted counts as the first month.

(6) In the OSIP program, an individual meets the alien status requirement if he or she is one of the following:

(a) An individual who is blind or has a disability, was lawfully residing in the United States on August 22, 1996, and is now a *qualified non-citizen*.

(b) A *qualified non-citizen* who physically entered the United States on or after August 22, 1996, has had the *qualified non-citizen* status for at least five years, and has forty qualifying quarters of coverage as defined in section (10) of this rule.

(c) An individual granted one of the following statuses, but only for seven years following the date the status is granted:

(A) Refugee — under section 207 of the INA.

(B) Asylum — under section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(E) Cubans and Haitians who are either public interest or humanitarian parolees.

(F) A "victim of a severe form of trafficking in persons" certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106 386, 114 Stat. 1464 (2000), as amended.

(G) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).

(d) An individual receiving SSI benefits.

(e) An individual who meets one of the alien status requirements in section (2) or (7) of this rule.

(f) An Iraqi or Afghan alien granted special immigrant status (SIV) under section 101(a)(27) of the Immigration and Nationality Act. Such an individual meets the alien status requirements for a maximum of eight months as follows:

(A) If the individual enters the United States with the special immigrant status, the month that the individual enters the United States counts as the first month.

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(B) If the individual is granted special immigrant status after they have already entered the United States, then the month in which the special immigrant status was granted counts as the first month.

(7) In all programs except ERDC and TANF, a *qualified non-citizen* meets the alien status requirement if he or she is:

(a) A veteran of the United States Armed Forces who was honorably discharged for reasons other than alien status and who fulfilled the minimum active-duty service requirements described in 38 U.S.C. 5303A(d).

(b) A member of the United States Armed Forces on active duty (other than active duty for training).

(c) The spouse or a dependent child of an individual described in subsection (a) or (b) of this section.

(d) In the FS program, a qualified non-citizen who meets the requirement in section (10) of this rule.

(8) Except as provided in sections (2), (3)(e), (4), (5), and (7) of this rule, a non-citizen who entered the United States or was given *qualified non-citizen* status on or after August 22, 1996:

(a) Is ineligible for the BCCM, MAA, MAF, OHP, OSIPM, QMB, and SAC programs for five years beginning on the date the non-citizen received his or her *qualified non-citizen* status.

(b) Meets the alien status requirement following the five-year period.

(9) In the FS program, an individual meets the alien status requirement if he or she is one of the following:

(a) An individual granted any of the following alien statuses:

(A) Refugee — under section 207 of the INA.

(B) Asylum — under section 208 of the INA.

(C) Deportation being withheld under section 243(h) of the INA.

(D) Cubans and Haitians who are either public interest or humanitarian parolees.

(E) An individual granted immigration status under section 584(a) of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1988.

(F) A “victim of a severe form of trafficking in persons” certified under the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106 386, 114 Stat. 1464 (2000), as amended.

(G) A family member of a victim of a severe form of trafficking in persons who holds a visa for family members authorized by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. 108-193, 117 Stat. 2875 (2003).

(H) Iraqi aliens granted special immigrant status (SIV) under section 101(a)(27) of the Immigration and Nationality Act. Such individuals meet the alien status requirements for a maximum of eight months as follows:

(i) If the individual enters the United States with the special immigrant status, the month that the individual enters the United States counts as the first month.

(ii) If the individual is granted special immigrant status after they have already entered the United States, then the month in which the special immigrant status was granted counts as the first month.

(iii) There is no eligibility past September 30, 2008, even if the eight month limit has not been reached.

(I) Afghan aliens granted special immigrant status (SIV) under section 101(a)(27) of the Immigration and Nationality Act. Such individuals meet the alien status requirements for a maximum of six months as follows:

(i) If the individual enters the United States with the special immigrant status, the month that the individual enters the United States counts as the first month.

(ii) If the individual is granted special immigrant status after they have already entered the United States, then the month in which the special immigrant status was granted counts as the first month.

(iii) There is no eligibility past September 30, 2009, even if the six month limit has not been reached.

(b) A *qualified non-citizen* under 18 years of age.

(c) A non-citizen who has been residing in the United States for at least five years while a *qualified non-citizen*.

(d) A non-citizen who is lawfully residing in the United States and who was a member of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era (as defined in 38 U.S.C. 101).

(e) The spouse, the un-remarried surviving spouse, or an unmarried dependent child, of an individual described in subsection (d) of this section.

(f) A *qualified non-citizen* who has a disability, as defined in OAR 461-001-0015.

(10) A client who is lawfully admitted to the United States for permanent residence under the INA and has worked 40 qualifying quarters of

coverage as defined under title II of the Social Security Act, or can be credited with such qualifying quarters as provided under 8 U.S.C. 1645, meets the alien status requirements for the FS program, subject to the following provisions:

(a) No quarter beginning after December 31, 1996, is a qualifying quarter if the client received any federal, means-tested benefit during the quarter. Federal means tested benefits include FS, TANF, and Medicaid (except emergency medical).

(b) For the purpose of determining the number of qualifying quarters of coverage, a client is credited with all of the quarters of coverage worked by a parent of the client while the client was under the age of 18 and all of the qualifying quarters worked by a spouse of the client during their marriage, during the time the client remains married to such spouse or such spouse is deceased.

(c) A lawful permanent resident who would meet the alien status requirement, except for a determination by the Social Security Administration (SSA) that he or she has fewer than 40 quarters of coverage, may be provisionally certified for food stamp benefits while SSA investigates the number of quarters creditable to the client. A client provisionally certified under this section who is found by SSA, in its final administrative decision after investigation, not to have 40 qualifying quarters is not eligible for food stamp benefits received while provisionally certified. The provisional certification is effective according to the rule on effective dates for opening benefits, OAR 461-180-0080. The provisional certification cannot run more than six months from the date of original determination by SSA that the client does not have sufficient quarters.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 411.060, 411.816 & 412.049

Stats. Implemented: ORS 411.060, 411.816 & 412.049

Hist.: AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 17-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 36-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 10-2004(Temp), f. & cert. ef. 4-9-04 thru 6-30-04; SSP 14-2004(Temp), f. & cert. ef. 5-11-04 thru 6-30-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 11-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 9-30-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 3-2008(Temp), f. & cert. ef. 1-30-08 thru 7-28-08; SSP 4-2008(Temp), f. & cert. ef. 2-22-08 thru 7-28-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 25-2008(Temp), f. 12-31-08, cert. ef. 1-1-09 thru 6-30-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09

461-135-0082

Eligibility for Refugees

Clients are eligible for the Refugee Case Services Project program if they meet the requirements of all of the following sections:

(1) Have an alien status listed in OAR 461-120-0120.

(2) Entered the United States on or after October 1, 1997.

(3) Live in Clackamas, Multnomah, or Washington County.

(4) Have resided in the United States less than eight months or have been granted asylum within the last eight months. The month in which the refugee was admitted to the United States as a refugee, or was granted asylum, counts as the first month. The month in which the special immigrant was admitted to the United States as a special immigrant counts as the first month. If a special immigrant was granted special immigrant status after having already entered the United States, then the month that the status was granted counts as the first month.

(5) Meet the eligibility requirements contained in OAR 461-193-0000 to 461-193-1380.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 3-2008(Temp), f. & cert. ef. 1-30-08 thru 7-28-08; SSP 4-2008(Temp), f. & cert. ef. 2-22-08 thru 7-28-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09

461-135-0405

ERDC; Children in the Head Start Program

(1) The following provisions apply when an ERDC program client's child receives child care through a Head Start agency:

(a) The Head Start agency is considered the provider of child care.

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(b) If the Head Start agency uses another provider for the child care, that provider must meet the requirements in OAR 461-165-0160 and following.

(c) The payment made by the Department on behalf of the child is made only to the Head Start agency. The child is ineligible for child care payments for care not provided under the contract between the Head Start agency and the Department.

(2) The following provisions apply when an ERDC program client's child receives child care under a contract between a Head Start agency and the Department:

(a) Once the Department makes a child care payment for the child under the contract, the child is presumed to meet the ERDC program eligibility requirements until the next August 31, unless:

(A) The child's caretaker has been found ineligible for ERDC program benefits under OAR 461-135-0415 for failure to make a copayment;

(B) The client was found eligible because of inaccurate information provided to the Department or because information was withheld from the Department when eligibility was determined;

(C) The client fails to meet the requirements of the locally prepared agreement among the client, the Head Start program, and the Department; or

(D) The child's caretaker is found ineligible for ERDC program benefits under OAR 461-160-0040(6).

(b) For any month in which the child is eligible to be served under a contract and the client complies with a plan developed jointly by the client, the Head Start agency, and the Department (plan), the Department waives the client's copayment for the child, in whole or in part, if the waiver is provided for in the contract.

(c) For any month in which the client's child is eligible to be served under a contract and the client complies with a plan, the Department waives the copayment with respect to the child's siblings, in whole or in part, if the waiver is provided for in the contract.

(3) The Department will not make a child care payment for a child in a Head Start program if the child's caretaker has been found ineligible for ERDC program under OAR 461-135-0415 for failure to make a copayment.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 33-2000(Temp), f. 12-22-00, cert. ef. 1-1-01 thru 3-31-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09

461-135-0900

Specific Requirements; REF, REFM

(1) In addition to the eligibility requirements in other rules in chapter 461 of the Oregon Administrative Rules, an individual must meet all of the requirements in this rule to be eligible for the REF and REFM programs.

(2) An individual must meet the alien status requirements of OAR 461-120-0120, except a *child* (see 461-001-0000) born in the United States to an REF or REFM program client meets the alien status requirements for the REF and REFM programs as long as each *parent* (see 461-001-0000) in the *household group* (see 461-110-0210) meets the alien status requirements of 461-120-0120.

(3) An individual is not eligible to receive REF and REFM program benefits if the individual is a full-time student of *higher education*, unless such education is part of a cash assistance case plan. Any education or training allowable under an approved case plan must be less than one year in length. For the purposes of this rule, "higher education" means education that meets the requirements of one of the following subsections:

(a) Public and private universities and colleges and community colleges that offer degree programs regardless of whether a high school diploma is required for the program. However, GED, ABE, ESL, and high school equivalency programs at these institutions are not considered higher education.

(b) Vocational, technical, business, and trade schools that normally require a high school diploma or equivalency certificate for enrollment in the curriculum or in a particular program at the institution. However, programs at those institutions that do not require the diploma or certificate are not considered higher education.

(4) Eligibility for REF and REFM is limited to the first eight months in the United States:

(a) For an individual who meets the alien status requirements of OAR 461-120-0120(1), (3), (4), or (5), the month that the individual enters the U.S. counts as the first month.

(b) For an individual who meets the alien status requirements of OAR 461-120-0120(2), (6), or (7), the month that the individual was granted the individual's status counts as the first month.

(c) For an individual who meets the alien status requirements of OAR 461-120-0120(8):

(A) If the individual enters the U.S. with the special immigrant status, the month that the individual enters the U.S. counts as the first month.

(B) If the individual is granted special immigrant status after they have already entered the U.S., then the month in which the special immigrant status was granted counts as the first month.

(d) Months in the United States are counted as whole months. There is no prorating of months.

(5) For an individual who meets the requirements of section (4) of this rule:

(a) When the individual resides in Clackamas, Multnomah, or Washington counties:

(A) The individual is not eligible to receive REF, TANF, or TANF-related employment services through the Department. To receive benefits, the individual is required to participate in the Refugee Case Service Project (RCSP) program. This individual is referred to their local resettlement agency to be enrolled in the RCSP program and receives all other Department services through the individual's local Department office.

(B) An individual who no longer meets the requirements of section (4) of this rule is no longer eligible to receive cash or case management services through the RCSP program. If this individual has been in the United States for 12 months or less, with the exception of Iraqi and Afghan special immigrants, the individual is referred to the New Arrival Employment program (NAES) program contractor for employment services. Iraqi and Afghan special immigrants are limited to no more than eight months.

(b) When the individual resides in counties other than Clackamas, Multnomah, and Washington:

(A) The RCSP program is not available. The individual is served at the individual's local Department office.

(B) For an individual who meets the eligibility requirements of the MAA, MAF, or TANF programs, the MAA, MAF, and TANF program benefits are prior resources.

(C) An individual is eligible for the REF and REFM programs if the individual:

(i) Does not meet the eligibility requirements of at least one of the MAA, MAF, and TANF programs; and

(ii) Meets the financial and non-financial eligibility requirements for the REF and REFM programs.

(D) An REF program client may not participate in the Pre-TANF program.

Stat. Auth.: ORS 411.060 & 412.049

Stats. Implemented: ORS 411.060 & 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 33-1996(Temp), f. 9-26-96, cert. ef. 10-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 3-2008(Temp), f. & cert. ef. 1-30-08 thru 7-28-08; SSP 4-2008(Temp), f. & cert. ef. 2-22-08 thru 7-28-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09

461-190-0360

Special Payments; OFSET

In the OFSET program, the Department may authorize payment of not more than \$60 over the eight week participation period for transportation and other costs identified in the client's case plan. If public transportation is available, the Department may issue to the client bus passes or tickets sufficient to enable the client to participate in the OFSET program activities identified in the case plan.

Stat. Auth.: ORS 411.060 & 411.816

Stats. Implemented: ORS 411.060 & 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 24-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09

461-193-0031

Eligibility Requirements; Refugee Case Services Project (RCSP)

In the RCSP program, to be eligible an applicant must meet the requirements of sections (1) to (6) of this rule, and section (7) if section (7) applies:

(1) Meet all TANF program *eligibility* (see OAR 461-001-0000) requirements.

(2) Meet the alien status requirements under OAR 461-120-0120.

(3) Reside in Clackamas, Multnomah, or Washington County.

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(4) Have resided in the U.S. for eight months or less. The first month is, for an individual meeting the alien status requirements of OAR 461-120-0120:

(a) Section (1), (3), (4), or (5), the month the individual entered the United States.

(b) Section (2), (6), or (7), the month the individual was granted the individual's immigration status.

(c) Section (8):

(A) If the individual entered the U.S. with special immigrant status, the month the individual entered the United States.

(B) If the individual is granted special immigrant status after entering the U.S., the month in which the special immigrant status was granted.

(d) Each month in the U.S. is counted as a whole month, there is no prorating of any month.

(5) Be 64 years old or younger.

(6) Not be enrolled as a full-time student or intending to enroll as a full-time student within six months of RCSP program intake.

(7) For a newborn, a parent must provide verification of the child's birth, including the date of birth. The newborn child's U.S. arrival date and *eligibility* period are the same as those for the child's mother.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 9-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 24-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 13-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 7-2009, f. & cert. ef. 4-1-09; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09

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

Adm. Order No.: SSP 10-2009(Temp)

Filed with Sec. of State: 5-6-2009

Certified to be Effective: 5-6-09 thru 9-28-09

Notice Publication Date:

Rules Amended: 461-115-0705, 461-135-0010

Rules Suspended: 461-135-0010(T)

Subject: OAR 461-115-0705 about the verification requirements in the Breast and Cervical Cancer Medical (BCCM), Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), Oregon Health Plan (OHP), and Medical Coverage for Children in Substitute or Adoptive Care (SAC) programs is being amended to state that a new applicant's medical assistance may not be delayed while awaiting acceptable documentation of U.S. citizenship if all other eligibility requirements have been fulfilled. This rule also is being amended to indicate that the requirement for a current BCCM, MAA, MAF, OHP, or SAC program benefit recipient previously not providing acceptable documentation of U.S. citizenship to provide acceptable documentation is not limited to the next re-determination.

OAR 461-135-0010 about when a client is assumed eligible for benefits under certain medical programs is being amended to clarify Department policy around TANF and medical program eligibility determinations and separate the assumed eligibility for certain clients for MAA program benefits from eligibility for other programs, requiring these clients to meet other MAA program eligibility requirements to receive MAA program benefits. The amended rule allows the Department to properly make eligibility determinations and extend MAA program benefits to some clients otherwise ineligible due to unemployment or underemployment of the primary wage earner.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-115-0705

Required Verification; BCCM, MAA, MAF, OHP, SAC

(1) This rule establishes verification requirements for the BCCM, MAA, MAF, OHP, and SAC programs in addition to the requirements of OAR 461-115-0610.

(2) Except as provided in section (3) of this rule, each client declaring U.S. citizenship must provide *acceptable documentation* of citizenship and identity. For purposes of this rule, *acceptable documentation* consists of any of the documents permitted under section 1903(x) of the Social Security Act (42 U.S.C. 1396b).

(a) A new applicant must provide *acceptable documentation* as a condition of *eligibility* (see OAR 461-001-0000). Except for an applicant previously denied or closed for not providing *acceptable documentation*, an

applicant's medical assistance may not be delayed for citizenship documentation while the *eligibility* decision is pending if all other medical assistance *eligibility* requirements have been met.

(b) A current recipient who has not already provided *acceptable documentation* must provide *acceptable documentation* when requested by the Department.

(c) A client who has already provided *acceptable documentation* is not required to provide additional evidence during subsequent application for benefits or redeterminations of *eligibility*.

(3) All of the following clients are exempt from the requirements of section (2) of this rule:

(a) A client eligible for or receiving Medicare.

(b) A client who is assumed eligible under OAR 461-135-0010(5).

(c) A client who is presumptively eligible for the BCCM program.

(d) A client who is eligible for OHP-CHP.

(e) A client who is receiving Social Security Disability Income (SSDI).

(f) A client receiving Title IV-E benefits.

(4) In the OHP program:

(a) At initial application and at any other time it affects the client, the following must be verified:

(A) The requirement in OAR 461-120-0210 to have or apply for a social security number.

(B) Alien status for applicants who indicate they are not U.S. citizens.

(C) The premium exemption allowed because a client is:

(i) A member of a federally recognized Indian tribe, band, or group;

(ii) An Eskimo, Aleut, or other Alaska native enrolled by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act; or

(iii) A person eligible for benefits through an Indian Health Program.

(D) Income from the past three months and income already received in the budget month. If income cannot be verified, the client's statement is accepted.

(b) At recertification, the following must be verified, except that if income cannot be verified, the client's statement is accepted:

(A) Unearned income if it has changed since the last certification.

(B) Earned income from the three months prior to the budget month.

(c) A client enrolled *full time* in *higher education* must provide verification, at application and recertification, that the client meets the requirements of OAR 461 135 1110.

(d) The following must be verified when it is first reported or changed:

(A) Pregnancy of the client, which must be verified by a medical practitioner, health department, clinic, or crisis pregnancy center or like facility.

(B) Amount of the premium for cost-effective employer-sponsored health insurance.

(e) A client must provide verification for any eligibility requirement questioned by the Department.

Stat. Auth.: ORS 409.050, 411.060 & 414.042

Stats. Implemented: ORS 411.060, 414.042 & 414.047

Hist.: AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 12-2006(Temp), f. & cert. ef. 9-1-06 thru 12-31-06; Suspended by SSP 13-2006(Temp), f. & cert. ef. 9-25-06 thru 12-31-06; 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 8-2008, f. & cert. ef. 4-1-08; SSP 10-2009(Temp), f. & cert. ef. 5-6-09 thru 9-28-09

461-135-0010

Assumed Eligibility for Medical Programs

(1) This rule sets out when a client is assumed eligible for certain medical programs because the client receives or is deemed to receive benefits of another program.

(2) A pregnant woman who is eligible for and receiving benefits the day the pregnancy ends is assumed eligible for EXT, MAA, MAF, OHP (except OHP-CHP), OSIPM, or SAC until the last day of the calendar month in which the 60th day after the last day of the pregnancy falls.

(3) A pregnant woman who was eligible for and receiving medical assistance under any Medicaid program and becomes ineligible while pregnant is assumed eligible for Medicaid until the last day of the calendar month in which the 60th day after the last day of the pregnancy falls.

(4) A *child* (see OAR 461-001-0000) born to a mother eligible for and receiving EXT, MAA, MAF, OHP (except OHP-CHP), OSIPM, or SAC benefits is assumed eligible for medical benefits under this section until the end of the month the *child* turns one year of age.

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(5) Except for a *child* who does not meet a citizenship verification requirement set forth in OAR 461-115-0705, the following children are assumed eligible for SAC:

(a) A *child* who is the subject of an adoption assistance agreement with another state.

(b) A *child* in a state subsidized, adoptive placement, if an adoption assistance agreement is in effect between a public agency of the state of Oregon and the adoptive parents that indicates the child is eligible for Medicaid.

(6) The individuals described in subsection (a) and (b) of this section are assumed eligible for OSIPM (except OSIPM-EPD) unless subsection (c) or (d) of this section applies:

(a) A recipient of SSI benefits.

(b) An individual deemed eligible for SSI under Sections 1619(a) or (b) of the Social Security Act (42 U.S.C. 1382h(a) or (b)), which cover individuals with disabilities whose impairments have not changed but who have become gainfully employed and have continuing need for OSIPM.

(c) An individual described in subsection (a) or (b) of this section who is in a *nonstandard living arrangement* (see OAR 461-001-0000) is not eligible for *long-term care* (see 461-001-0000) services if the individual would otherwise be ineligible for OSIPM due to a disqualifying transfer of assets (461-140-0210 to 461-140-0300 regulate the effect of a transfer of assets on a client).

(d) An individual described in subsection (a) or (b) of the section who is in a *nonstandard living arrangement* is not assumed eligible for long-term care services if *countable* resources exceed the limit after performing the calculation under OAR 461-160-0580.

(7) A client who receives both benefits under Part A of Medicare and SSI benefits is assumed eligible for the QMB BAS program.

(8) A client is assumed eligible for REFM if:

(a) The client is receiving cash assistance through the REF program;

(b) The client loses eligibility for cash assistance through the REF program only because of income or resources;

(c) The client loses eligibility for the EXT, MAA, MAF, or SAC programs, but still meets the requirements of the REFM program; or

(d) The client had refugee-related medical assistance established in another state based on refugee status granted by the United States Citizenship and Immigration Services, and moved to Oregon within the client's first eight months in the United States.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.049 & 414.042
Stats. Implemented: ORS 411.060, 411.070, 412.049, 414.025 & 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 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 12-1999(Temp), f. & cert. ef. 10-1-99 thru 1-31-00; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 12-2006(Temp), f. & cert. ef. 9-1-06 thru 12-31-06; 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 10-2007, f. & cert. ef. 10-1-07; 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 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 10-2009(Temp), f. & cert. ef. 5-6-09 thru 9-28-09

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

Rule Caption: January 1, 2009–December 31, 2010 Health Services Commission's Prioritized List of Health Services with April 1, 2009 modifications and expanded definitions, practice guidelines and condition treatment pairs funded through line 503.

Adm. Order No.: DMAP 8-2009(Temp)

Filed with Sec. of State: 4-17-2009

Certified to be Effective: 4-17-09 thru 9-25-09

Notice Publication Date:

Rules Amended: 410-141-0520

Rules Suspended: 410-141-0520(T)

Subject: The Oregon Health Plan (OHP) Program administrative rules govern Division of Medical Assistance Programs' (DMAP) payments for services provided to clients. Effective retroactive to January 1, 2009, DMAP temporarily amended 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 retroactive to April 1, 2009, DMAP temporarily amended 410-141-0520 to reference the January 1, 2009–December 31,2010 Oregon Health Services Commission's Prioritized List of Health Services with interim modification and technical changes effective April 1, 2009.

Note: With this Temporary action, DMAP is adding the text that the Prioritized list (as referenced above) includes expanded definitions, practice guidelines and condition treatments pairs funded through line 503.

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 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
Stat. 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. f. & cert. ef. 10-2-02; 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 71-2004(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

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Rule Caption: MMIS Alternative Process and Procedures — Prepaid Health Plan Supplemental Payment Processing.

Adm. Order No.: DMAP 9-2009(Temp)

Filed with Sec. of State: 4-29-2009

Certified to be Effective: 5-1-09 thru 7-1-09

Notice Publication Date:

Rules Amended: 410-120-0027

Rules Suspended: 410-120-0027(T)

Subject: The General Rules Program administrative rules govern Division of Medical Assistance Programs' (DMAP) payments for services provided to clients. DMAP temporarily adopted 410-120-0027 to reference in the rule document, MMIS Alternative Process and Procedures, dated May 1, 2009 with Release #1, Pharmacy Pay-

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ments During MMIS Enrollment Data Correction, effective retroactive to January 1, 2009, Release #2, MMIS transitional issues/temporary protocols, effective retroactive to January 1, 2009, and Release #3, Prepaid Health Plan Supplemental Payment Processing, effective May 1, 2009 included in rule by reference and found on the DHS webpage: http://www.oregon.gov/DHS/healthplan/tools_prov/mmisaltpro.pdf

DMAP intends to make permanently amend this rule on or before July 1, 2009.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-120-0027

MMIS Alternative Process and Procedure

(1) Consistent and in accordance with OAR 407-120-0400 DHS MMIS Replacement Communication Plan, follow criteria outlined in the “MMIS Alternative Process and Procedures”, dated May 1, 2009 with Release #1, Pharmacy Payments During MMIS Enrollment Data Correction, effective retroactive to January 12, 2009, Release #2, MMIS transitional issues/temporary protocols, effective retroactive to January 16, 2009 and Release #3 Prepaid Health Plan Supplemental Payment Processing, effective May 1, 2009, included in rule by reference and found on the DHS Web page:http://www.oregon.gov/DHS/healthplan/tools_prov/mmis-altpro.pdf.

(2) Each Release included in this referenced document is dated according to the beginning effective date and continues to be effective ongoing until further notice.

(3) This rule and the information found in the referenced documents take precedence over existing rules in Chapter 410.

Stat. Auth.: ORS 409.025, 409.040, 409.050, 409.110 & 414.065

Stats. Implemented: ORS 414.065

Hist.: DMAP 2-2009(Temp), f. & cert. ef. 12-12-09 thru 7-1-09; DMAP 3-2009(Temp), f. & cert. ef. 1-16-09 thru 7-1-09; DMAP 9-2009(Temp), f. 4-29-09, cert. ef. 5-1-09 thru 7-1-09

Rule Caption: To reflect rate changes in outpatient and inpatient hospital services for Diagnosis Related Grouper (DRG) hospitals.

Adm. Order No.: DMAP 10-2009(Temp)

Filed with Sec. of State: 4-29-2009

Certified to be Effective: 5-1-09 thru 10-28-09

Notice Publication Date:

Rules Amended: 410-125-0141, 410-125-0195

Subject: The Hospital Services Program administrative rules govern Division of Medical Assistance Programs’ (DMAP) payments for services to certain clients, DMAP temporarily amended 410-125-0141 and 410-125-0195 to reflect rate changes in outpatient and inpatient hospital services for Diagnosis Related Grouper (DRG) hospitals. DMAP intends to file these rules permanently on or before October 28, 2009.

Text will be revised to improve readability and take care of necessary “housekeeping” corrections.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-125-0141

DRG Rate Methodology

(1) Diagnosis Related Groups:

(a) Diagnosis Related Groups (DRG) is a system of classification of diagnoses and procedures based on the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM);

(b) The DRG classification methodology assigns a DRG category to each inpatient service, based on the patient’s diagnoses, age, procedures performed, length of stay, and discharge status.

(2) Medicare Grouper: The Medicare Grouper is the software used to assign an individual claim to a DRG category. Medicare revises the Grouper program each year in October. The Division of Medical Assistance Programs (DMAP) uses the Medicare Grouper program in the assignment of inpatient hospital claims. The most recent version of the Medicare grouper will be installed each year within 90 days of the date it is implemented by Medicare. Where better assignment of claims is achieved through changes to the grouper logic, DMAP may modify the logic of the grouper program. DMAP will work with representatives of hospitals that may be affected by grouper logic changes in reaching a cooperative decision regarding changes. DMAP DRG weight tables can be found on the DHS web site.

(3) DRG Relative Weights:

(a) Relative weights are a measure of the relative resources required in the treatment of the average case falling within a specific DRG category;

(b) For most DRGs, DMAP establishes a relative weight based on federal Medicare DRG weights. For state-specific Rehabilitation, Neonate, and Adolescent Psychiatric DRGs, Oregon Title XIX fee-for-service claims history is used. To determine whether enough claims exist to establish a reasonable weight for each state-specific Rehabilitation, Neonate, and Adolescent Psychiatric DRG, DMAP uses the following methodology: Using the formula $N = \frac{Z}{R}$ where $Z = 1.15$ (a 75% confidence level), S is the standard deviation, and $R = 10\%$ of the mean. DMAP determines the minimum number of claims required to set a stable weight for each DRG (N must be at least 5). For state-specific Rehabilitation, Neonate, and Adolescent Psychiatric DRGs lacking sufficient volume, DMAP sets a relative weight using:

(A) DMAP non-Title XIX claims data; or

(B) Data from other sources expected to reflect a population similar to the DMAP Title XIX caseload;

(c) When a test shows at the 90% confidence level that an externally derived weight is not representative of the average cost of services provided to the DMAP Title XIX population in that DRG, the weight derived from DMAP Title XIX claims history is used instead of the externally derived weight for that DRG;

(d) Those relative weights based on Federal Medicare DRG weights, will be established when changes are made to the DRG Grouper logic. State specific relative weights shall be adjusted, as needed, as determined by DMAP. When relative weights are recalculated, the overall Case Mix Index (CMI) will be kept constant. Reweighting of DRGs or the addition or modification of the grouper logic will not result in a reduction of overall payments or total relative weights.

(4) Case Mix Index: The hospital-specific case mix index is the total of all relative weights for all services provided by a hospital during a period, divided by the number of discharges.

(5) Unit Value: Hospitals larger than fifty (50) beds are reimbursed using the Diagnosis Related Grouper (DRG) as described in (2). Effective for services on or after:

(a) March 1, 2004, the Unit Value payment is 80% of the 2004 Medicare Unit Value and related data published in Federal Register/Vol.68, No. 148, August 1, 2003. The unit value is also referred to as the operating unit per discharge;

(b) August 15, 2005, the operating unit payment is 100% of 2004 Medicare and related data published in Federal Register/Vol. 68, No. 148, August 1, 2003. The unit value is also referred to as the operating unit per discharge.

(c) May 1, 2009, the operating unit payment is 108.5% of the 2004 Medicare and related data published in Federal Register/Vol. 68, No. 148, August 1, 2003. The unit value is also referred to as the operating unit per discharge.

(6) DRG Payment: The DRG payment to each Oregon DRG hospital is calculated by adding the unit value to the capital amount, then multiplied by the claim assigned DRG relative weight (out of state hospitals do not receive the capital amount).

(7) Cost Outlier Payments:

(a) Cost outlier payments are an additional payment made to in-state and contiguous hospitals for exceptionally costly services or exceptionally long lengths of stay provided to Title XIX and SF (State Facility) clients;

(b) For dates of service on and after March 1, 2004 the calculation to determine the cost outlier payment for Oregon DRG hospitals is as follows:

(A) Non-covered services (such as ambulance charges) are deducted from billed charges;

(B) The remaining billed charges are converted to hospital-specific costs using the hospital’s cost-to-charge ratio derived from the most recent audited Medicare cost report and adjusted to the Medicaid caseload;

(C) If the hospital’s net costs as determined above are greater than 270 percent of the DRG payment for the admission and are greater than \$25,000, an additional cost outlier payment is made;

(D) Costs which exceed the threshold (\$25,000 or 270% of the DRG payment, whichever is greater) are reimbursed using the following formula:

(i) Billed charges less non-covered charges, multiplied by;

(ii) Hospital-specific cost-to-charge ratio equals;

(iii) Net Costs, minus;

(iv) 270% of the DRG or \$25,000 (whichever is greater), equals;

(v) Outlier Costs, multiplied by;

(vi) Cost Outlier Percentage, (cost outlier percentage is 50%), equals;

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(vii) Cost Outlier Payment;

(E) Third party reimbursements are deducted from the DMAP calculation of the payable amount;

(F) When hospital cost reports are audited during the cost settlement process, an adjustment will be made to cost outlier payments to reflect the actual Medicaid hospital-specific cost-to-charge ratio during the time cost outlier claims were incurred. The cost-to-charge ratio in effect for that period of time will be determined from the audited Medicare Cost Report and DMAP 42, adjusted to reflect the Medicaid mix of services.

(8) Capital:

(a) The capital payment is a reimbursement to in-state hospitals for capital costs associated with the delivery of services to Title XIX, non-Medicare persons. DMAP uses the Medicare definition and calculation of capital costs. These costs are taken from the Hospital Statement of Reimbursable Cost (Medicare Report);

(b) For the dates of service on and after March 1, 2004 the Capital cost per discharge is one hundred (100) percent of the published Medicare capital rate for fiscal year 2004, see (5). The capital cost is added to the Unit Value and paid per discharge.

(9) Direct Medical Education:

(a) The direct medical education payment is a reimbursement to in-state hospitals for direct medical education costs associated with the delivery of services to Title XIX eligible persons. DMAP uses the Medicare definition and calculation of direct medical education costs. These costs are taken from the Hospital Statement of Reimbursable Cost (Medicare Report);

(b) Direct Medical Education cost per discharge is calculated as follows:

(A) The direct medical education cost proportional to the number of Title XIX non-Medicare discharges during the period from July 1, 1986 through June 30, 1987 are divided by the number of Title XIX non-Medicare discharges. This is the Title XIX Direct Medical Education Cost per discharge;

(B) The Title XIX Direct Medical Education cost per discharge for this period is inflated forward to January 1, 1992, using the compounded HCFA-DRI market basket adjustment;

(c) Direct Medical Education Payment Per Discharge:

(A) The number of Title XIX non-Medicare discharges from each hospital for the quarterly period is multiplied by the inflated Title XIX cost per discharge. This determines the current quarter's Direct Medical Education costs. This amount is then multiplied by 85%. Payment is made within thirty days of the end of the quarter;

(B) The Direct Medical Education Payment per Discharge will be adjusted at an inflation factor determined by the Department in consideration of inflationary trends, hospital productivity and other relevant factors.(C) Notwithstanding subsection (9) of this rule, this subsection becomes effective for dates of service:

(i) On July 1, 2006 and thereafter Direct Medical Education payments will not be made to hospitals: and

(ii) On July 1, 2008 and thereafter Direct Medical Education payments will be made to hospitals, but will not be operative as the basis for payments until DMAP determines all necessary federal approvals have been obtained.

(10) Indirect Medical Education:

(a) The indirect medical education payment is a reimbursement made to in-state hospitals for indirect medical education costs associated with the delivery of services to Title XIX non-Medicare clients;

(b) Indirect medical education costs are those indirect costs identified by Medicare as resulting from the effect of teaching activity on operating costs;

(c) Indirect medical education payments are made to in-state hospitals determined by Medicare to be eligible for such payments. The indirect medical education factor in use by Medicare for each of these eligible hospitals at the beginning of the State's fiscal year is the DMAP indirect medical education factor. This factor is used for the entire Oregon fiscal year;

(d) For dates of service on and after March 1, 2004 the calculation for the Indirect Medical Education quarterly payment is as follows: Total paid discharges during the quarter multiplied by the Case Mix Index, multiplied by the hospital specific February 29, 2004 Unit Value, multiplied by the Indirect Factor equals the Indirect Medical Education Payment;

(e) This determines the current quarter's Indirect Medical Education Payment. Indirect medical education payments are made quarterly to each eligible hospital. Payment for indirect medical education costs will be made within thirty days of the end of the quarter.(f) Notwithstanding subsection (10) of this rule, this subsection becomes effective for dates of service:

(i) On July 1, 2006 and thereafter Indirect Medical Education payment will not be made to hospitals; and

(ii) On July 1, 2008 and thereafter Direct Medical Education payments will be made to hospitals, but will not be operative as the basis for payments until DMAP determines all necessary federal approvals have been obtained.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 414.019, 414.025 & 414.065

Stats. Implemented: ORS 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 18-1982(Temp), f. & ef. 3-1-82; AFS 60-1982, f. & ef. 7-1-82; Renumbered from 461-015-0120(5); AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 45-1984, f. & ef. 10-1-84; AFS 6-1985, f. 1-28-85, ef. 2-1-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 46-1986(Temp), f. 6-25-86, ef. 7-1-86; AFS 61-1986, f. 8-12-86, ef. 9-1-86; AFS 33-1987(Temp), f. & ef. 7-22-87; AFS 46-1987, f. & ef. 10-1-87; AFS 62-1987(Temp), f. 12-30-87, ef. 1-1-88; AFS 12-1988, f. 2-10-88, cert. ef. 6-1-88; AFS 26-1988, f. 3-31-88, cert. ef. 4-1-88; AFS 47-1988(Temp), f. 7-13-88, cert. ef. 7-1-88; AFS 63-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 15-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 37-1989(Temp), f. 6-30-89, cert. ef. 7-1-89; AFS 45-1989, f. & cert. ef. 8-21-89; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89, Renumbered from 461-015-0006, 461-015-0020 & 461-015-0124; HR 18-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; HR 21-1990, f. & cert. ef. 7-9-90, Renumbered from 461-015-0570, 461-015-0590, 461-015-0600 & 461-015-0610; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 36-1990(Temp), f. 10-29-90, cert. ef. 11-1-90; HR 42-1990, f. & cert. ef. 11-30-90; HR 3-1991, f. & cert. ef. 1-4-91; HR 28-1991(Temp), f. & cert. ef. 7-1-91; HR 32-1991(Temp), f. & cert. ef. 7-29-91; HR 53-1991, f. & cert. ef. 11-18-91, Renumbered from 410-125-0840, 410-125-0880, 410-125-0900, 410-125-0920, 410-125-0960 & 410-125-0980; HR 35-1993(Temp), f. & cert. ef. 12-1-93; HR 23-1994, f. 5-31-94, cert. ef. 6-1-94; HR 11-1996(Temp), f. & cert. ef. 7-1-96; HR 22-1996, f. 11-29-96, cert. ef. 12-1-96; OMAP 45-1998, f. & cert. ef. 12-1-98; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 35-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 13-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 16-2003(Temp), f. & cert. ef. 3-10-03 thru 8-1-03; OMAP 37-2003, f. & cert. ef. 5-1-03; OMAP 90-2003, f. 12-30-03 cert. ef. 1-1-04; OMAP 78-2004(Temp), f. & cert. ef. 10-1-04 thru 3-15-05; Administrative correction, 3-18-05; OMAP 21-2005, f. 3-21-05, cert. ef. 4-1-05; OMAP 37-2005(Temp) f. & cert. ef. 8-15-05 thru 1-15-06; OMAP 70-2005, f. 12-21-05, cert. ef. 1-1-06; OMAP 17-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 19-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 10-2009(Temp), f. 4-29-09, cert. ef. 5-1-09 thru 10-28-09

410-125-0195

Outpatient Services In-State DRG Hospitals

In-State Diagnostic Related Grouper (DRG) hospital outpatient and emergency services are reimbursed under a cost-based methodology

(1) The National Drug Code (NDC) must be included on the electronic (837I) and paper (UB 04) claims for physician administered drug codes required by the Deficit Reduction Act of 2005.

(2) Interim reimbursement:

(a) The interim reimbursement percentage is developed using the cost-to-charge ratio methodology, derived from the Medicare cost report, and applied to billed charges;

(b) The interim payment is the estimated percentage needed to achieve 100% of hospital cost in aggregate.

(c) This interim percentage is applied to all outpatient charges except for clinical laboratory services. The Division of Medical Assistance Programs (DMAP) fee schedule is used as interim reimbursement for clinical laboratory

(3) Settlement reimbursement:

(a) For Title XIX/Title XXI clients; an adjustment to 100 percent of outpatient costs is made during the cost settlement process;

(b) For GA clients, outpatient hospital services are reimbursed at 50 percent of billed charges or 59 percent of costs, whichever is less.

Stat. Auth.: ORS 409.025, 409.040, 409.050, 414.025 & 414.743

Stats. Implemented: ORS 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 18-1982(Temp), f. & ef. 3-1-82; AFS 60-1982, f. & ef. 7-1-82; Renumbered from 461-015-0120(5); AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 45-1984, f. & ef. 10-1-84; AFS 6-1985, f. 1-28-85, ef. 2-1-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 46-1986(Temp), f. 6-25-86, ef. 7-1-86; AFS 61-1986, f. 8-12-86, ef. 9-1-86; AFS 33-1987(Temp), f. & ef. 7-22-87; AFS 46-1987, f. & ef. 10-1-87; AFS 62-1987(Temp), f. 12-30-87, ef. 1-1-88; AFS 12-1988, f. 2-10-88, cert. ef. 6-1-88; AFS 26-1988, f. 3-31-88, cert. ef. 4-1-88; AFS 47-1988(Temp), f. 7-13-88, cert. ef. 7-1-88; AFS 63-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 15-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 37-1989(Temp), f. 6-30-89, cert. ef. 7-1-89; AFS 45-1989, f. & cert. ef. 8-21-89; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89, Renumbered from 461-015-0124; HR 18-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; HR 21-1990, f. & cert. ef. 7-9-90, Renumbered from 461-015-0540 & 461-015-0550; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 2-1991, f. & cert. ef. 1-4-91; HR 15-1991(Temp), f. & cert. ef. 4-8-91; HR 28-1991(Temp), f. & cert. ef. 7-1-91; HR 32-1991(Temp), f. & cert. ef. 7-29-91; HR 53-1991, f. & cert. ef. 11-18-91, Renumbered from 410-125-0780 & 410-125-0800; HR 22-1993(Temp), f. & cert. ef. 9-1-93; HR 36-1993, f. & cert. ef. 12-1-93; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 13-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 16-2003(Temp), f. & cert. ef. 3-10-03 thru 8-1-03; OMAP 37-2003, f. & cert. ef. 5-1-03; OMAP 90-2003, f. 12-30-03 cert. ef. 1-1-04; OMAP 78-2004(Temp), f. & cert. ef. 10-1-04 thru 3-15-05; Administrative correction, 3-18-05; OMAP 21-2005, f. 3-21-05, cert. ef. 4-1-05; OMAP 73-2005, f. 12-29-05, cert. ef. 1-1-06; OMAP 17-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 43-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 39-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 10-2009(Temp), f. 4-29-09, cert. ef. 5-1-09 thru 10-28-09

ADMINISTRATIVE RULES

Department of Human Services, Public Health Division Chapter 333

Rule Caption: Certificate of Need Program to Impose Civil Penalties for Violations.

Adm. Order No.: PH 3-2009

Filed with Sec. of State: 4-20-2009

Certified to be Effective: 4-20-09

Notice Publication Date: 3-1-2009

Rules Adopted: 333-565-0010

Subject: In accordance with ORS 431.262, the Department of Human Services, Public Health Division, is adopting Oregon Administrative Rule 333-565-0010, which will allow the Certificate of Need Program to impose civil penalties upon any person who violates ORS 442.315 through 442.347, any rule promulgated thereunder, or any order issued by the Division under this authority, including the violation of any condition set forth in an order granting a certificate of need.

Rules Coordinator: Sally Peters—(971) 673-0561

333-565-0010 Civil Penalties

(1) The Public Health Division may impose civil penalties upon any person who violates ORS 442.315 through 442.347, any rule promulgated thereunder, or any order issued by the Division under this authority, including the violation of any condition set forth in an order granting a certificate of need.

(2) A notice of civil penalty shall include a statement of appeal rights as provided in ORS 183.745.

(3) Civil penalties imposed under this rule shall not exceed \$500 a day per violation.

Stat. Auth.: ORS 431.120(6), 431.262 & 442.315
Stats. Implemented: ORS 431.120(6), 431.262 & 442.315
Hist.: PH 3-2009, f. & cert. ef. 4-20-09

Department of Justice Chapter 137

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

Adm. Order No.: DOJ 4-2009(Temp)

Filed with Sec. of State: 5-6-2009

Certified to be Effective: 5-7-09 thru 11-1-09

Notice Publication Date:

Rules Adopted: 137-050-0485

Rules Amended: 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

Subject: OAR 137-050-0485 is 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 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 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 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 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 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 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 has also been 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 amended to clarify that if support is reduced, it is reduced first from cash medical support.

OAR 137-055-2140 is 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 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 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 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 have been removed.

OAR 137-055-3430 is 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 have been removed.

Rules Coordinator: Vicki Tungate—(503) 986-6086

137-050-0320

Definitions

(1) OAR 137-050-0330 through 137 050 0490 constitute the formula for determining child support awards as required by ORS 25.275. For purposes of OAR 137 050 0320 to 137 050 0490, unless the context requires otherwise, the following definitions apply:

(2) “Adjusted gross income” means modified gross income minus deductions for the nonjoint child(ren) as allowed by OAR 137-050-0400 and plus Social Security or Veterans’ benefits as allowed by 137-050-0405.

(3) “Apportioned Veterans’ benefits” means the amount the Veterans Administration deducts from the veteran’s award and disburses to the child or his or her representative payee. The apportionment of Veterans’ benefits is determined by the Veterans Administration and is governed by 38 CFR 3.450 through 3.458.

(4) Health care coverage, as defined in ORS 25.321, is “appropriate” when the coverage is:

- (a) Reasonable in cost, as defined in OAR 137-050-0410;
- (b) Accessible, as defined in OAR 137-050-0410; and
- (c) Comprehensive, as defined in OAR 137-050-0410.

(5) “Basic child support obligation” means the support obligation determined by applying the parent’s adjusted gross income, or if there are two parents, their combined adjusted gross income, to the scale in the manner set out in OAR 137 050 0490.

(6) “Cash medical support” means an amount ordered to be paid toward the cost of health care coverage, including premiums, provided by a government sponsored health care program or by another parent through employment or otherwise, and copayments, deductibles and other medical expenses not covered by a health benefit plan. See also section (12) of this rule.

(7) “Child attending school” has the meaning given in ORS 107.108 and OAR 137-055-5110.

(8) “Gross income” means the income of the parent calculated pursuant to OAR 137 050 0340, 137 050 0350 and 137 050 0360.

(9) “Joint child” means the dependent child who is the son or daughter of both parents involved in the support proceeding. In those cases where

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support is sought from only one parent of a child, a joint child is the child for whom support is sought.

(10) "Low income adjustment" means the child support scale amount appropriate for a low income obligor under the provisions of OAR 137-050-0465, determined by applying the lesser of:

- (a) The parents' pro rata share of the basic support obligation; or
- (b) The support obligation determined by applying the parents' single modified gross income to the scale in the manner set out in OAR 137 050 0490.

(11) "Medical child support" includes health care coverage and cash medical support and is considered child support for purposes of establishing and enforcing child support orders.

(12) "Medical support" has the meaning given in ORS 25.321 and for purposes of OAR 137-050-0310 through 137-050-0490, 137-055-4620 and 137-055-4640 will be known as Acash medical support".

(13) "Modified gross income" means gross income:

- (a) Minus any mandatory contribution to a labor organization;
- (b) Plus or minus court ordered spousal support as allowed by OAR 137 050 0390; and

(c) If health care coverage is ordered under OAR 137-050-0410 and is appropriate, minus any cost associated with enrolling the providing party in the insurance if necessary to insure the child.

(14) "Nonjoint child" means:

(a) The legal child of one, but not both of the parents subject to this determination; or

(b) A legal child of the parent other than the child for whom support is being sought when establishing a one parent order as allowed by OAR 137-050-0490.

(c) Specifically excluded from this definition are stepchildren.

(15) "Parent A" means the parent who has more than 50 percent of the overall parenting time with the joint child(ren) as calculated in OAR 137-050-0450. If the child(ren) is in the physical custody of the Department of Human Services or the Oregon Youth Authority or another person who is not the child's parent, there will be no Parent A for purposes of calculating child support.

(16) "Parent B" means the parent who has less than 50 percent of the overall parenting time with the joint child(ren) as calculated in OAR 137-050-0450, or a parent whose child(ren) is in the physical custody of the Department of Human Services or the Oregon Youth Authority or another person who is not the child's parent.

(17) "Parenting time" means the amount of time the child(ren) is scheduled to spend with a parent according to a current written agreement between the parents or a court order.

(18) The parent having Aprimary physical custody" means the parent who provides the primary residence for the child(ren) and is responsible for the majority of the day-to-day decisions concerning the child(ren).

(19) "Providing party" has the meaning given in ORS 25.321 and for purposes of OAR 137-050-0310 through 137-050-0490, 137-055-3340, 137-055-4620 and 137-055-4640 includes a party ordered to provide cash medical support.

(20) "Public health care coverage" means health care coverage provided by a government sponsored health care program that provides medical benefits for children.

(21) "Social Security benefits" means the monthly amount the Social Security Administration pays to a joint child or his or her representative payee due solely to the disability or retirement of either parent. Specifically excluded from this definition are benefits paid to a parent due to the disability of a child.

(22) "Split custody" means that each parent in a two parent calculation has primary physical custody of at least one of the joint children.

(23) "Survivors' and Dependents' Educational Assistance" are funds disbursed by the Veterans Administration under 38 USC chapter 35, to the child or his or her representative payee.

[Publications: Publications referenced are available from the agency.]

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

Stats. Implemented: ORS 25.270, 25.290 & 107.135

Hist.: JD 3-1989, f. 10-2-89, cert. ef. 10-3-89; JD 8-1990, f. 11-21-90, cert. ef. 1-1-91; JD 4-1994, f. 10-4-94, cert. ef. 10-15-94; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 4-1999, f. 8-27-99, cert. ef. 9-1-99; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03; DOJ 9-2003, f. 9-29-03, cert. ef. 10-1-03; DOJ 8-2007, f. 9-28-07, cert. ef. 10-1-07; DOJ 4-2009(Temp), f. 5-6-09, cert. ef. 5-7-09 thru 11-1-09

137-050-0330

Computation of Individual Child Support Obligations

To determine the amount of support owed by a parent follow the procedure set forth in this rule.

- (1) Determine "Parent A" and "Parent B".

(2) Determine the "gross income" of each parent.

(3) Determine the "modified gross income" of each parent.

(4) Determine the "adjusted gross income" of each parent, and if there are two parents, the combined Aadjusted gross income."

(5) If there are two parents, determine the percentage contribution of each parent to the combined adjusted gross income by dividing the combined adjusted gross income into each parent's adjusted gross income.

(6) Determine the "basic child support obligation."

(7) Determine the basic child support obligation for joint minor children by dividing the "basic child support obligation" from section (6) by the total number of joint children and then multiply that figure by the number of joint minor children.

(8) Determine the basic child support obligation for children attending school, if any, by subtracting the figure from section (7) from the "basic child support obligation" figure in section (6).

(9) Determine each parent's share of the basic child support obligation for joint minor children by multiplying the percentage figure from section (5) by the "basic child support obligation" from section (7).

(10) Determine the parenting time credit for joint minor children, if any, and apply to the basic child support obligation as provided in OAR 137-050-0450.

(11) Apply the "low income adjustment", if appropriate, as provided in OAR 137 050 0465.

(12) Determine the monthly child support obligation for joint minor children by subtracting section (11), if any, from section (10).

(13) Determine the child care costs for each parent as allowed by OAR 137 050 0420. If child care costs are not equal each month, annual costs must be averaged to determine a monthly cost.

(14) Apply rebuttal(s), if any, as appropriate under OAR 137-050-0333 for joint minor children.

(15) Calculate the total costs owed by each parent to the other by applying the parent's percentage of income as determined in section (5) of this rule to the out-of-pocket costs incurred by the other parent. Subtract Parent A's costs from Parent B's costs.

(16) Determine each parent's share of the basic child support obligation for child(ren) attending school by multiplying the percentage figure from section (5) by the "basic child support obligation" from section (8).

(17) Apply the "low income adjustment", if appropriate, as provided in OAR 137 050 0465.

(18) Determine the monthly child support obligation before costs for child(ren) attending school by subtracting section (17), if any, from section (16).

(19) Apply rebuttal(s), if any, as appropriate under OAR 137-050-0333 for child(ren) attending school.

(20) Calculate the total costs, for child(ren) attending school, owed by each parent to the other by applying the parent's percentage of income as determined in section (5) of this rule to the out-of-pocket costs incurred by the other parent. Subtract Parent A's costs from Parent B's costs.

(21) Determine the monthly child support obligation for child(ren) attending school by adding section (20) and section (18) for each parent.

(22) Determine the net child support obligation by adding sections (12), (15) and (21) together for each parent.

(23) Calculate private health care coverage costs, if any, as provided in OAR 137-050-0410 and determine the net child support obligation.

(24) Calculate cash medical support, if any, as provided in OAR 137-050-0430.

(25) If Social Security benefits or Veterans' benefits are received by Parent A as a representative payee for a joint child due to Parent B's disability or retirement, subtract the amount of benefits from Parent B's child support obligation, if any.

(26) Determine the net child support obligation by adding sections (23) and (24) for each parent and subtracting section (25), if any, for each parent.

(27) Determine the portion of the calculated child support obligation the obligated parent has the ability to pay as provided in OAR 137 050 0475:

(a) Determine the difference between the amounts calculated in section (26) and (27). If the difference is a negative number, use zero;

(b) Subtract the amount determined in subsection (27)(a) from the amount in section (24); and

(c) Determine the monthly child support by subtracting any remaining amounts from the amounts in section (26).

(28) Apply the minimum order rule, OAR 137-050-0485, if appropriate.

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(29) Apply rebuttal(s), if any, as appropriate under OAR 137-050-0333.

(30) Determine the total monthly child support obligation by adding or subtracting section (29) from section (28).

Stat. Auth.: ORS 25.270, 25.290, 107.108 & 180.345
Stats. Implemented: ORS 25.270 & 25.290

Hist.: JD 3-1989, f. 10-2-89, cert. ef. 10-3-89; JD 8-1990, f. 11-21-90, cert. ef. 1-1-91; JD 3-1992, f. 3-3-92, cert. ef. 5-1-92; JD 7-1993, f. 11-3-93, cert. ef. 11-4-93; JD 4-1994, f. 10-4-94, cert. ef. 10-15-94; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 4-1999, f. 8-27-99, cert. ef. 9-1-99; DOJ 8-1999(Temp), f. & cert. ef. 11-22-99 thru 3-10-00; DOJ 1-2000, f. 2-6-00, cert. ef. 2-7-00; DOJ 5-2001, f. 8-21-01, cert. ef. 9-4-01; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03; DOJ 9-2003, f. 9-29-03, cert. ef. 10-1-03; DOJ 8-2007, f. 9-28-07, cert. ef. 10-1-07; DOJ 4-2009(Temp), f. 5-6-09, cert. ef. 5-7-09 thru 11-1-09

137-050-0340

Gross Income

(1) Except as excluded below, gross income includes income from any source including, but not limited to, salaries, wages, commissions, advances, bonuses, dividends, severance pay, pensions, interest, honoraria, trust income, annuities, return on capital, Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts, prizes, including lottery winnings, and alimony or separate maintenance received.

(2) Expense reimbursements or in kind payments received by a parent in the course of employment, self employment, or operation of a business must be counted as income if they are significant and reduce personal living expenses.

(3) Gross income may be calculated on either an annual or monthly basis. Weekly income must be translated to monthly income by multiplying the weekly income by 4.33.

(4) Excluded and not counted as income is any child support payment. It is a rebuttable presumption that adoption assistance payments, guardianship assistance payments and foster care subsidies are excluded and not counted as income.

Stat. Auth.: ORS 25.270, 25.290 & 180.345
Stats. Implemented: ORS 25.270 & 25.290

Hist.: JD 3-1989, f. 10-2-89, cert. ef. 10-3-89; JD 4-1994, f. 10-4-94, cert. ef. 10-15-94; JD 1-1996, f. 4-12-96, cert. ef. 5-1-96; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 4-1999, f. 8-27-99, cert. ef. 9-1-99; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03; DOJ 9-2003, f. 9-29-03, cert. ef. 10-1-03; DOJ 8-2007, f. 9-28-07, cert. ef. 10-1-07; DOJ 4-2009(Temp), f. 5-6-09, cert. ef. 5-7-09 thru 11-1-09

137-050-0360

Income Presumptions

(1) If a parent is unemployed, employed on less than a full time basis or there is no direct evidence of any income, the parent's income for purposes of the child support calculation is presumed to be the parent's potential income, except as provided in sections (2) and (3) of this rule. Determination of potential income will be made according to one of two methods, as appropriate:

(a) The parent's probable full-time earnings level based on employment potential, relevant work history, and occupational qualifications in light of prevailing job opportunities and earnings levels in the community; or

(b) The amount of income a parent could earn working full time at the current state minimum wage.

(2) If the parent of a joint child is a recipient of Temporary Assistance for Needy Families (TANF), the parent's gross income for purposes of the support calculation is presumed to be the amount which could be earned by full time work (40 hours a week) at the state minimum wage.

(3) In the following circumstances, the parent's gross income for purposes of the child support calculation is presumed to be the parent's actual income. This presumption may be rebutted by a finding that a different amount is appropriate under section (1)(a) of this rule.

(a) A parent who is unable to work full-time due to a verified disability;

(b) An incarcerated obligor as defined in OAR 137-055-3300;

(c) A parent receiving unemployment compensation or workers' compensation; or

(d) When performing a calculation for a temporary modification pursuant to ORS 416.425(13) (2009 HB 2275), except as provided in section (2) of this rule.

(4) As used in this rule, "full-time" means forty hours of work in a week except in those industries, trades or professions in which most employers due to custom, practice or agreement utilize a normal work week of more or less than 40 hours in a week.

Stat. Auth.: ORS 180.340 & 25.290
Stats. Implemented: ORS 25.270 & 25.290

Hist.: JD 3-1989, f. 10-2-89, cert. ef. 10-3-89; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 7-2000, f. 8-4-00, cert. ef. 8-7-00; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03; DOJ 9-2003, f. 9-29-03, cert. ef. 10-1-03; DOJ 4-2009(Temp), f. 5-6-09, cert. ef. 5-7-09 thru 11-1-09

137-050-0420

Child Care Costs

(1) The child support obligation must be adjusted for child care costs for a joint child under the age of 13 or a child with disabilities in an amount equal to the annualized monthly child care costs, including government child care subsidies, less the estimated federal and state child care credit payable on behalf of a joint child.

(2) Child care costs are those costs incurred or to be incurred by either parent that are determinable and documentable and are due to the parent's employment, job search, or training or education necessary to obtain a job.

(3) Child care costs are allowable only to the extent that they are reasonable and do not exceed the maximums set out in Table 1. For the purposes of applying the maximums, the location of the provider determines whether urban or suburban rates apply. [Table not included. See ED. NOTE.]

(4) Child care costs incurred or to be incurred by a parent include any amounts paid by government subsidies for that parent.

(5) As used in this rule, "child with disabilities" means a child who has a physical or mental disability that substantially limits one or more major life activities (self-care, walking, seeing, speaking, hearing, breathing, learning, working, etc.).

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

Stat. Auth.: ORS 25.270, 25.290 & 180.345
Stats. Implemented: ORS 25.270 & 25.290

Hist.: JD 3-1989, f. 10-2-89, cert. ef. 10-3-89; JD 8-1990, f. 11-21-90, cert. ef. 1-1-91; JD 16-1992, f. 10-20-92, cert. ef. 11-2-92; JD 4-1994, f. 10-4-94 cert. ef. 10-15-94; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 4-1999, f. 8-27-99, cert. ef. 9-1-99; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03; DOJ 8-2007, f. 9-28-07, cert. ef. 10-1-07; DOJ 4-2009(Temp), f. 5-6-09, cert. ef. 5-7-09 thru 11-1-09

137-050-0430

Cash Medical Support

(1) Cash medical support, as defined in OAR 137-050-0320, for the joint child(ren) must be added as part of the child support obligation amount, if any, if cash medical support:

(a) Is reasonable in cost as defined in section (2) of this rule; and

(b) Is ordered pursuant to ORS 25.323.

(2) "Reasonable in cost" for cash medical support means the amount, if any, of the cash medical support does not make the application of the formula established under ORS 25.275 unjust or inappropriate. Cash medical support is reasonable in cost if:

(a) The pro-rated portion of cash medical support is equal to or less than seven percent of the providing party's adjusted gross income; or

(b) Other compelling factors in the case support a finding of an amount greater than seven percent of the providing party's adjusted gross income.

(3) Cash medical support is not reasonable in cost if the providing party's adjusted gross income is equal to or less than Oregon minimum wage for full-time employment.

(4) When establishing or modifying a child support order to include cash medical support the resources of both parents must be considered.

(5) If a parent has been ordered to apply to enroll the child(ren) in public health care coverage under OAR 137-050-0410, a finding regarding cash medical support must be included in the order.

(6) If the child has access to public or private health care coverage but also has uncovered medical expenses, either or both parents may be required to contribute toward the cost of these expenses by an order for cash medical support to the extent the uncovered medical expenses exceed \$250 per year per child.

(7) If private or public health care coverage is not available and the child has uncovered medical expenses, cash medical support may be ordered to the extent the uncovered medical expenses exceed \$250 per year per child.

(8) Medical expenses are defined as those expenses that are not eligible for payment by health care coverage or other insurance and are reasonably expected to occur regularly and periodically in the future based on documented past experience or on substantial evidence of future need and include, but are not limited to, hospital, surgical, dental, optical, prescription drugs, office visits, counseling or any combination of these of any other comparable health care expenses.

(9) Notwithstanding the provisions of this rule or OAR 137-050-0410, if a party provides evidence of eligibility to receive medical assistance under ORS 414.032, or has adjusted gross income equal to or less

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than Oregon minimum wage for full-time employment, that party may not be ordered to provide cash medical support.

Stat. Auth.: ORS 25.270, 25.290, 25.323 & 180.345
Stats. Implemented: ORS 25.270, 25.290 & 25.321 - 25.343
Hist.: JD 3-1989, f. 10-2-89, cert. ef. 10-3-89; JD 1-1994, f. 1-26-94, cert. ef. 2-1-94; JD 4-1994, f. 10-4-94 cert. ef. 10-15-94; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03; DOJ 8-2007, f. 9-28-07, cert. ef. 10-1-07; DOJ 4-2009(Temp), f. 5-6-09, cert. ef. 5-7-09 thru 11-1-09

137-050-0475

Ability to Pay

A child support order should not exceed the obligated parent's ability to pay. To determine the amount of child support the obligated parent has the ability to pay, follow the procedure set out in this rule:

(1) Calculate the obligated parent's income available for support by subtracting a self-support reserve of \$953.00 from the obligated parent's "modified gross income" as defined in OAR 137-050-0320.

(2) Compare the obligated parent's income available for support to the amount of support calculated as per OAR 137-050-0330 sections (1) through (26). The amount of child support that is presumed to be correct as defined in 137-050-0333 is the lesser of these two amounts. Any reduction in support resulting from this calculation must be applied first to any cash medical support calculated under 137-050-0430.

(3) This rule does not apply to an incarcerated obligor as defined in OAR 137-055-3300.

Stat. Auth.: ORS 25.275, 25.280 & 180.345
Stats. Implemented: ORS 25.275 & 25.280
Hist.: DOJ 5-2001, f. 8-21-01, cert. ef. 9-4-01; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03; DOJ 9-2003, f. 9-29-03, cert. ef. 10-1-03; DOJ 8-2007, f. 9-28-07, cert. ef. 10-1-07; DOJ 4-2009(Temp), f. 5-6-09, cert. ef. 5-7-09 thru 11-1-09

137-050-0485

Minimum Order

(1) Notwithstanding any other provision of OAR 137-050-0320 to 137-050-0490, except as provided in section (2), it is rebuttably presumed that a parent has an ability to pay at least \$100 per month as child support.

(2) The presumption in this rule does not apply when parenting time, as determined by OAR 137-050-0450, is 50/50 or the parent from whom support is sought:

(a) Has disability benefits as a sole source of income;

(b) Is incarcerated and without ability to pay as described in OAR 137-055-3300(4); or

(c) Receives public benefits as defined in ORS 25.245.

Stat. Auth.: ORS 25.275, 25.280, 180.345
Stats. Implemented: ORS 25.275, 25.280
Hist.: DOJ 4-2009(Temp), f. 5-6-09, cert. ef. 5-7-09 thru 11-1-09

137-055-2140

Delegations to Administrative Law Judge

Administrative law judges of the Office of Administrative Hearings are authorized to do the following:

(1) Issue final orders without first issuing proposed orders.

(2) Issue final orders by default in cases described in OAR 137-003-0670 or 137-003-0672, except in a case authorized by ORS 416.415 or as authorized in section (3). An administrative law judge is authorized to issue a final order by default in a case authorized by 416.425(5) but not in any other case authorized by 416.425, unless section (4) of this rule applies.

(3) Issue final orders by default when the nonrequesting party(ies) fails to appear for a hearing conducted under ORS 25.020(13), or issue a dismissal with prejudice when the requesting party fails to appear for a hearing conducted under 25.020(13).

(4) Issue an order dismissing a temporary modification, as defined in OAR 137-055-3430, if the party seeking a temporary modification fails to appear for a scheduled hearing, without further action by the administrator.

(5) Determine whether a reschedule request should be granted pursuant to OAR 137-003-0670(2), based on whether the requester's failure to appear for a scheduled hearing was beyond the reasonable control of the party.

(6) Issue final orders granting or denying late hearing requests pursuant to OAR 137-003-0528.

(7) Provide to each party the information required to be given under ORS 183.413(2) or OAR 137-003-0510(1).

(8) Order and control discovery.

Stat. Auth.: ORS 25.020 & 180.345
Stats. Implemented: ORS 25.020, 180.345, 416.415 & 416.425
Hist.: AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0801; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-2140; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-2140; DOJ 7-2004, f. 3-30-04, cert. ef. 4-1-04; DOJ 16-2004, f. 12-30-04, cert. ef. 1-3-05; DOJ 5-2005, f. & cert.

ef. 7-15-05; DOJ 1-2006, f & cert. ef. 1-3-06; DOJ 4-2009(Temp), f. 5-6-09, cert. ef. 5-7-09 thru 11-1-09

137-055-2165

Requests to Reschedule Hearing

(1) When a party fails to appear for a hearing, the party may request that the hearing be rescheduled. A request to reschedule a hearing must be submitted in writing to the Child Support Program (CSP).

(2) When the CSP receives a written request to reschedule a hearing, the CSP will review its record to determine:

(a) Whether a final order has been entered in the circuit court; or

(b) If more than 60 days have passed since the notice of hearing cancellation was issued.

(3) After this review, the CSP will:

(a) Deny the request to reschedule if:

(A) A final order has been entered in the circuit court; or

(B) More than 60 days have passed since the notice of hearing cancellation was issued; or

(b) Forward the request to the Office of Administrative Hearings (OAH).

(4) When OAH receives the written request to reschedule, OAH will notify the parties that the request has been received and allow the parties 10 days to submit written testimony on whether or why the reschedule request should be accepted.

(5) Parties who submit written testimony to OAH must provide copies of the testimony to the other parties.

(6) After the time for response has expired, and after reviewing the request and any additional testimony received, OAH will make a determination whether the reschedule request should be allowed or denied.

(a) If the request is allowed, OAH will issue a final order allowing the request and scheduling the case for hearing; or

(b) If the request is denied, OAH will issue a final order denying the request.

(7) When the CSP receives an order from OAH which denies a reschedule request, the CSP may issue a final order by default on the underlying support issue.

(8) OAH will include notice of the process set out in this rule in its order dismissing a hearing when a party fails to appear.

Stat. Auth.: ORS 180.345
Stats. Implemented: ORS 180.345
Hist.: DOJ 16-2004, f. 12-30-04, cert. ef. 1-3-05; DOJ 6-2006, f. & cert. ef. 10-2-06; DOJ 4-2009(Temp), f. 5-6-09, cert. ef. 5-7-09 thru 11-1-09

137-055-3420

Periodic Review and Modification of Child Support Order Amounts

(1) In addition to the definitions found in ORS 25.321, OAR 137-050-0320, 137-050-0410 and 137-050-0430, for the purposes of this rule, the following definitions apply:

(a) "Determination" means an order resulting from a periodic review, which finds that the current order of support is in "substantial compliance" with the Oregon guidelines and appropriate health care coverage or cash medical support is ordered against one or both parties.

(b) "Guidelines" means the formula, the scale, and related provisions in OARs 137-050-0320 through 137-050-0490.

(c) "Periodic Review" means proceedings initiated under ORS 25.287.

(d) "Review" means an objective evaluation by the administrator of the information necessary for application of the guidelines to determine:

(A) The presumptively correct child support amount; and

(B) The need to provide in the order for the child's health care needs through appropriate health care coverage or cash medical support regardless of whether an adjustment in the amount of child support is necessary.

(e) "Substantial compliance" means that the current support order is within at least 15 percent or \$50, whichever is less, of the presumptively correct child support amount as calculated using the guidelines. When making this determination, the 15 percent or \$50 formula will be applied to the currently ordered support amount.

(2) For all child support cases receiving support enforcement services under ORS 25.080, the Child Support Program (CSP) will annually notify the parties:

(a) Of their right to request a periodic review of the amount of support ordered; and

(b) That the CSP will perform a mandatory periodic review and adjustment if the family is currently receiving TANF.

(3) The purpose of a periodic review is to determine, based on information from the parties and other sources as appropriate, whether the current child support order should be modified to ensure substantial compli-

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ance with Oregon's child support guidelines, or to order appropriate health care coverage or cash medical support for the child(ren).

(4) The administrator will initiate a periodic review if a written request is received from any party and 35 months have passed since the date the most recent support order took effect, or the date of a determination that the most recent support order should not be adjusted. For purposes of calculating the 35-month time period, a suspension and temporary modification order entered pursuant to ORS 416.425(13) (2009 HB 2275) will not be considered.

(5) The administrator will initiate a periodic review when 35 months have passed since the date the most recent support order took effect, or the date of a determination that the most recent support order should not be adjusted, and the family is currently receiving TANF. For purposes of calculating the 35-month time period, any suspension and temporary modification order entered pursuant to ORS 416.425(13) (2009 HB 2275) will not be considered.

(6) The administrator must complete the determination that the order is in substantial compliance with the guidelines and appropriate health care coverage or cash medical support is ordered, or complete the modification of the existing order within 180 days of receiving a written request for a periodic review, initiating the mandatory review, or locating the non-requesting party(ies), if necessary, whichever occurs later.

(7) The administrator is responsible for conducting a periodic review in this state or for requesting that another state conduct a review pursuant to OAR 137-055-7190. As provided in ORS 110.429 and 110.432, the law of the state reviewing the order applies in determining if a basis for modification exists.

(8) Upon receipt of a written request for a periodic review or when a mandatory periodic review is required, the administrator will notify the parties of the review in writing, allowing the parties 30 days to provide information which may affect the support calculation.

(9) The administrator will notify the parties in writing of the presumed correct support amount under the child support guidelines and the need to order appropriate health care coverage or cash medical support. Notification may be by motion for modification or a proposed determination that the existing order is in substantial compliance and appropriate health care coverage or cash medical support is already ordered, and will include a request for hearing form.

(10) If the administrator determines that the support order should be modified and there is an adult child on the case, the proposed modification will be a tiered order as defined in OAR 137-055-1020.

Stat. Auth.: ORS 180.345 & 416.455

Stats. Implemented: ORS 25.080, 25.287, 25.321 - 25.343, 107.135 & 416.425

Hist.: AFS 65-1989, f. 10-31-89, cert. ef. 11-1-89; AFS 11-1992(Temp), f. & cert. ef. 4-30-92; AFS 26-1992, f. & cert. ef. 9-30-92; AFS 20-1993, f. 10-11-93, cert. ef. 10-13-93; AFS 21-1994, f. 9-13-94, cert. ef. 12-1-94; AFS 17-1997(Temp), f. & cert. ef. 9-16-97; AFS 17-1997(Temp) Repealed by AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 75-1998, f. 9-11-98, cert. ef. 9-15-98; AFS 13-1999, f. 10-29-99, cert. ef. 11-1-99; AFS 9-2000, f. 3-13-00, cert. ef. 4-1-00; AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0072; AFS 23-2001, f. 10-2-01, cert. ef. 10-6-01; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; SSP 4-2003, f. 2-25-03, cert. ef. 3-1-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3420; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3420; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 10-2004, f. & cert. ef. 7-1-04; DOJ 4-2005, f. & cert. ef. 4-1-05; DOJ 8-2005(Temp), f. & cert. ef. 9-1-05 thru 2-17-06; DOJ 1-2006, f. & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06; DOJ 8-2007, f. 9-28-07, cert. ef. 10-1-07; DOJ 11-2008(Temp), f. & cert. ef. 7-15-08 thru 9-30-08; DOJ 12-2008(Temp), f. & cert. ef. 10-1-08 thru 3-29-09; DOJ 14-2008(Temp), f. & cert. ef. 10-7-08 thru 3-29-09; DOJ 1-2009, f. & cert. ef. 1-2-09; DOJ 4-2009(Temp), f. 5-6-09, cert. ef. 5-7-09 thru 11-1-09

137-055-3430

Substantial Change in Circumstance Review and Modification of Child Support Order Amounts

(1) For purposes of this rule:

(a) The definitions provided in ORS 25.321, OAR 137-050-0320, 137-050-0410, 137-050-0430 and 137-055-3420 apply:

(b) A "temporary modification" is an order entered under ORS 416.425(13) (2009 HB 2275), which suspends and temporarily modifies a support order based on a party's employment-related change of income; and

(c) "Employment-related change of income" includes but is not limited to reduced work hours, unpaid furloughs, loss of job and wage reductions. Employment-related change of income does not include a voluntary reduction of income or self-imposed curtailment of earning capacity, if it is shown that such action was not taken in good faith but was for the primary purpose of avoiding the support obligation.

(2) Notwithstanding OAR 137-055-3420, proceedings may be initiated at any time to review and modify a support obligation based upon a substantial change in circumstance.

(3) The administrator will conduct a review based upon a request for a change of circumstance modification when:

(a) Oregon has jurisdiction to modify;

(b) The administrator:

(A) Receives a written request for modification based upon a change of circumstance and at least 60 days have passed from the date the existing support order was entered, except for those cases where a review is requested pursuant to paragraphs (3)(d)(H) or (I);

(B) Determines that a temporary modification should be initiated based on receipt of a verbal or written request from a party who has experienced an employment-related change of income; or

(C) Determines that a modification should be initiated based on the administrator's own motion; and

(c) At least one of the following criteria are met:

(A) A change in the written parenting time agreement or order has taken place;

(B) The financial or household circumstances of one or more of the parties are different now than they were at the time the order was entered;

(C) Social Security benefits received on behalf of a child due to a parent's disability or retirement were not previously considered in the order or they were considered in an action initiated before May 12, 2003;

(D) Veterans' benefits received on behalf of a child due to a parent's disability or retirement were not previously considered in the order or they were considered in an action initiated before May 12, 2003;

(E) Survivors' and Dependents' Education Assistance benefits received by the child or on behalf of the child were not previously considered in the order;

(F) Since the date of the last order, the obligor has been incarcerated, as defined in OAR 137-055-3300;

(G) The needs of the child(ren) have changed;

(H) There is a need to order health care coverage or cash medical support for the child(ren) pursuant to OAR 137-050-0410, 137-050-0430 or 137-055-3340;

(I) A change in the physical custody of the minor child(ren) has taken place;

(J) An order is being modified to include a subsequent child of the parties; or

(K) A child no longer qualifies as a child attending school under ORS 107.108 and OAR 137-055-5110 and the order is being modified pursuant to ORS 107.108(10) as a tiered order. Tiered order has the meaning given in OAR 137-055-1020.

(d) And the requesting party (if other than the administrator):

(A) Completes a written request for modification based upon a substantial change of circumstance;

(B) Pursuant to ORS 416.425, provides appropriate documentation for the criteria in subsection (c) of this section showing that a substantial change of circumstance has occurred; and

(C) Completes a Uniform Income Statement or Uniform Support Affidavit or, if a temporary modification, provides employment status and income information sufficient to permit the administrator to have a reasonable basis to make a determination.

(4) Sections (5) through (8) do not apply to temporary modifications.

(5) Upon receipt of a written request for a review and modification, or upon the administrator's own initiative, the administrator will notify the parties of the review in writing, allowing the parties 30 days to provide information which may affect the support calculation.

(6) A request for review will be granted unless:

(a) The conditions in section (3) have not been met; or

(b) The review was requested due to one of the criteria in paragraphs (3)(c)(A) through (3)(c)(G), and the order is in substantial compliance with the guidelines. The determination of substantial compliance will be made as outlined in OAR 137-055-3420(1)(e).

(7) If the request for review is granted, the administrator will advise the parties of the presumed correct support amount. Notification may be by motion for modification and will include a request for hearing form. If there is an adult child on the case, the proposed modification will be a tiered order as defined in OAR 137-055-1020.

(8) If the order is found to be in substantial compliance, and at least 35 months have passed since the date the most recent support order took effect, the administrator will complete the request as provided in OAR 137-055-3420(9).

(9) Sections (10) and (11) apply only to temporary modifications.

(10) The administrator will, to the extent possible, gather information from the parties which could affect the support calculation by phone or

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other electronic means, including facsimile and e-mail. Parties may agree to accept service by e-mail, regular mail or any other method.

(11) The administrator will advise the parties of the presumed correct support amount and may seek a consent order. Notification may be by motion for modification and will include a request for hearing form.

(12) If a request under this rule is denied, the administrator will notify the requesting party of the denial in writing within 30 days and inform the party of their right to file a motion for modification as provided in ORS 416.425. The administrator will advise the party on how to obtain the Oregon Judicial Department packet that has been prescribed for this purpose.

(13) No provision of this rule precludes the parties from obtaining the services of private legal counsel at any time to pursue modification of the support order pursuant to all applicable laws.

(14) If a request for review and modification is received because a change in the physical custody of the minor child(ren) has taken place, a party may also request a credit back to the date the change in physical custody took place in accordance with OAR 137-055-5510.

Stat. Auth.: ORS 180.345 & 416.455

Stats. Implemented: ORS 25.080, 25.287, 25.321 - 25.343, 107.108, 107.135 & 416.425

Hist.: DOJ 10-2004, f. & cert. ef. 7-1-04; DOJ 16-2004, f. 12-30-04, cert. ef. 1-3-05; DOJ 4-2005, f. & cert. ef. 4-1-05; DOJ 8-2005(Temp), f. & cert. ef. 9-1-05 thru 2-17-06; DOJ 1-2006, f. & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06; DOJ 8-2007, f. 9-28-07, cert. ef. 10-1-07; DOJ 4-2009(Temp), f. 5-6-09, cert. ef. 5-7-09 thru 11-1-09

Rule Caption: Income presumptions for calculating child support.

Adm. Order No.: DOJ 5-2009(Temp)

Filed with Sec. of State: 5-12-2009

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Notice Publication Date:

Rules Amended: 137-050-0360

Rules Suspended: 137-050-0360(T)

Subject: OAR 137-050-0360 is amended to clarify that alleging actual income when a parent is receiving unemployment or workers' compensation is not automatic, but that the fact finder may use actual income in those circumstances.

Rules Coordinator: Vicki Tungate—(503) 946-6086

137-050-0360

Income Presumptions

(1) If a parent is unemployed, employed on less than a full time basis or there is no direct evidence of any income, the parent's income for purposes of the child support calculation is presumed to be the parent's potential income, except as provided in sections (2) and (3) of this rule. Determination of potential income will be made according to one of the following methods, as appropriate:

(a) The parent's probable full-time earnings level based on employment potential, relevant work history, and occupational qualifications in light of prevailing job opportunities and earnings levels in the community;

(b) If a parent is receiving unemployment compensation or workers' compensation, that parent's income may be calculated using the actual amount of the unemployment compensation or workers' compensation benefit received;

(c) Notwithstanding any other provision of this section, the amount of income a parent could earn working full time at the current state minimum wage.

(2) If the parent of a joint child is a recipient of Temporary Assistance for Needy Families (TANF), the parent's gross income for purposes of the support calculation is presumed to be the amount which could be earned by full time work (40 hours a week) at the state minimum wage.

(3) In the following circumstances, the parent's gross income for purposes of the child support calculation is presumed to be the parent's actual income. This presumption may be rebutted by a finding that a different amount is appropriate under section (1) of this rule.

(a) A parent who is unable to work full-time due to a verified disability;

(b) An incarcerated obligor as defined in OAR 137-055-3300; or

(c) When performing a calculation for a temporary modification pursuant to ORS 416.425(13)(2009 HB 2275), except as provided in section (2) of this rule.

(4) As used in this rule, "full-time" means forty hours of work in a week except in those industries, trades or professions in which most employers due to custom, practice or agreement utilize a normal work week of more or less than 40 hours in a week.

Stat. Auth.: ORS 180.340 & 25.290

Stats. Implemented: ORS 25.270 & 25.290

Hist.: JD 3-1989, f. 10-2-89, cert. ef. 10-3-89; DOJ 1-1999, f. 1-15-99, cert. ef. 3-1-99; DOJ 7-2000, f. 8-4-00, cert. ef. 8-7-00; DOJ 3-2003, f. 4-7-03 cert. ef. 5-12-03; DOJ 9-2003, f. 9-29-03, cert. ef. 10-1-03; DOJ 4-2009(Temp), f. 5-6-09, cert. ef. 5-7-09 thru 11-1-09; DOJ 5-2009(Temp), f. & cert. ef. 5-12-09 thru 11-1-09

Rule Caption: Temporary modifications of child support.

Adm. Order No.: DOJ 6-2009(Temp)

Filed with Sec. of State: 5-14-2009

Certified to be Effective: 5-14-09 thru 11-1-09

Notice Publication Date:

Rules Amended: 137-055-3430

Rules Suspended: 137-055-3430(T)

Subject: OAR 137-055-3430 is amended to clarify that an employment-related change of income is considered to have occurred during the Attorney General's declared period of significant unemployment if the effects of the change continue into the time period covered by the determination.

Rules Coordinator: Vicki Tungate—(503) 986-6086

137-055-3430

Substantial Change in Circumstance Review and Modification of Child Support Order Amounts

(1) For purposes of this rule:

(a) The definitions provided in ORS 25.321, OAR 137-050-0320, 137-050-0410, 137-050-0430 and 137-055-3420 apply;

(b) A "temporary modification" is an order entered under ORS 416.425(13)(2009 HB 2275), which suspends and temporarily modifies a support order based on a party's employment-related change of income; and

(c) "Employment-related change of income" includes but is not limited to reduced work hours, unpaid furloughs, loss of job and wage reductions. Employment-related change of income does not include a voluntary reduction of income or self-imposed curtailment of earning capacity, if it is shown that such action was not taken in good faith but was for the primary purpose of avoiding the support obligation. A party's employment-related change of income is considered to take place "during a period of significant unemployment" even if the change occurred prior to the Attorney General's determination under ORS 416.425(13)(b)(2009 HB 2275), as long as the effects of the employment-related change of income continue into the time period covered by the determination.

(2) Notwithstanding OAR 137-055-3420, proceedings may be initiated at any time to review and modify a support obligation based upon a substantial change in circumstance.

(3) The administrator will conduct a review based upon a request for a change of circumstance modification when:

(a) Oregon has jurisdiction to modify;

(b) The administrator:

(A) Receives a written request for modification based upon a change of circumstance and at least 60 days have passed from the date the existing support order was entered, except for those cases where a review is requested pursuant to paragraphs (3)(d)(H) or (I);

(B) Determines that a temporary modification should be initiated based on receipt of a verbal or written request from a party who has experienced an employment-related change of income; or

(C) Determines that a modification should be initiated based on the administrator's own motion; and

(c) At least one of the following criteria are met:

(A) A change in the written parenting time agreement or order has taken place;

(B) The financial or household circumstances of one or more of the parties are different now than they were at the time the order was entered;

(C) Social Security benefits received on behalf of a child due to a parent's disability or retirement were not previously considered in the order or they were considered in an action initiated before May 12, 2003;

(D) Veterans' benefits received on behalf of a child due to a parent's disability or retirement were not previously considered in the order or they were considered in an action initiated before May 12, 2003;

(E) Survivors' and Dependents' Education Assistance benefits received by the child or on behalf of the child were not previously considered in the order;

(F) Since the date of the last order, the obligor has been incarcerated, as defined in OAR 137-055-3300;

(G) The needs of the child(ren) have changed;

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(H) There is a need to order health care coverage or cash medical support for the child(ren) pursuant to OAR 137-050-0410, 137-050-0430 or 137-055-3340;

(I) A change in the physical custody of the minor child(ren) has taken place;

(J) An order is being modified to include a subsequent child of the parties; or

(K) A child no longer qualifies as a child attending school under ORS 107.108 and OAR 137-055-5110 and the order is being modified pursuant to ORS 107.108(10) as a tiered order. Tiered order has the meaning given in OAR 137-055-1020.

(d) And the requesting party (if other than the administrator):

(A) Completes a written request for modification based upon a substantial change of circumstance;

(B) Pursuant to ORS 416.425, provides appropriate documentation for the criteria in subsection (c) of this section showing that a substantial change of circumstance has occurred; and

(C) Completes a Uniform Income Statement or Uniform Support Affidavit or, if a temporary modification, provides employment status and income information sufficient to permit the administrator to have a reasonable basis to make a determination.

(4) Sections (5) through (8) do not apply to temporary modifications.

(5) Upon receipt of a written request for a review and modification, or upon the administrator's own initiative, the administrator will notify the parties of the review in writing, allowing the parties 30 days to provide information which may affect the support calculation.

(6) A request for review will be granted unless:

(a) The conditions in section (3) have not been met; or

(b) The review was requested due to one of the criteria in paragraphs (3)(c)(A) through (3)(c)(G), and the order is in substantial compliance with the guidelines. The determination of substantial compliance will be made as outlined in OAR 137-055-3420(1)(e).

(7) If the request for review is granted, the administrator will advise the parties of the presumed correct support amount. Notification may be by motion for modification and will include a request for hearing form. If there is an adult child on the case, the proposed modification will be a tiered order as defined in OAR 137-055-1020.

(8) If the order is found to be in substantial compliance, and at least 35 months have passed since the date the most recent support order took effect, the administrator will complete the request as provided in OAR 137-055-3420(9).

(9) Sections (10) and (11) apply only to temporary modifications.

(10) The administrator will, to the extent possible, gather information from the parties which could affect the support calculation by phone or other electronic means, including facsimile and e-mail. Parties may agree to accept service by e-mail, regular mail or any other method.

(11) The administrator will advise the parties of the presumed correct support amount and may seek a consent order. Notification may be by motion for modification and will include a request for hearing form.

(12) If a request under this rule is denied, the administrator will notify the requesting party of the denial in writing within 30 days and inform the party of their right to file a motion for modification as provided in ORS 416.425. The administrator will advise the party on how to obtain the Oregon Judicial Department packet that has been prescribed for this purpose.

(13) No provision of this rule precludes the parties from obtaining the services of private legal counsel at any time to pursue modification of the support order pursuant to all applicable laws.

(14) If a request for review and modification is received because a change in the physical custody of the minor child(ren) has taken place, a party may also request a credit back to the date the change in physical custody took place in accordance with OAR 137-055-5510.

Stat. Auth.: ORS 180.345 & 416.455

Stats. Implemented: ORS 25.080, 25.287, 25.321 - 25.343, 107.108, 107.135 & 416.425

Hist.: DOJ 10-2004, f. & cert. ef. 7-1-04; DOJ 16-2004, f. 12-30-04, cert. ef. 1-3-05; DOJ 4-2005, f. & cert. ef. 4-1-05; DOJ 8-2005(Temp), f. & cert. ef. 9-1-05 thru 2-17-06; DOJ 1-2006, f. & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06; DOJ 8-2007, f. 9-28-07, cert. ef. 10-1-07; DOJ 4-2009(Temp), f. 5-6-09, cert. ef. 5-7-09 thru 11-1-09; DOJ 6-2009(Temp), f. & cert. ef. 5-14-09 thru 11-1-09

Department of Transportation, Highway Division Chapter 734

Rule Caption: Rules governing motor carrier transportation of logs, poles and piling.

Adm. Order No.: HWD 6-2009

Filed with Sec. of State: 4-17-2009

Certified to be Effective: 4-17-09

Notice Publication Date: 3-1-2009

Rules Adopted: 734-078-0017

Rules Amended: 734-078-0015

Subject: These rules describe allowances and limitations for vehicles and combinations of vehicles transporting long logs, poles or piling. OAR 734-078-0015 was amended to authorize log haulers to utilize an auxiliary axle to distribute the weight of a load that may not otherwise be allowed, thereby facilitating more efficient use of equipment without additional damage to the infrastructure. OAR 734-078-0017 specifies allowable rear overhang limits, describes variance permit requirements for loads with excessive rear overhang and clarifies how rear overhang is measured. Previously, rear overhang for these loads was governed by OAR 734-082-0030 which includes a wheelbase formula to determine allowable overhang. The formula-based approach was difficult to manage and allowed overhang that can be unsafe. The new rule will promote safe transport of loads with rear overhang by requiring a rear pilot vehicle for loads turning off a multilane highway.

Rules Coordinator: Lauri Kunze—(503) 986-3171

734-078-0015

Types of Vehicle Combinations Authorized

(1) Permits may be issued only for the following types of vehicle combinations:

(a) Log truck and pole trailer coupled together by stinger and reach. The stinger is to be at least five feet in length;

(b) Log truck and independently operated manually or mechanically steered trailer;

(c) Truck tractor semitrailer and trailer combination. The trailers shall be coupled together by stinger and reach and the distance from the front of the first trailer to the rear of the second trailer shall not exceed 68 feet;

(d) Truck and trailer coupled together by means of a stinger and the trailer tongue. The stinger is to be at least five feet in length;

(e) Truck transporting a pole by means of a pole dolly and pole drawbar device that is attached to the leading end of the pole and attached to the towing vehicle by means of a pintle hook;

(f) An auxiliary axle may be authorized for the purpose of distributing the weight of the load; and

(g) The Chief Engineer may designate other types of vehicle combinations, which in the Chief Engineer's determination fit the scope and purpose of these rules.

(2) A stinger is measured longitudinally from a point located opposite the back of the tread of the tires of the last axle on the truck to the point of coupling.

Stat. Auth.: ORS 184.616, 184.619 & 818.220

Stats. Implemented: ORS 818.220

Hist.: ZHD 4-1983, f. & ef. 1-20-83 ; HWY 8-1997, f. & cert. ef. 8-26-97; HWD 6-2009, f. & cert. ef. 4-17-09

734-078-0017

Rear Overhang

(1) A combination of vehicles operating under a division 78 variance permit is subject to rear overhang requirements as follows:

(a) If rear overhang exceeds legal limits, a single trip permit or a continuous trip permit may be issued for rear overhang;

(b) In addition to any other pilot vehicle requirements specified on a permit, if rear overhang exceeds 25 feet, the permit will specify the requirement of a rear pilot vehicle for travel on any portion of a non-interstate multi-lane highway when the normal route to the destination requires the combination to exit the multi-lane portion of such highway;

(2) For the purpose of this rule, rear overhang will be measured from:

(a) The rearmost direct weight bearing pivot point to the end of the load of a pole trailer; or

(b) The rearmost load bearing point of any other trailer, exclusive of any non-load bearing appurtenances, regardless of any log bunks attached to the trailer.

(3) A vehicle, including but not limited to an auxiliary axle, attached to the rear of the rearmost trailer in the combination for the purpose of distributing load weight will not be considered in determining rear overhang.

Stat. Auth.: ORS 184.616, 184.619 & 818.220

Stats. Implemented: ORS 818.220

Hist.: HWD 6-2009, f. & cert. ef. 4-17-09

ADMINISTRATIVE RULES

Economic and Community Development Department Chapter 123

Rule Caption: Rules define standards and application process for Cultural Participation Grants.

Adm. Order No.: EDD 3-2009

Filed with Sec. of State: 4-30-2009

Certified to be Effective: 5-1-09

Notice Publication Date: 4-1-2009

Rules Adopted: 123-500-0000, 123-500-0005, 123-500-0020, 123-500-0030, 123-500-0040, 123-500-0050, 123-500-0060, 123-500-0070

Subject: The new proposed Cultural Participation rules help to protect and stabilize Oregon Cultural resources, creating a solid process for administering cultural participation grants. The rules define who is eligible for participation grants, and set out cultural planning expectations for communities who can then access the participation grants.

Rules Coordinator: Janelle Lacefield—(503) 986-0036

123-500-0000

Purpose

The purpose of the Cultural Trust's Cultural Development Grant program is to provide funds to counties and federally recognized Indian Tribes to support local cultural activities involving the arts, heritage and humanities.

(1) This program is intended to increase public participation in culture to actively support and enjoy the cultural resources in their communities and foster the development of a unique cultural identity for counties and tribes.

(2) The program's focus is on local cultural planning, with each county, and each federally-recognized Indian Tribe, building participation in, gaining access to, and shaping priorities of local culture.

(3) The program encourages inter-organization and inter-disciplinary collaboration, along with support for excellence.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 359.400 - 359.444

Hist.: EDD 3-2009, f. 4-30-09, cert. ef. 5-1-09

123-500-0005

Definitions

(1) "Cultural Trust Board" means the seven member board of the Cultural Trust that is appointed by the governor and represents the interests of Oregon Culture.

(2) "Cultural Coalition" is a group organized in an Oregon county or within one of Oregon's federally recognized Indian Tribes that will identify priorities and specific strategies for building public participation in culture. Each coalition will include representation from the arts, heritage, humanities; include representation of other organizations that are relevant to community cultural participation (education institutions, libraries, media, business, etc); and reflect the diversity of the County or Tribe. The primary purpose of the coalition is to develop a cultural plan for the area served, and award and monitor grant funds to address cultural goals.

(3) "Cultural Plan" means a local plan which identifies priorities and specific strategies to build public participation in cultural disciplines and organizations within the local area. Plans will include benchmarks to measure progress against stated goals.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 359.400 - 359.444

Hist.: EDD 3-2009, f. 4-30-09, cert. ef. 5-1-09

123-500-0020

Eligibility

(1) Each Oregon county, and each federally-recognized Indian Tribe, may establish a Cultural Coalition responsible for developing, implementing and monitoring a local cultural plan.

(2) The Cultural Trust will award Cultural Participation Grant funds annually to each cultural coalition working within a cultural plan that has been approved by the Cultural Trust board.

(3) Using its plan, the Cultural Coalition will decide how these funds are allocated locally.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 359.400 - 359.444

Hist.: EDD 3-2009, f. 4-30-09, cert. ef. 5-1-09

123-500-0030

Structure of Cultural Coalition

(1) The structure of the Cultural Coalition will reflect the cultural needs, assets and resources of each county and tribe.

(2) To qualify for grant funds, a Cultural Coalition must:

(a) Include representation from the arts, heritage, and humanities activities in their area;

(b) Include representation of other organizations that are relevant to community cultural participation (educational institutions, libraries, media, business, etc.);

(c) Reflect the diversity of the population of the county or tribe.

(3) The size of the Cultural Coalition will vary depending on local needs. There should be sufficient numbers to represent arts, heritage and humanities plus other "at large" members from the community, including but not limited to business, education, media and libraries.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 359.400 - 359.444

Hist.: EDD 3-2009, f. 4-30-09, cert. ef. 5-1-09

123-500-0040

Fiscal Oversight

(1) Coalitions that are recognized by the Internal Revenue Service as a 501 (c)(3) private non-profit organization, or are a local public entity are eligible to receive Cultural Participation Grant funds directly from the Cultural Trust.

(2) Those coalitions which do not have IRS 501(c) 3 non-profit status must identify a fiscal sponsor to accept grant funds on behalf of the coalition. The Cultural Trust Board will review and approve the recommended fiscal agent prior to the release of grant funds.

(3) Tribal governing bodies may assume direct responsibility for receipt of cultural Participation Grant funds or may designate an organization to serve as legal and fiscal agent. The organization may be a not-profit sub-entity, program, or agency.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 359.400 - 359.444

Hist.: EDD 3-2009, f. 4-30-09, cert. ef. 5-1-09

123-500-0050

Standards for Cultural Plans

(1) Cultural Participation Grant funds may be awarded to any Oregon cultural coalition that operates under a cultural plan that has been approved by the Cultural Trust.

(2) The Cultural Trust Board has determined that a local cultural plan shall:

(a) Identify priorities and specific strategies for building public cultural participation across cultural disciplines and organizations. The strategies may include the involvement of partners outside of the cultural sector such as business organizations, schools and health and human service organizations.

(b) Identify annual benchmarks to determine the impact of grant funds.

(c) Specify local leadership and governance for grant fund management and for ongoing planning and development of benchmarks.

(3) Local cultural plans shall be broadly disseminated within each county or tribe. The local cultural plans shall be used to encourage public discussion, planning and collaboration among cultural entities.

(4) Be used to stimulate County and Tribal cultural programs, including collaborations with other entities.

(5) Grant funds received by a county or tribe shall be distributed locally as specified in the approved local cultural plan.

(6) A portion of the grant funds received each fiscal year by a county or tribe may be used for costs associated with grant management, community technical assistance and accounting.

(7) The Trust for Cultural Development Board shall allocate grant amounts for counties and tribes using a base amount, plus a per capita amount for each county or tribe that has adopted a cultural plan approved by the Trust for Cultural Development Board.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 359.400 - 359.444

Hist.: EDD 3-2009, f. 4-30-09, cert. ef. 5-1-09

123-500-0060

Cultural Participation Grant Allocation Process

(1) Annually a cultural coalition must submit current contact information for the coalition chair, coalition members and fiscal sponsor, if applicable, to the Oregon Cultural Trust.

(2) The information will be submitted on a form or online system provided by the Cultural Trust.

ADMINISTRATIVE RULES

(3) The Cultural Trust board will allocate final grant awards by formula.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 359.400 - 359.444
Hist.: EDD 3-2009, f. 4-30-09, cert. ef. 5-1-09

123-500-0070

Deadline

Cultural Participation Grant contact information must be submitted to the Oregon Cultural Trust by a postmark deadline that will be established annually.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 359.400 - 359.444
Hist.: EDD 3-2009, f. 4-30-09, cert. ef. 5-1-09

Rule Caption: These rules regulate the definition of distressed areas within the state of Oregon.

Adm. Order No.: EDD 4-2009(Temp)

Filed with Sec. of State: 5-7-2009

Certified to be Effective: 5-7-09 thru 11-2-09

Notice Publication Date:

Rules Adopted: 123-024-0045

Rules Amended: 123-024-0031

Subject: The rules needed to be revised to reflect the current economic crisis that has effected the state of Oregon. The revisions will allow the department to better serve the state by lowering the qualifications of a distressed area in order to support economic and community development.

Rules Coordinator: Janelle Lacefield—(503) 986-0036

123-024-0031

Methodology for Determining Distressed Areas

The department will consider a county, incorporated city, or other geographic area to be a distressed area under one of the following methods:

(1) Using the most recent data available on the date of calculation, a county is considered distressed when, an index is calculated as the product of the values calculated with the following four composite factors (a) through (d). It is distressed if its index is less than 1.0 and if the index is greater than or equal to 1.0 then it is considered non-distressed. The following are the four factors used to determine a distressed county:

(a) The county's unemployment rate divided by this state's unemployment rate;

(b) The county's per capita personal income divided by the state's per capita personal income;

(c) The change in the county's weighted average covered payroll per worker over a three year period;

(d) The sum of the change in the county's weighted average employment change over a three two year period; or

(2) An incorporated city outside of a county identified as a distressed area under subsection (1) of this section may be designated as distressed when its variable values are below the designated threshold value as determined by at least three of the four listed below. The threshold values for each of the four indicators shall be determined by using reliable data from each of the distressed counties based on a demonstrated methodology, as approved by the director of the department. Threshold values are calculated using decennial census county level data for distressed counties only.

(a) Percent of city population of 25 years old with a bachelor's degree or higher. The threshold value for variable A is calculated as follows: calculate the third quartile and the inter-quartile range. Multiply the inter-quartile range by 1.5 and add this to the third quartile. This is the threshold value for variable A. A value above this threshold is not distressed.

(b) The city's unemployment rate. The threshold value for variable B is calculated as follows: calculate the first quartile and the inter-quartile range. Multiply the inter-quartile range by 1.5 and add this to the first quartile. This is the threshold value for variable B. A value below this threshold is not distressed.

(c) The percent of the city's population below the poverty level. The threshold value for variable C is calculated as follows: calculate the third quartile and the inter-quartile range. Multiply the inter-quartile range by 1.5 and add this to the third quartile. This is the threshold value for variable C. A value below this threshold is not distressed.

(d) The city's per capita personal income. The threshold value for variable D is calculated as follows: calculate the first quartile and the inter-quartile range. Multiply the inter-quartile range by 1.5 and add this to the

first quartile. This is the threshold value for variable D. A value above this threshold is not distressed.

(3) A county, incorporated city, or other geographic area that has demonstrated in writing, through a Temporary Distressed Petition, to the satisfaction of the director of the department, that it is suffering or is likely to suffer economic distress equal to or greater than those counties and cities qualifying as distressed areas under subsections (1) and (2) of this section. The director shall have the authority to declare counties, cities, and other geographic areas distressed as allowed under the Temporary Methodology for Determining Distressed Areas, OAR 123-500-0040.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.020, 285A.075, 285B.062 & 285B.065

Hist.: EDD 12-1998, f. & cert. ef. 8-14-98; EDD 3-2005(Temp), f. & cert. ef. 4-21-05 thru 10-15-05; Administrative correction 10-19-05; EDD 7-2005(Temp), f. & cert. ef. 10-24-05 thru 12-21-05; EDD 10-2005(Temp), f. & cert. ef. 11-4-05 thru 12-21-05; Administrative correction 1-19-06; EDD 12-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; EDD 10-2008(Temp), f. & cert. ef. 3-20-08 thru 9-15-08; EDD 27-2008, f. 8-28-08, cert. ef. 9-1-08; EDD 4-2009(Temp), f. & cert. ef. 5-7-09 thru 11-2-09

123-024-0045

Temporary Methodology for Determining Distressed Areas

The following methodology will be used to determine temporarily distressed areas when economic distress is abundant throughout the state of Oregon.

(1) State Temporary Distressed Test: In a given month, if Oregon's unemployment rate exceeds 8.0%, the County Temporary Distressed Methodology will be used.

(2) County Temporary Distressed Test: In a given month, if Oregon's unemployment rate exceeds 8.0% and if the county's unemployment rate exceeds 8.0%, the county is considered temporarily distressed.

(a) When a temporarily distressed county's unemployment falls below 8.0%, it will remain distressed for 180 days or until the regular distressed communities list is published, whichever is less.

(b) All places and cities within a temporarily distressed county are considered distressed.

(3) Any county that is unable to pass the County Temporary Distressed Test is not considered to be temporarily distressed. All cities or places within a county that is unable to pass the County Temporary Distressed Test may seek temporary distressed status by filing a temporary distressed petition defined in OAR 123-024-0040(4).

(4) Temporary Distressed Petition: Any city or place not considered distressed may submit a formal petition asking for temporary distressed status in accordance with OAR 123-500-0031(4)

(a) Temporary distressed petitions will describe in narrative form local conditions that warrant temporary distressed status.

(b) Local conditions may include, but are not limited to, first-source anecdotal discussions of changes in employment, temporary lay-offs, furloughs, firm closures, firm idlings, reduced sales revenue, home foreclosure rates, welfare assistance, and unemployment assistance.

(c) The temporary distressed status granted under the petitions will last no longer than 180 days or until the normal distressed communities list is published.

(5) If Oregon fails to pass the State Temporary Distressed Test, the regular distressed communities' methodology as described in OAR 123-500-0031 will be used in December of the same year. The distressed communities list will be published at this time. All counties, cities, and places will maintain their temporary distressed status until the distressed communities list is published.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.020 & 285A.075

Hist.: EDD 4-2009(Temp), f. & cert. ef. 5-7-09 thru 11-2-09

Landscape Contractors Board

Chapter 808

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

Adm. Order No.: LCB 2-2009(Temp)

Filed with Sec. of State: 5-13-2009

Certified to be Effective: 5-13-09 thru 11-9-09

Notice Publication Date:

Rules Amended: 808-040-0020, 808-040-0050, 808-040-0080

ADMINISTRATIVE RULES

Subject: 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 — (503) 378-5909

808-040-0020

Continuing Education Biennial and Reporting Requirement

(1) Biennial CEH requirement. To maintain licensing, a landscape construction professional must complete 20 hours of continued education hours (CEH) every two years unless such requirement is waived by the Board under ORS 671.676(4) and OAR 808-040-0070:

(a) Except as provided in subsection (c) of this rule the 20 CEH must be completed during the two-year period immediately preceding the renewal date of the landscape construction professional license.

(b) The 20 CEH must conform to OAR 808-040-0040 and include a minimum of 4 CEH in subjects related to landscape business practices and a minimum of 8 CEH in subjects related to the technical area of landscape construction. The remaining hours may be in either of the above subjects or in subjects including but not limited to workplace safety, environmental and sustainable landscape practices, and/or community service.

(c) All landscape construction professionals renewing on or before December 31, 2011 may complete and report CEH obtained since January 1, 2008.

(2) Reporting Requirement at Renewal. As a requirement of renewal of an active landscape construction professional license, licensees are required to certify that the licensee has fulfilled the CEH requirement by listing the CEH completed at the time of renewal. The listing must include:

- (a) The name of the program sponsor,
- (b) Program title,
- (c) Date(s) program attended,
- (d) Type of CEH claimed, and
- (e) The number of CEH claimed.

(3) Licensees with Even Numbered Licenses. All licensees holding even numbered licenses on or before January 1, 2009 shall complete and report ten (10) CEH requirement with the conditions of (1)(b) of this rule being prorated for their first renewal in 2010 and then report the full 20 CEH with the renewal every second (2nd) year thereafter.

(4) Licensees with Odd Numbered Licenses. All licensees holding odd-numbered licenses shall complete and report the 20 CEH requirement beginning with the renewal period in 2011 and every second (2nd) year thereafter. The 20 hour CEH requirement shall be completed as per (1)(b) of this rule.

(5) New Licensees. CEH requirements for new licensees are as follows:

(a) New licensees who receive an even numbered license in an odd numbered year after January 1, 2009 will report a 10 CEH requirement with the conditions of (1)(b) of this rule being prorated for their first renewal period and then report the full 20 CEH with the renewal every second (2nd) year thereafter. An example of this is an individual who receives an even numbered license in 2009 must report 10 CEH in 2010 and then 20 CEH in 2012.

(b) New licensees who receive an even numbered license in an even numbered year after January 1, 2009 will report the 20 CEH requirement every second (2nd) year thereafter.

(c) New licensees who receive an odd numbered license in an even numbered year after January 1, 2009 will report a 10 CEH requirement with the conditions of (1)(b) of this rule being prorated for their first renewal period and then report the full 20 CEH with the renewal every second (2nd) year thereafter. An example of this is an individual who receives an odd numbered license in 2010 must report 10 CEH in 2011 and then 20 CEH in 2013.

(d) New licensees who receive an odd numbered license in an odd numbered year after January 1, 2009 will report the 20 CEH requirement every second (2nd) year thereafter

(e) CEH obtained during any month of the prorated two year CEH requirement period will be eligible to meet the initial CEH requirement.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: Ch. 550 OL 2007

Hist.: LCB 8-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 2-2009(Temp), f. & cert. ef. 5-13-09 thru 11-9-09

808-040-0050

Program Approval Process

(1) Pre-approval Process. Programs offered by any institution, agency, professional organization or association, which conducts educational meetings, workshops, symposiums, seminars and other such activities where a CEH credit is desired must be approved by the Board prior to the presentation of the program and prior to the attendance by a licensee. The written request for the issuance of CEH credit must:

(a) Be received on a form provided by the Board at least 30 calendar days prior to the presentation date (unless otherwise approved by the agency Administrator) and include:

- (A) Name of sponsoring institution, association or organization;
- (B) Title of the presentation;
- (C) Date of presentation;
- (D) Topic covered from list in 808-040-0040;
- (E) A written outline of the program;
- (F) The length of the program in hours;
- (G) Name of instructor or presenter;
- (H) Type of CEH requested;
- (I) Copy of the certificate to be given to each attendee with the signature of the instructor or presenter or the official stamp of the sponsor on the certificate. If more than one presenter is authorized to sign, then the signatures of each presenter must be on the certificate or on copies of the certificate; and

(J) Contact information for the provider which must include the address, phone number, fax number and email (if available) for the provider.

(b) Upon receipt of all documentation required in subsection (1) of this rule the board will review the request and notify the provider by either email or regular mail the determination of the CEH allowed by the board.

(2) Other Approval Process. In the event a landscape construction professional attends a program that is not pre-approved as outlined in section (1) above,

(a) The landscape construction professional may request approval of the attended program by submitting written documentation no later than 30 days after the date the program was attended that includes:

- (A) Name of sponsoring institution, association or organization;
- (B) Topic of the presentation;
- (C) Title of the presentation;
- (D) Name of instructor or presenter;
- (E) Date of presentation;
- (F) Length of presentation in hours;
- (G) Type of CEH; and
- (H) Number of CEH claimed.

(I) Signature of the instructor or presenter or official stamp of the sponsor signifying attendance and completion of the course.

(b) The board, after reviewing the submitted documentation, will determine:

- (A) If the program meets the conditions for the CEH requirement; and
- (B) The number of CEH allowed for the program, if any.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: Ch. 550 OL 2007

Hist.: LCB 8-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 2-2009(Temp), f. & cert. ef. 5-13-09 thru 11-9-09

808-040-0080

CEH Requirement for Reinstatement to Active Status

(1) Except as provided for in subsection (2) of this section any licensee that reinstates an inactive or expired landscape construction professional license to active status must:

(a) Comply with OAR 808-003-0255;

(b) Submit documentation as per the audit requirements of OAR 808-040-0060 for the 20 CEH obtained within the two years immediately preceding the renewal date of the landscape construction professional license; and

(c) Meet the CEH requirement for each subsequent renewal period.

(2) Any even numbered licensee that reinstates an inactive or expired landscape construction professional license to active status prior to December 31, 2011 must:

(a) Comply with OAR 808-003-0255;

(b) Submit documentation as per the audit requirements of OAR 808-040-0060 for the 10 CEH obtained since January 1, 2008; and

(c) Meet the CEH requirement for each subsequent renewal period.

(3) Any odd numbered licensee that reinstates an inactive or expired landscape construction professional license to active status prior to December 31, 2011 must:

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Oregon Liquor Control Commission Chapter 845

- (a) Comply with OAR 808-003-0255;
- (b) Submit documentation as per the audit requirements of OAR 808-040-0060 for the 20 CEH obtained since January 1, 2008; and
- (c) Meet the CEH requirement for each subsequent renewal period.
- (4) Any licensee that reinstates an expired landscape construction professional license to active status more than 14 days after the expiration of the license and the license was subject to audit prior to its expiration, the licensee must submit documentation as per the audit requirement of OAR 808-040-0060.

Stat. Auth.: ORS 670.310 & 671.670
Stats. Implemented: Ch. 550 OL 2007
Hist.: LCB 8-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 2-2009(Temp), f. & cert. ef. 5-13-09 thru 11-9-09

**Oregon Department of Education
Chapter 581**

Rule Caption: Modified requirements relating to granting of credits towards high school diploma.

Adm. Order No.: ODE 2-2009

Filed with Sec. of State: 4-23-2009

Certified to be Effective: 4-23-09

Notice Publication Date: 3-1-2009

Rules Amended: 581-022-1131

Subject: The proposed revision of the current rule updates the available options for school districts in granting credit to align with graduation requirements adopted by the State Board of Education in January, 2007. Additional options and language included in the revision allow school districts to grant graduation credit based on student demonstrated proficiency to knowledge and skill standards, in addition to traditional instructional time (130 clock hours = 1 credit).

Rules Coordinator: Paula Merritt—(503) 947-5746

581-022-1131

Credit Options

(1) A school district or public charter school shall grant required and elective credit towards the diploma or a modified diploma, provided the method for accruing such credit is described in the student's personal education plan and the student earns the credit by meeting the requirements of one or more of the options described in this rule.

(2) Each school district or public charter school shall offer students the option for earning each credit required for the diploma or a modified diploma by successfully completing classroom or equivalent work (e.g., supervised independent study, career-related learning experiences, project based learning) in a course of at least 130 clock hours in accordance with OAR 581-022-0102. The classroom or equivalent work must meet Common Curriculum Goals and academic content standards required by OAR 581-022-1210.

(3) In addition to the option of earning credit required by section (2) of this rule, a school district or charter school may offer one or more of the options described in section (4) of this rule for earning credits. The school district or charter school must identify by district or school policy which options are available to students for earning credits.

(4) A school district or charter school may grant credit to a student if the student demonstrates defined levels of proficiency or mastery of recognized standards (e.g., state academic content standards and essential skills, industry-based or other national or international standards) by any one or more of the following options:

(a) Successfully completes classroom or equivalent work designed to measure proficiency or mastery of identified standards (knowledge and skills) in class or out of class, where hours of instruction may vary;

(b) Successfully passes an appropriate exam designed to measure proficiency or mastery of identified standards (knowledge and skills);

(c) Provides a collection of work or other assessment evidence which demonstrates proficiency or mastery of identified standards (knowledge and skills); and

(d) Provides documentation of prior learning activities or experiences which demonstrates proficiency or mastery of identified standards (knowledge and skills) (e.g., certification of training, letters, diplomas, awards, etc.); or

(e) Successfully completes a combination of the options set out in section (2) and this section of this rule.

Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 326.051
Hist.: ODE 4-2003, f. & cert. ef. 3-14-03; ODE 2-2009, f. & cert. ef. 4-23-09

Rule Caption: Amendments to clarify and strengthen prohibitions against certain drinking promotions such as drinking contests.

Adm. Order No.: OLCC 3-2009

Filed with Sec. of State: 4-21-2009

Certified to be Effective: 5-1-09

Notice Publication Date: 1-1-2009

Rules Amended: 845-006-0345

Subject: This rule describes a variety of acts which both licensees (including their employees or agents) and service permittees are prohibited from engaging in. Due to recent case history, staff is recommending the amendment of what is now section (10) covering promotions, to specifically tighten the rule language prohibiting drinking contests (a)(E) and free-pouring alcohol (a)(F). Also, staff is recommending additional rule language in section (10) Promotions which would prevent the current practice of a cover charge and then penny drinks (a)(B) and clarify that no drink discounts are allowed after midnight (a)(C), as well as prohibiting on-premises sales of distilled spirits by the bottle (a)(D) and alcohol vaporization devices (a)(G). Staff also recommends making further clarifying amendments. These additional amendments include: an introductory paragraph clarifying that licensees are held accountable for the acts of their agents and employees; the addition to each section of the sanction level for violation of that section; and clarifying amendments to section (5) Open Containers, section (6) Liquor on Premises, and section (7) Drive-up Window, as well as deleting the current section (10) related to kegs and minor patronage.

Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-006-0345

Prohibited Conduct

The Commission holds licensees accountable for the acts of their agents and employees. (OAR 845-006-0362). No employee or agent of a licensee may violate any provision of this rule. A violation of any section of this rule by an employee or agent of a licensee is considered a violation by the licensee.

(1) Drinking on Duty: No licensee or permittee will drink or be under the influence of intoxicants while on duty. "On duty" means from the beginning of a work shift that involves the sale or service of alcoholic beverages, checking identification or controlling conduct on the premises, to the end of the shift including coffee and meal breaks. "A work shift that involves the sale and service of alcoholic beverages" includes supervising those who sell or serve, check identification or control the premises. Being under the influence of intoxicants on duty is a Category II violation. Drinking on duty is a Category III violation.

(2) No licensee or permittee will fail to call the police when a Commission regulatory employee directs the licensee or permittee to call. Violation of this section is a Category II violation.

(3) Evidence:

(a) No licensee or permittee will:

(A) Destroy, damage, alter, remove, or conceal potential evidence, or attempt to do so;

(B) Refuse to give a Commission regulatory employee or police officer this evidence when the employee or officer lawfully requests it; or

(C) Ask or encourage another person to do subsections (a) or (b) of this section.

(b) Violation of this section is a Category III violation.

(4) Access to Premises:

(a) No licensee or permittee will deny entrance to the licensed premises during regular business hours to a Commission regulatory employee or police officer who enters or wants to enter to conduct reasonable search to ensure compliance with alcoholic beverage law. Once the regulatory employee or police officer is on the licensed premises, no licensee or permittee will ask the regulatory employee or officer to leave until the regulatory employee or officer has had an opportunity to conduct a reasonable search to ensure compliance with the alcoholic beverage laws;

(b) Examination of premises that are or appear closed occurs only when there is reason to believe an alcoholic beverage law violation is occurring. No licensee or permittee will refuse or fail to promptly admit a Commission regulatory employee or police officer to the licensed premises when the regulatory employee or officer identifies him/herself and asks to

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enter to conduct a reasonable search to ensure compliance with the alcoholic beverage laws.

(c) Violation of this section is a Category II violation.

(5) Open Containers: No licensee or permittee will permit a person to take an open container of alcoholic beverages from the licensed premises, except as ORS 471.178, 471.200 and 471.175 allow. Except for tastings as allowed in OAR 845-006-0450, no Off-Premises Sales licensee will permit an open container of alcoholic beverages on the licensed premises unless the licensee also holds another license at the premises that allows on-premises consumption. Violation of this section is a Category V violation.

(6) Liquor on Premises: No licensee or permittee will have or permit any alcoholic liquor on the licensed premises which the license does not allow the licensee to sell or serve. Notwithstanding this requirement, a limited on-premises or brewery-public house sales licensee may have distilled spirits on the premises if the distilled spirits are used only for cooking, are kept in a container only in the food preparation area, and the container is clearly marked "for cooking only". Violation of this section is a Category V violation.

(7) Drive-up Window: No licensee or permittee will sell or deliver any alcoholic beverages through a drive-up window. Violation of this section is a Category III violation.

(8) Liquor as a Prize: Except as allowed in ORS 471.408, no licensee or permittee will give or permit any alcoholic beverage as a prize, premium, or consideration for any lottery, contest, game of chance or skill, exhibition, or any competition of any kind on the licensed premises. Violation of this section is a Category V violation.

(9) "Good Faith Effort": ORS 471.315(1)(a)(G), and 471.412(2) prohibit a licensee or permittee from knowingly allowing a visibly intoxicated person to drink alcoholic beverages. A licensee or permittee who makes a good faith effort to remove the alcoholic beverage does not violate these statutes.

(a) As used in ORS 471.412(2) and this rule, "good faith effort" means:

(A) Placing a hand on the drink and trying to remove it; or

(B) Making a verbal request for the drink, if the server has reason to believe that touching the patron's drink could cause a disturbance.

(b) The Commission will issue letters of reprimand for the first three violations of this section within a two-year period. A fourth violation within a two-year period is a Category III violation assessed at the fourth level (cancellation).

(10) Promotions.

(a) The following practices are prohibited:

(A) The sale, offer or service to any person of an unlimited number of alcoholic beverage(s) during any set period of time for a fixed price;

(B) The sale, offer or service of alcoholic beverages by the drink for a price per drink that is less than the licensee's cost for the alcohol to any person paying a fixed "buy in" price, entry fee, cover or door charge;

(C) Price reductions on alcoholic beverages by the drink from 12:00 midnight until 2:30 a.m. A price reduction is a lower price as compared to the usual, customary, or established non-discounted price the licensee charges for a drink of that type on the licensed premises;

(D) The sale, offer or service of distilled spirits by the bottle for consumption on the premises, except as allowed in OAR 845-006-0433 (Minibars in Hotel Guest Rooms) and OAR 845-006-0434 (Minibars in Arena Suites). This subsection does not prohibit a Full On-Premises Public Location Sales Licensee (F-PL) or Full On-Premises Catering Sales Licensee (F-Cat) from charging clients by the bottle for distilled spirits that are served by the drink at hotel suites, banquets, receptions or catered events where the reasonably projected attendance is at least 20 patrons;

(E) Operating, encouraging or permitting games of chance or skill, contests, exhibitions, or competitions of any kind on the licensed premises that involve drinking alcoholic beverages, (i.e. beer pong, "21 for 21");

(F) Dispensing, pouring or otherwise serving any alcoholic beverage directly into a person's mouth, including through any device such as a "bong";

(G) Permitting use of an alcohol vaporization device on a premises licensed for the sale of alcoholic liquor. An alcohol vaporization device, also called an alcohol without liquid machine, is a device, machine or process which mixes spirits, alcoholic liquors or any product containing alcoholic liquor with oxygen or any other gas to produce a vaporized product for consumption by humans by inhalation.

(b) Violation of this section is a Category III violation.

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.730(1) & (5)

Stats. Implemented: ORS 471.030, 471.040, 471.175, 471.178, 471.200, 471.315(1)(a)(G), 471.405(1), 471.408, 471.412, 471.675 & 471.730

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 6-2001, f. 8-15-01, cert. ef. 9-1-01; OLCC 4-2003, f. 3-31-03 cert. ef. 4-1-03; OLCC 5-2007, f. 3-22-07, cert. ef. 4-1-07; OLCC 3-2009, f. 4-21-09, cert. ef. 5-1-09

Rule Caption: Amendment increasing sanction for financial assistance violations and modifying list of possible mitigation/aggravation reasons.

Adm. Order No.: OLCC 4-2009

Filed with Sec. of State: 4-21-2009

Certified to be Effective: 5-1-09

Notice Publication Date: 1-1-2009

Rules Amended: 845-006-0500

Subject: This rule describes the various sanctions the Commission imposes on licensees, including cancellation or suspension of a license, and civil penalties. This rule also references Exhibit 1, which lists the proposed sanctions for the first and subsequent violations within each violation category and also provides the categories for the most common violations. This Exhibit is not part of the Oregon Administrative Rule (OAR) compilation. Staff proposes amendments to achieve three goals. The first is to raise Financial Assistance violations from a Category IV to a Category III violation. The second is to remove "previous lengthy history of compliance" as a possible reason for mitigating a sanction. And the third is to add "failure to use age verification equipment which was purchased as an offset to a previous penalty" as a possible reason for aggravating a sanction. While not part of the formal rulemaking process with the Secretary of State (SOS), staff also proposes revising Exhibit 1, both to make the corresponding change in the Category level for Financial Assistance violations and to also update language and rule citations to reflect rule amendments the Commission has adopted in the past year.

Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-006-0500

Suspensions and Civil Penalties

(1) The Commission cancels or suspends a license under its authority in:

(a) ORS 471.315 for violations of any provision of ORS Chapter 471 or any administrative rule (chapter 845) the Commission adopts pursuant to these chapters;

(b) ORS 459.992(4) for violations of any provision of 459A.705, 459A.710 or 459A.720 or any administrative rule the Commission adopts pursuant to these statutes;

(c) ORS 471.315(1)(d) for public interest or necessity reasons.

(2) The Commission cancels or suspends a service permit under its authority in ORS 471.385 for violations of Chapter 471 or any administrative rule (chapter 845) the Commission adopts pursuant to these chapters.

(3) The Commission cancels or suspends an alcohol server education provider certificate under its authority in ORS 471.547.

(4) ORS 471.322 and 471.327 allow the Commission to impose a civil penalty instead of suspension. In most cases, the Commission allows the licensee or permittee the option of serving the suspension or paying the civil penalty.

(5) ORS 471.315 allows the Commission to impose either a suspension or a civil penalty or both. The Commission imposes mandatory suspensions when necessary to ensure future licensee, permittee, or patron compliance.

(6) ORS 471.322 and 471.327 limit the amount of a civil penalty the Commission may impose. To stay within these limits, the Commission usually computes civil penalties by multiplying the number of days in the suspension by \$165 for retail, manufacturer, and wholesale licensees, and by \$25 for service permittees.

(7) Violation Categories:

(a) The Commission has the following violation categories:

(A) I — Violations that make licensee ineligible for a license;

(B) II — Violations that create an immediate threat to public health or safety;

(C) II(a) — Violations for unlawful drug activity;

(D) III — Violations that create a potential threat to public health or safety OR violations of the tied house or financial assistance prohibitions;

(E) III(a) — Violations for the sale of alcohol to a minor or failure to check identification when the retail licensee qualifies under the Responsible Vendor Program;

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(F) IV — Violations that create a climate conducive to abuses associated with the sale or service of alcoholic beverages;

(G) V — Violations inconsistent with the orderly regulation of the sale or service of alcoholic beverages.

(b) Exhibit 1 lists the proposed sanctions for the first and subsequent violations within each category described in subsection (7)(a) of this rule. Exhibit 1 also gives the categories for the most common violations;

(c) These sanctions are guidelines. If the Commission finds aggravating or mitigating circumstances, it may assess a greater or lesser sanction. Some of the reasons the Commission may mitigate a sanction are: good faith effort to prevent a violation; and extraordinary cooperation in the violation investigation that shows the licensee or permittee accepts responsibility. Some of the reasons the Commission may aggravate a sanction are: a prior warning about compliance problems; repeated failure to comply with laws; failure to use age verification equipment which was purchased as an offset to a previous penalty; efforts to conceal a violation; intentional violations; the violation involved more than one patron or employee; the violation involved a juvenile; and the violation resulted in injury or death. The Commission may always increase or decrease a sanction to prevent inequity or to take account of particular circumstances in the case.

(8) The Commission increases sanctions based on successive violations in the same category within a two-year period. For example, if a licensee or permittee, who has committed one Category III violation and one Category IV violation within the past two years, commits another Category III violation, the Commission assesses the sanction at the second level for the pending Class III violation. Numerous violations within the two-year period, regardless of the type, may indicate such a disregard for the law or failure to control the premises so as to warrant cancellation of the license or permit.

(9) A licensee may not avoid the sanction for a violation or the application of the provision for successive violations by merely adding or dropping a partner or converting to another form of legal entity when the individuals who own, operate, or control the business are substantially similar.

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.730(1) & (5)

Stats. Implemented: ORS 471.315, 471.322 & 471.327

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 21-2007, f. 9-27-07, cert. ef. 10-1-07; OLCC 4-2009, f. 4-21-09, cert. ef. 5-1-09

Rule Caption: Amending financial assistance rules expanding allowed point of sale and items of nominal value.

Adm. Order No.: OLCC 5-2009

Filed with Sec. of State: 4-21-2009

Certified to be Effective: 5-1-09

Notice Publication Date: 2-1-2009

Rules Amended: 845-013-0050, 845-013-0060

Subject: This package contains two of the Commission's rules from our Division 13 Financial Assistance rules; this division of rules implements our statutes governing "Tied-House" prohibitions. OAR 845-013-0050 describes the point of sale (POS) materials that a supplier (manufacturer or wholesaler) is allowed to provide to a retailer, while OAR 845-013-0060 describes the items of nominal value that a supplier is allowed to provide to a retailer. The rule amendments include specific recommendations from a Business Partners Joint Steering Committee workgroup. The original industry concerns raised were that the current rules limit suppliers in their advertising possibilities and also focus the Commission's limited enforcement resources on the regulation of items like coasters and napkins. The industry goal was to amend our rules to more closely reflect the standards in the Federal regulations. Staff believes that the fundamental principles of financial assistance are important; no manufacturer or wholesaler should gain control or unreasonable influence over a retail licensee by providing financial incentives or underwriting a retailer's business expenses. The goal of staff is to strike a balance between the ability to enforce these rules and maintaining regulation of our core financial assistance concerns. The amendments are specifically targeted to only two discrete areas of the larger set of financial assistance regulations. Staff believes that the amendments to the regulation of point of sale advertising materials and consumer take-aways address both key industry concerns and public safety concerns regarding the advertising of alcoholic beverages, and does so while

maintaining and clarifying the regulations that are most important in keeping industry from unduly influencing retail licensees.

Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-013-0050

Point of Sale Advertising Materials and Consumer Take-Aways, ORS 471.398(4)

(1) A supplier (manufacturer or wholesaler), or its agents, may provide point of sale materials and consumer take-aways to a retailer provided that the conditions prescribed in section (3) of this rule are met. Suppliers, or their agents, may provide point of sale material only for display at the retailer's premises. No minimum purchase may be required of a retailer in order to have an item at their premises.

(2) Definitions. For this rule:

(a) Point of sale advertising materials are items designed to be used at a retail establishment to attract consumer attention to a supplier's products. Such materials include window decorations, posters, placards, trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, calendars, alcohol beverage lists or menus, display mirrors, table tents, chalk boards, thermometers, and similar items of like value. Also allowed are signs (neon, electrical, mechanical, inflatable or otherwise). Point of sale items do not include fixtures, furniture or furnishings as prohibited by ORS 471.398(3) and OAR 845-013-0030.

(b) Consumer take-aways are items intended for use by the retailer's customers off the premises that provide information to the retailer's customers but do not promote the retailer's business. Only items made of paper or other similar inexpensive material are allowed to be given to the retailer and such informational items include recipes, sports and entertainment event schedules, and informational pamphlets.

(3) Conditions and limitations.

(a) All point of sale advertising materials and consumer take-aways must bear conspicuous and substantial advertising matter about the product or the supplier that is permanently inscribed or securely affixed. The name and address of the retailer may appear on the point of sale advertising materials only.

(b) The supplier, or its agents, may not directly or indirectly pay or credit the retailer for using or distributing these items or for any expense incidental to their use.

(c) The Commission prohibits any advertising that contains material so appealing to minors that it encourages them to purchase, possess, or drink alcoholic beverages (OAR 845-007-0020(1)(e)).

(d) Items that predominantly advertise the supplier's alcoholic beverage products but also advertise a generic food product are allowed. This subsection does not prohibit cross-promotions of the supplier's alcoholic beverage product with a specific food product or brand when the food product producer is not a retail licensee; the food product producer pays at least half the cost of the cross-promotion; and any retailer who receives the item pays none of the costs. For example, a cheese manufacturer and a wine manufacturer jointly produce a poster to promote their products. As long as the cheese manufacturer is not a retail licensee, the cheese manufacturer pays at least half the costs and the retail licensee pays none of the costs, the Commission treats the poster as an alcoholic beverage/generic food product item;

(e) Items that predominantly advertise the supplier's alcoholic beverage products but also have generic words or symbols for activities the supplier wants to associate with his/her alcoholic beverage products are allowed. Exterior material may, however, have only generic symbols relating to activities, not words.

(f) Beer, wine and distilled spirits lists. Despite OAR 845-013-0001(3)(b)(A) that limits items of nominal value to the supplier's products, the list may include any malt beverage, wine or distilled spirit the retailer sells. Despite 845-013-0001(3)(d) that prohibits customization, the supplier may add generic food references to the list. For example, the list may indicate that a particular alcoholic beverage goes well with chicken but may not refer to a chicken dish on the retailer's menu.

(g) Exterior point of sale material given or loaned under this rule must not exceed 630 square inches. This means that inflatables or any point of sale material cannot be displayed in a retailer's parking lots or other outside areas if the material exceeds 630 square inches.

(4) A violation of any section of this rule is a Category III violation.

Stat. Auth.: ORS 471, including 471.030, 471.730(1) & (5)

Stats. Implemented: ORS 471.398(4)

Hist.: OLCC 8-1987, f. 31-3-87, ef. 4-1-87; OLCC 7-1992, f. & cert. ef. 7-1-92; Renumbered from 845-010-0124; OLCC 5-2009, f. 4-21-09, cert. ef. 5-1-09

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845-013-0060

Items of Nominal Value, ORS 471.398(4)

(1) In addition to advertising and point of sale material, ORS 471.398(4) allows a supplier (manufacturer or wholesaler), or its agents, to provide items of nominal value to a retailer. This rule describes the items of nominal value a supplier, or its agents, may give to a retailer.

(2) A supplier, or its agents, may give basic items that support the supplier's products at the retailer's premises such as:

(a) Tavern Heads:

(A) One tavern head per calendar year per retail licensee;

(B) A trade-in of a tavern head at the fair market value as partial payment for a new one when the retailer replaces an existing draft system.

(b) Washers or Thomas valves necessary for proper operation of draft equipment;

(c) New and used empty shells or bags in sufficient quantity for returning the supplier's empty containers;

(d) Samples and Tastings:

(A) Tastings or samples of distilled spirits that the retailer does not carry but only in an amount not to exceed 50 ml.;

(B) Tastings or samples of wine and malt beverages that the retailer does not carry. The sample must not exceed a one gallon container of malt beverage or a five liter container of wine. It must be clearly and prominently marked "sample — not for resale";

(C) Distilled spirits, wine and malt beverage tastings for retailer educational seminars that are not open to the public.

(3) A violation of any section of this rule is a Category III violation.

Stat. Auth.: ORS 471, including 471.030, 471.730(1) & (5)

Stats. Implemented: ORS 471.398(4)

Hist.: OLCC 8-1987, f. 31-3-87, ef. 4-1-87; OLCC 7-1992, f. & cert. ef. 7-1-92; Renumbered from 845-010-0126; OLCC 5-2009, f. 4-21-09, cert. ef. 5-1-09

Oregon Medical Board Chapter 847

Rule Caption: Grant authority to Board Medical Director to approve Interim Stipulated Orders.

Adm. Order No.: BME 7-2009

Filed with Sec. of State: 5-1-2009

Certified to be Effective: 5-1-09

Notice Publication Date: 2-1-2009

Rules Amended: 847-001-0030

Subject: The proposed rule adds authority to Board's Medical Director to approve Interim Stipulated Orders (limitation on license) if the Board's Executive Director is not available, so that Orders may become public information and be released to hospitals and health care facilities, in the interest of protecting the public.

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-001-0030

Approval of Interim Stipulated Orders

(1) The Executive Director, via his/her signature, has the authority to grant approval of an Interim Stipulated Order that has been signed by a licensee of the Board.

(2) The Executive Director's or Medical Director's signature grants approval of the Interim Stipulated Order which allows the Order to become a public document. As a public document, the Interim Stipulated Order may be released to hospitals, clinics, and other practice locations.

(3) The Executive Director or Medical Director shall forward Interim Stipulated Orders to the Board in a timely manner.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265 & 677.275

Hist.: BME 13-2008(Temp), f. & cert. ef. 5-16-08 thr 10-31-08; BME 22-2008, f. & cert. ef. 10-31-08; BME 7-2009, f. & cert. ef. 5-1-09

Rule Caption: Licensee shall notify Board of change in residence, practice or mailing address within 30 days.

Adm. Order No.: BME 8-2009

Filed with Sec. of State: 5-1-2009

Certified to be Effective: 5-1-09

Notice Publication Date: 2-1-2009

Rules Amended: 847-008-0060

Subject: The proposed rule change requires the licensee to notify the Board of a change in residence, practice or mailing address within 30 days of the change.

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-008-0060

Notification of Change of Location

Each licensee of the Board shall notify the Board in writing within 30 days of any change in residence address, practice location, or mailing address.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.172

Hist.: ME 5-1990, f. & cert. ef. 4-25-90; BME 8-2009, f. & cert. ef. 5-1-09

Rule Caption: Expands definition of Unprofessional Misconduct; expands list of behaviors that constitute Sexual Misconduct.

Adm. Order No.: BME 9-2009

Filed with Sec. of State: 5-1-2009

Certified to be Effective: 5-1-09

Notice Publication Date: 12-1-2008

Rules Amended: 847-010-0073

Subject: The proposed rule change expands the definition of Unprofessional Conduct, and also expands the list of behaviors that constitute Sexual Misconduct.

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-010-0073

Reporting Incompetent or Impaired Physicians to the Board

(1) Per ORS 677.415, 677.188, and 677.190 Board licensees and health care facilities must report to the Board as soon as possible, but not later than ten (10) days after official action taken against a Board licensee, to include any of the following:

(a) The licensee must report any arrest, citation or conviction for driving under the influence of intoxicants or reckless driving that is related to the use of an intoxicant;

(b) The licensee must report any arrest or conviction for a felony violation for criminal conduct;

(c) The licensee and health care facility must report any action brought against a licensee by the facility, based upon a finding of medical incompetence, unprofessional conduct or licensee impairment.

(2) For purposes of the statute, reporting to the Board means making a report to the Board's Investigation Unit or the Board's Executive Director or the Board's Medical Director. Making a report to the Board's Health Professionals Program (HPP) or HPP's Medical Director does not satisfy the duty to report to the Board.

(3) For the purposes of the statute, the terms medical incompetence, unprofessional conduct, and impaired licensee have the following meanings:

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

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

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

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

(b) Unprofessional conduct: Unprofessional conduct includes the behavior described in ORS 677.188 (4) and is conduct which is unbecoming to a person licensed by the Board of Medical Examiners or detrimental to the best interest of the public and includes:

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

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

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

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

(E) Engaging in repeated instances of disruptive behavior in the health care setting that could adversely affect the delivery of health care to patients.

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(F) Any conduct related to the practice of medicine that poses a danger to the public health or safety.

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

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

- (I) Sexual intercourse.
- (II) Genital to genital contact.
- (III) Oral to genital contact.
- (IV) Oral to anal contact.
- (V) Genital to anal contact.
- (VI) Kissing in a romantic or sexual manner.
- (VII) Touching breasts, genitals, or any sexualized body part for any purpose other than appropriate examination or treatment, or where the patient has refused or has withdrawn consent.

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

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

(ii) Sexual impropriety: Behavior, gestures, or expressions that are seductive, sexually suggestive, or sexually demeaning to a patient or their family or associates, to include:

(I) Sexually exploitative behavior, to include taking, transmitting, viewing, or in any way using photos or any other image of a patient, their family or associates for the prurient interest of others.

(II) Intentional viewing in the health care setting of any sexually explicit conduct for prurient interests.

(III) Having any involvement with child pornography, which is defined as any visual depiction of a minor (a child younger than 18) engaged in sexually explicit conduct.

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

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

(B) Mental or emotional illness.

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

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

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

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

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

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

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

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

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

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

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

care facility and the effective date of the withdrawal, resignation or limitation.

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

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

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

Stat. Auth.: ORS 677.190 & 677.265

Stats. Implemented: 677.188, 677.190, 677.265 & 677.415

Hist.: BME 5-2004, f. & cert. ef. 4-22-04; BME 9-2006, f. & cert. ef. 5-8-06; BME 3-2007, f. & cert. ef. 1-24-07; BME 3-2008, f. & cert. ef. 1-22-08; BME 9-2009, f. & cert. ef. 5-1-09

Rule Caption: Deletes references to emergency and non-emergency care; lists airway devices a First Responder may use.

Adm. Order No.: BME 10-2009

Filed with Sec. of State: 5-1-2009

Certified to be Effective: 5-1-09

Notice Publication Date: 2-1-2009

Rules Amended: 847-035-0030

Subject: The proposed rule 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) The scope of practice for emergency and nonemergency care established by the Board for First Responders is intended as authorization for performance of procedures by First Responders without direction from a Board-approved supervising physician, except as limited by subsection (2) of this rule. A First Responder may perform the following emergency care 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

(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.

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(8) A First Responder may perform the following procedures only when the First Responder is providing emergency care as 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) Open and maintain an airway through the use of a nasopharyngeal and a noncuffed oropharyngeal and pharyngeal suctioning devices;
- (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 emergency and nonemergency procedures. Emergency care procedures shall be limited to the following basic life support 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 emergency and nonemergency care procedures. The emergency care procedures shall be limited to the following:

(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)(i) Antidotes:

(ii) Naloxone hydrochloride;

(E) Antihypoglycemics:

(i) Hypertonic glucose;

(ii) Glucagon;

(F)(i) Vasodilators:

(ii) 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)(i) Antihistamine:

(ii) Diphenhydramine;

(J)(i) Diuretic:

(ii) Furosemide;

(K)(i) Intraosseous infusion anesthetic;

(ii) 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 emergency and nonemergency care procedures. The emergency care procedures shall be limited to:

(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) Access indwelling catheters and implanted central IV ports for fluid and medication administration;

(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 providing that the EMT-P has had adequate and appropriate instruction, including the risks, benefits, and use of the medication or blood product.

(k) Initiate multi-lead electrocardiograms.

(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

Rule Caption: Change name of Diversion Program Supervisory Council; increase council size.

Adm. Order No.: BME 11-2009

Filed with Sec. of State: 5-1-2009

Certified to be Effective: 5-1-09

Notice Publication Date: 2-1-2009

Rules Amended: 847-065-0000

Subject: The proposed rule amendment changes the name of the Diversion Program Supervisory Council to the Health Professionals Program Supervisory Council, and increases the size of the council from five to seven members.

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-065-0000

Health Professionals Program Supervisory Council

(1) There is established a Health Professionals Program Supervisory Council (Council) consisting of seven members, one of whom is a public member, appointed by the Oregon Medical Board (Board) for the purpose of developing and implementing a diversion program for chemically dependent licensees regulated under ORS 677.615–677.665. No current Board members or staff shall serve on the Council.

(2) The term of office of each member is two years, but a member serves at the pleasure of the board. Before the expiration of the term of a member, the Board shall appoint a successor whose term begins July 1. A member is eligible for reappointment to serve not more than three terms. If there is a vacancy for any cause, the Board shall make an appointment to become immediately effective for the unexpired term.

(3) The members of the Council must be citizens of this state who are familiar with the recognition, intervention, assessment and treatment of chemically dependent persons. The public member shall represent health consumers.

(4) A member of the Council is entitled to compensation and expenses as provided in ORS 292.495, except that the compensation for the time spent in performance of official duties shall be the same as the compensation received by members of the Board.

(5) The Council shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of such offices as the Council determines.

(6) A majority of the members of the Council constitutes a quorum for the transaction of business.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.615

Hist.: BME 17-2006, f. & cert. ef. 7-25-06; BME 26-2008, f. & cert. ef. 10-31-08; BME 11-2009, f. & cert. ef. 5-1-09

Oregon Military Department, Office of Emergency Management Chapter 104

Rule Caption: Establish rules for the Seismic Rehabilitation grant Program enacted by the 2005 Legislative Assembly.

Adm. Order No.: OEM 1-2009

Filed with Sec. of State: 4-22-2009

Certified to be Effective: 4-22-09

Notice Publication Date: 4-1-2009

Rules Adopted: 104-050-0000, 104-050-0010, 104-050-0020, 104-050-0030, 104-050-0040, 104-050-0050, 104-050-0060, 104-050-0070, 104-050-0080, 104-050-0090, 104-050-0100

Subject: 104-050-000, Purpose; 104-050-0010, definitions; 104-050-0020, Eligible Applicants and Activities; 104-050-0030, Program Information; 104-050-0040, Program Sanctions; 104-050-0050, Project Eligibility and Criteria, 104-050-0060, Application Submittal, Review and Approval, 104-050-0070, Project Administration; 104-050-0080, Grant Awards and Match; 104-050-0090 Grant Agreement Conditions; and 104-050-0100, Waivers, Exceptions and Appeals establishes the guidelines and criteria for grant applications for the Seismic rehabilitation Grant Program which will provide funds for the seismic rehabilitation of critical public buildings which include: hospital buildings with acute inpatient care facilities, fire stations, police stations, sheriffs' offices, other facilities used by state, county, district or municipal law enforcement agencies and kindergarten education buildings through grade 12 public schools, community colleges, education services districts and institutions of higher education buildings with a capacity of 250 or more persons that are routinely used for student activities.

Rules Coordinator: Cherie Zastoupil—(503) 378-2911, ext. 22221

104-050-0000

Purpose

(1) The Director of the Office of Emergency Management (OEM), pursuant to Oregon Revised Statutes (ORS) 401.270, shall develop and administer grant programs for the seismic rehabilitation of critical public buildings.

(2) The funds for the seismic rehabilitation of critical public buildings under the grant program are provided from the issuance of bonds pursuant to the authority provided in Articles XI-M and XI-N of the Oregon Constitution.

Stat. Auth.: ORS 401.260, 401.325

Stats. Implemented: ORS 401.270

Hist.: OEM 1-2009, f. & cert. ef. 4-22-09

104-050-0010

Definitions

(1) "OEM": Office of Emergency Management, Oregon Military Department.

(2) "Acute inpatient care facility": Means a licensed hospital with an organized medical staff, with permanent facilities that include inpatient beds, with comprehensive medical services, including physician services and continuous nursing services under the supervision of registered nurses, to provide diagnosis and medical or surgical treatment primarily for, but not limited to acutely ill patients and accident victims. "Acute inpatient care facility" includes the Oregon Health and Science University.

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(3) "Applicant": A school district, community college, education service district, higher education institution, police, sheriff, fire, hospital which is applying for a grant from the Seismic Rehabilitation program.

(4) "Collapse Prevention": Means a building at this performance level is capable of maintaining gravity loads though structural damage is severe and risk of falling hazard is high as set forth in the American Society of Civil Engineers Standard for Seismic Evaluation of Existing Buildings newest edition.

(5) "Critical Public Buildings": Includes hospital buildings with acute inpatient care facilities, fire stations, police stations, sheriffs' offices, other facilities used by state, county, district, or municipal law enforcement agencies and buildings with a capacity of 250 or more persons that are routinely used for student activities by kindergarten through grade 12 public schools, community colleges, education service districts and institutions of higher education.

(6) "Director": The Director of the Office of Emergency Management.

(7) "Distressed or Impoverished": All Oregon cities and counties designated by Oregon Economic and Community Development Department as distressed or impoverished by established methodology.

(8) "Division": Office of Emergency Management.

(9) "Education Service District (ESD)": Means a district created under ORS 334.010 that provides regional educational services to component school districts.

(10) "Grant Program": The Seismic Rehabilitation Grant Program.

(11) "Grant Selection Committee": The committee that is charged with evaluating grant applications for the purpose of determining which projects receive funding. The grant selection committee membership shall include representatives of Oregon Department of Education, Oregon Department of Transportation, Oregon Department of Corrections, Oregon Military Department, and others who possess expertise in construction, construction grants and structural design as determined by the Director.

(12) "Immediate Occupancy": Means a building at this performance level is expected of being sufficiently functional and comfortable for occupancy as set forth in the American Society of Civil Engineers Standard for Seismic Evaluation of Existing Buildings newest edition.

(13) "Life Safety": Means a building at this performance level is expected to present low risk of life threatening injury to building inhabitants as set forth in the American Society of Civil Engineers Standard for Seismic Evaluation of Existing Buildings newest edition.

(14) "Match": is any contribution to a project that is non-seismic grant funds. Match may include:

(a) Cash on hand or cash that is pledged to be on hand prior to commencement of the project;

(b) Secured funding commitments from other sources; and,

(c) Costs of pre-engineering, engineering report.

(15) "Project": An activity (or activities) that is eligible for assistance from the Seismic Rehabilitation Grant Program.

(16) "Seismic Rehabilitation": Means construction of structural improvements to a building that results in the increased capability of the building to resist earthquake forces and that are based on standards adopted by the American Society of Civil Engineers.

(17) "Small Impoverished Community": As defined in the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5133, means a community of 3,000 or fewer individuals that is economically disadvantaged, as determined by the State in which the community is located and based on criteria established by the President. Small and impoverished community must meet all of the following criteria:

(a) Must be a community of 3,000 or fewer individuals that is identified by the State as a rural community, and is not a remote area within the corporate boundaries of a larger city;

(b) Must be economically disadvantaged, with residents having an average per capita annual income not exceeding 80% of the national per capita income, based on best available data. (The Department of Commerce Bureau of Economic Analysis (BEA) website states that the per capita personal income for the United States in 2006 was \$31,794.) More up-to-date information may be used. Please see the BEA web site at: <http://www.bea.gov>;

(c) Must have a local unemployment rate that exceeds by one-percentage point or more the most recently reported, average yearly national unemployment rate. (According to the US Bureau of Labor Statistics (USBL), the current average unemployment rate for 2006 is 4.6%. For up-to-date information, please see the USBL web site located at: <http://stats.bls.gov/>; and

(d) Must meet any other factors as determined by the State in which the community is located.

(18) "Structural": Means components of a building that support or resist loads. Parts of a building that bear weight.

(19) "Subgrantee": Means applicant awarded grant funds for seismic rehabilitation project.

(20) "Useful Life": Means the length of time that the building or structure is expected to be used, or 30 years, whichever is greater.

Stat. Auth.: ORS 401.260, 401.325
Stats. Implemented: ORS 401.270
Hist.: OEM 1-2009, f. & cert. ef. 4-22-09

104-050-0020

Eligible Applicants and Activities

(1) All hospital buildings with acute inpatient care facilities, fire stations, police stations, sheriffs' offices, other facilities used by state, county, district or municipal law enforcement agencies and kindergarten through grade 12 public schools, community colleges, education service districts and institutions of higher education buildings with a capacity of 250 or more persons that are routinely used for student activities are eligible to apply for a Seismic Rehabilitation Grant, except those determined to be ineligible by the Department because of nonperformance under a prior Seismic Rehabilitation Grant contract.

(2) Eligible activities are seismic rehabilitation of a building as defined in ORS 455.390-455.410.

Stat. Auth.: ORS 401.260, 401.325
Stats. Implemented: ORS 401.270
Hist.: OEM 1-2009, f. & cert. ef. 4-22-09

104-050-0030

Program Information

(1) OEM shall prepare a Grant Application Package. The application package may contain a guidance document, application forms, and other supplementary information that may help eligible applicants prepare grant applications.

(2) The guidance document will include a description of eligibility criteria, ranking factors and point values used to evaluate and select applications for funding.

(3) The Grant Application Package on file with OEM is incorporated as part of these rules by reference.

(4) OEM will provide to Seismic Rehabilitation Grant subgrantee a Grant Contract which specifies legal requirements for grant management, reporting, and record keeping, and OEM's monitoring and grant closeout procedures.

(5) OEM shall administer Seismic Rehabilitation Grants in compliance with the requirements of applicable statutes, rules, and the Grant Guidance Document.

Stat. Auth.: ORS 401.260, 401.325
Stats. Implemented: ORS 401.270
Hist.: OEM 1-2009, f. & cert. ef. 4-22-09

104-050-0040

Program Sanctions

The subgrantee shall be responsible for taking all actions necessary to enforce the terms of the grant contract against any private or public participant who fails to comply with applicable provisions of the grant contract, and to recover on behalf of the state any liabilities that may arise as the result of the breach of the grant contract by any participant. Nothing in this paragraph shall restrict the state's rights to enforce independently the terms of any grant contract or to recover any sums that may become due as the result of a breach of such a contract.

Stat. Auth.: ORS 401.260, 401.325
Stats. Implemented: ORS 401.270
Hist.: OEM 1-2009, f. & cert. ef. 4-22-09

104-050-0050

Project Eligibility and Criteria

A seismic rehabilitation project that meets the following criteria is eligible for grant assistance from the program:

(1) The project is for the seismic rehabilitation of hospital buildings with acute inpatient care facility, fire stations, police stations, sheriffs' offices, or other facilities used by state, county, district or municipal law enforcement agencies.

(2) Buildings with a capacity of 250 or more persons that are routinely used for student activities by kindergarten through grade 12 public schools, community colleges, education service districts, and institutions of higher education.

(3) Financial need may be a consideration when reviewing a project proposal for funding

ADMINISTRATIVE RULES

Stat. Auth.: ORS 401.260, 401.325
Stats. Implemented: ORS 401.270
Hist.: OEM 1-2009, f. & cert. ef. 4-22-09

Stat. Auth.: ORS 401.260, 401.325
Stats. Implemented: ORS 401.270
Hist.: OEM 1-2009, f. & cert. ef. 4-22-09

104-050-0060

Application Submittal, Review and Approval

(1) OEM shall announce deadlines for submitting applications, how to obtain an application form, and required supplemental documents.

(2) An eligible critical public building may submit an application after consulting with OEM on a preliminary determination of eligibility and otherwise follow OEM's procedures for submitting applications. The application must be in the form provided by OEM and must contain or be accompanied by such information as OEM may require. OEM will process only completed applications.

(3) Upon receipt of signed application, OEM will notify the applicant within 15 days as to the status of the application and notify the applicant of any missing materials or incomplete application detail.

(4) Upon receipt of a completed application, OEM will apply the application evaluation ranking and point values to determine the project's prioritization ranking in consultation with the Grant Selection Committee.

(5) Once a completed application is evaluated for a grant award, the Grant Selection Committee will, within 60 days, approve or reject the application.

Stat. Auth.: ORS 401.260, 401.325
Stats. Implemented: ORS 401.270
Hist.: OEM 1-2009, f. & cert. ef. 4-22-09

104-050-0070

Project Administration

(1) OEM and the applicant must execute a grant contract prior to disbursement of grant funds.

(2) Documentation of project costs incurred by entity must be submitted to OEM prior to disbursement of funds.

(3) Disbursement of grant funds to entity will be made on the schedule determined by OEM.

(4) Prior to final disbursement, OEM will review and evaluate all documents produced as a result of the project, perform a final on-site inspection of the completed project and determine how closely the project delivered the outcome anticipated in the application.

Stat. Auth.: ORS 401.260, 401.325
Stats. Implemented: ORS 401.270
Hist.: OEM 1-2009, f. & cert. ef. 4-22-09

104-050-0080

Grant Awards and Match

(1) Grants will be awarded only when there are sufficient funds available in the Seismic Rehabilitation Grants program.

(2) Grant funds shall be distributed proportionately between public education facilities and emergency services facilities as allocated by the Legislative Assembly.

(3) The maximum grant award is \$1.5 million.

(4) There is no required match for this program. Additional application points will be considered for applicants that provide matching funds.

Stat. Auth.: ORS 401.260, 401.325
Stats. Implemented: ORS 401.270
Hist.: OEM 1-2009, f. & cert. ef. 4-22-09

104-050-0090

Grant Agreement Conditions

(1) OEM will only enter into new agreements or amendments to existing agreements, with prior Subgrantees, if all reporting obligations under earlier agreements have been met.

(2) If the grant agreement has not been fully executed by all the parties within 90 days of grant committee approval, funding shall be terminated. The money allocated to the grant shall be available for reallocation by the grant committee.

(3) The Director or designee shall establish grant agreement conditions. Subgrantees shall comply with all grant agreement conditions.

(4) The Subgrantee shall comply with all federal, state and local laws and ordinances applicable to the work to be done under the agreement.

(5) Upon notice to the Subgrantee in writing, the Director may terminate funding for projects not completed in the prescribed time and manner. The money allocated to the project but not used will be available for reallocation by the grant committee.

(6) The Subgrantee will account for funds distributed by the grant committee, using project expense forms provided by OEM.

(7) The Subgrantee will obtain the necessary permits and licenses from local, state or federal agencies or governing bodies and provide a copy to OEM.

104-050-0100

Waivers, Exceptions and Appeals

The Director may provide authority to the grant committee to waive non-statutory requirements of the grant program based on special circumstances, such as:

(1) Proximity to fault hazards;

(2) The community value of the structure;

(3) Emergency functions provided by the structure; and,

(4) Storage of hazardous materials.

(5) The Director may consider appeals of the grant committee's funding decisions. Only the applicant may appeal. Appeals must be submitted in writing to the Director within 30 days of the event or action that is being appealed. An applicant that would have been funded but for technical error in OEM's review will be funded as soon as sufficient funds become available, provided the project is still viable. The Director's decision is final.

(6) The Director may waive non-statutory requirements of this program if it is demonstrated such a waiver would serve to further the goals or objectives of the program.

Stat. Auth.: ORS 401.260, 401.325
Stats. Implemented: ORS 401.270
Hist.: OEM 1-2009, f. & cert. ef. 4-22-09

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 2-2009

Filed with Sec. of State: 4-22-2009

Certified to be Effective: 4-22-09

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 268A (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 sale 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 moneys 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.

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(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.

(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 bond sale 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 bond sale.

[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

Oregon University System, Portland State University Chapter 577

Rule Caption: Amends Portland State University's Schedule of Fines & Fees for General Services and other charges.

Adm. Order No.: PSU 1-2009(Temp)

Filed with Sec. of State: 5-14-2009

Certified to be Effective: 5-14-09 thru 11-10-09

Notice Publication Date:

Rules Amended: 577-060-0020

Subject: This amendment establishes updated fees, charges, fines, and deposits for General Service for the 2009-2010 Fiscal year. It is in the interest of the general public for the State of Oregon that certain University services are self-sustaining. The amendment to this rule will permit the University to recover in fees the cost of providing various administrative and academic services.

Rules Coordinator: Julie Osborn—(503) 725-3701

577-060-0020

Schedule of Fines and Fees for General Services and Other Charges

The Schedule of Fines and Fees for General Services and Other Charges for the 2009-2010 Fiscal Year are hereby adopted by reference by Portland State University.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 352.360

Hist.: PSU 16(Temp), f. 8-24-77, ef. 9-1-77; PSU 18, f. & ef. 10-4-77; PSU 19(Temp), f. & ef. 10-11-77; PSU 20, f. & ef. 11-18-77; PSU 3-1978(Temp), f. 6-19-78, ef. 7-1-78; PSU 7-1978, f. & ef. 9-5-78; PSU 1-1979, f. & ef. 9-17-79; PSU 3-1980, f. & ef. 9-4-80; PSU 2-1981, f. & ef. 9-10-81; PSU 3-1982, f. & ef. 9-3-82; PSU 1-1983, f. & ef. 2-8-83; PSU 2-1983, f. 6-22-83, ef. 7-1-83; PSU 1-1984, f. 6-8-84, ef. 7-1-84; PSU 1-1985, f. 6-26-85, f. 7-1-85; PSU 1-1986, f. 6-25-86, ef. 7-1-86; PSU 1-1987, f. 6-19-87, ef. 7-1-87; PSU 3-1987(Temp), f. & ef. 8-11-87; PSU 5-1987, f. & ef. 10-27-87; PSU 5-1988, f. & cert. ef. 7-18-88; PSU 7-1988(Temp), f. & cert. ef. 11-29-88; PSU 3-1989, f. & cert. ef. 7-26-89; PSU 5-1990, f. & cert. ef. 7-5-90; PSU 2-1991(Temp), f. & cert. ef. 6-28-91; PSU 3-1991, f. & cert. ef. 8-7-91; PSU 4-1991(Temp), f. & cert. ef. 12-4-91; PSU 1-1992, f. & cert. ef. 1-17-92; PSU 2-1992, f. & cert. ef. 6-16-92 (and corrected 6-19-92); PSU 1-1993, f. & cert. ef. 6-11-93; PSU 2-1993(Temp), f. & cert. ef. 7-13-93; PSU 3-1993(Temp), f. & cert. ef. 7-30-93; PSU 4-1994, f. & cert. ef. 11-3-94; PSU 1-1995, f. & cert. ef. 8-9-95; PSU 1-1996(Temp), f. 1-18-96, cert. ef. 3-1-96; PSU 3-1996, f. & cert. ef. 6-27-96; PSU 1-1997, f. & cert. ef. 8-1-97; PSU 4-1998, f. & cert. ef. 9-17-98; PSU 4-1999, f. & cert. ef. 8-11-99; PSU 2-2000, f. & cert. ef. 8-1-00; PSU 1-2001, f. & cert. ef. 8-14-01; PSU 2-2003, f. 6-27-03, cert. ef. 7-1-03; PSU 4-2003(Temp), f. & cert. ef. 11-18-03 thru 12-28-05; PSU 1-2004, f. & cert. ef. 8-20-04; PSU 1-2005(Temp), f. & cert. ef. 7-15-05 thru 12-28-05; PSU 3-2005, f. & cert. ef. 12-13-05; PSU 2-2006, f. & cert. ef. 6-30-06; PSU 5-2006(Temp), f. & cert. ef. 8-30-06 thru 1-31-07; Administrative correction, 2-16-07; PSU 3-2007, f. & cert. ef. 7-5-07; PSU 5-2008(Temp), f. 6-13-08, cert. ef. 7-1-08 thru 12-26-08; Administrative correction 1-23-09; PSU 1-2009(Temp), f. & cert. ef. 5-14-09 thru 11-10-09

Oregon University System, University of Oregon Chapter 571

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

Adm. Order No.: UO 1-2009

Filed with Sec. of State: 4-24-2009

Certified to be Effective: 7-1-09

Notice Publication Date: 3-1-2009

Rules Amended: 571-060-0005

Subject: Increase in family housing rental rates to cover projected operating costs for 2009-2010.

Rules Coordinator: Deb Donning—(541) 346-3082

571-060-0005

Special Fees, Fines, Penalties, Service Charges

The University of Oregon has adopted by reference a list of Special Fees, Fines, Penalties, Service Charges, etc., for the current fiscal year:

(1) The fees, fines, penalties and service charges listed by reference in this rule are updated annually and copies are on file in the listed departments by July 1.

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(2) The amounts and conditions of these fees may change from time to time throughout the year due to administrative considerations, changing costs, changes in institutional budgets, etc. If the size and the amount of these fees are or could be of importance to users, they should verify the details prior to making a commitment, before entering into any planning activities or before actually incurring any charges.

(3) The master copy of the current list of fees is maintained in the Office of the Director of Business Affairs and is available upon request to any person during regular business hours. The Director of Business Affairs also maintains a bulletin board where fee changes made during each 30-day period are posted. Following that posted period, the changes are filed with the master copy.

(4) University departments charging fees shall maintain a copy of at least that department's section of the list of special fees, fines, penalties and service charges including any updates made during the course of the fiscal year. The list and all current changes shall be available upon request to any person during regular departmental business hours.

(5) No department may change fees between annual amendments to this rule without first obtaining an approved statement of justification signed by the appropriate Vice-President. Prior to granting approval of any fee charged to students, the Vice-President shall consult with the Office of Student Advocacy. Changes in fees approved by the Vice-President and the justification statement shall be posted for 15 days in a public area of the departmental office. The new fee, fine, penalty or charge becomes effective at the end of the 15-day posting period after it is filed with the Director of Business Affairs along with the justification statement.

(6) However, student loan service charges, charges levied as penalties for prohibited conduct, general tuition, building fees, incidental fees, health service fees, and residence hall and housing charges, shall be adopted in accordance with the provision of ORS 183.310 to 183.500.

(7) Certain charges, fees or fee schedules may, according to ORS 351.072(b), be adopted without compliance with rulemaking provisions of ORS 183.310 to 183.500. They are: charges relating to symposiums, conferences, short courses, food, books or other retail goods, prices of admission to athletic, entertainment or cultural events or advertising rates in student or institutional publications.

[ED. NOTE: Lists referenced are available from the agency.]

Stat. Auth.: ORS 351.070, 351 & 352

Stats. Implemented: ORS 351.070

Hist.: UOO 20, f. & cert. ef. 4-27-76; UOO 34(Temp), f. & cert. ef. 8-8-77; UOO 37, f. & cert. ef. 9-30-77; UOO 3-1978, f. & cert. ef. 7-1-78; UOO 1-1979(Temp), f. 6-26-79, ef. 7-1-79; UOO 4-1979, f. & cert. ef. 10-3-79; UOO 7-1980, f. 6-30-80, ef. 7-1-80; UOO 7-1981(Temp), f. 6-16-81, ef. 7-1-81; UOO 9-1981(Temp), f. & cert. ef. 6-29-81; UOO 2-1982, f. & cert. ef. 4-14-82; UOO 4-1982, f. & cert. ef. 6-10-82; UOO 4-1983, f. & cert. ef. 6-10-83; UOO 5-1983(Temp), f. & cert. ef. 6-15-83; UOO 2-1984, f. 6-11-84, ef. 7-1-84; UOO 3-1985, f. 6-19-85, ef. 7-1-85; UOO 1-1986, f. 6-4-86, ef. 7-1-86; UOO 4-1986(Temp), f. & cert. ef. 11-10-86; UOO 7-1986(Temp), f. 12-30-86, ef. 1-1-87; UOO 8-1986(Temp), f. 12-30-86, ef. 1-1-87; UOO 1-1987, f. & cert. ef. 1-29-87; UOO 3-1987, f. 6-17-87, ef. 7-1-87; UOO 6-1988, f. 6-29-88, cert. ef. 7-1-88; UOO 8-1988, f. & cert. ef. 8-17-88; UOO 5-1989, f. 6-20-89, cert. ef. 7-1-89; UOO 7-1990, f. 6-14-90, cert. ef. 7-1-90; UOO 9-1991, f. 6-12-91, cert. ef. 7-1-91; UOO 1-1992, f. 4-9-92, cert. ef. 7-1-92; UOO 2-1993, f. 4-19-93, cert. ef. 7-1-93; UOO 9-1993, f. & cert. ef. 6-15-93; UOO 11-1993, f. 8-29-93, cert. ef. 9-1-93; UOO 2-1994, f. 6-13-94, cert. ef. 7-1-94; UOO 3-1994, f. 6-14-94, cert. ef. 7-1-94; UOO 4-1995, f. 6-13-95, cert. ef. 7-1-95; UOO 5-1995, f. 7-31-95, cert. ef. 8-1-95; UOO 3-1996, f. 6-6-96, cert. ef. 7-1-96; UOO 6-1997, f. 6-18-97, cert. ef. 7-1-97; UOO 7-1997, f. 6-18-97, cert. ef. 7-1-97; UO 1-1998, f. 6-17-98, cert. ef. 7-1-98; UO 2-1998, f. 6-17-98, cert. ef. 7-1-98; UO 2-1999, f. 6-1-99, cert. ef. 7-1-99; UO 3-1999, f. 6-1-99, cert. ef. 7-1-99; UO 2-2000, f. 6-15-00, cert. ef. 7-1-00; UO 1-2001, f. 6-18-01, cert. ef. 7-1-01; UO 2-2001, f. 6-18-01, cert. ef. 7-1-01; UO 2-2002, f. 6-19-02, cert. ef. 7-1-02; UO 3-2002, f. 6-19-02, cert. ef. 7-1-02; UO 1-2003, f. 6-23-03, cert. ef. 7-1-03; UO 2-2003, f. 6-23-03, cert. ef. 7-1-03; UO 2-2004, f. 5-11-04, cert. ef. 7-1-04; UO 3-2004, f. 6-30-04, cert. ef. 7-1-04; UO 6-2007, f. & cert. ef. 2-22-07; UO 8-2007, f. & cert. ef. 3-12-07; UO 9-2007, f. 5-10-07, cert. ef. 6-29-07; UO 11-2007, f. 6-19-07, cert. ef. 6-29-07; UO 2-2008, f. 5-6-08, cert. ef. 7-1-08; UO 4-2008, f. 6-27-08, cert. ef. 7-1-08; UO 1-2009, f. 4-24-09, cert. ef. 7-1-09

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Parks and Recreation Department Chapter 736

Rule Caption: Amendment to OAR 736-018-0045 for adoption of the Silver Falls State Master Plan.

Adm. Order No.: PRD 6-2009

Filed with Sec. of State: 5-14-2009

Certified to be Effective: 6-1-09

Notice Publication Date: 2-1-2009

Rules Amended: 736-018-0045

Subject: ORS 390.018(1) authorizes the Director of the Oregon Parks and Recreation Department to adopt administrative rules that establish a master plan for each state park. Accordingly, OPRD is adopting a new master plan for Silver Falls State Park. Master Plans for state parks are adopted as administrative rules under OAR 736-

018-0045. The purpose of amending OAR 736-018-0045 is to adopt the new master plan as an Oregon Administrative Rule.

The master plan responds to the most current information on park resource conditions and public recreation needs as they pertain to the park. The plan was formulated through OPRD's mandated master planning process involving meetings with the general public, an advisory committee, recreation user groups, and affected state and federal agencies and local governments.

The agency held a public hearing and solicited public comments. The park master plan to be adopted through the rule amendment has no effect on small businesses. However, businesses have had the same opportunities to participate in public meetings and provide written comments as other members of the public.

Rules Coordinator: Joyce Merritt—(503) 986-0756

736-018-0045

Adopted State Park Master Plan Documents

(1) The following state park master plan documents have been adopted and incorporated by reference into this division:

- (a) Fort Stevens State Park Master Plan, as amended in 2001;
- (b) Cape Lookout State Park;
- (c) Cape Kiwanda State Park, renamed as Cape Kiwanda State Natural Area;
- (d) Nestucca Spit State Park, renamed as Robert Straub State Park;
- (e) Jessie M. Honeyman Memorial State Park as amended in 2009;
- (f) Columbia Gorge Management Unit Master Plan, including: Rocky Butte State Scenic Corridor, Lewis and Clark State Recreation Site, Dabney State Recreation Area, Portland Womens' Forum State Scenic Viewpoint, Crown Point State Scenic Corridor, Guy W. Talbot State Park, George W. Joseph State Natural Area, Rooster Rock State Park, Shepperd's Dell State Natural Area, Bridal Veil Falls State Scenic Viewpoint, Dalton Point State Recreation Site, Benson State Recreation Area, Ainsworth State Park, McLoughlin State Natural Area, John B. Yeon State Scenic Corridor, Bonneville State Scenic Corridor, Sheridan State Scenic Corridor, Lang Forest State Scenic Corridor, Lindsey Creek State Scenic Corridor, Starvation Creek State Park, Viento State Park, Wygant State Natural Area, Vinzenz Lausman Memorial State Natural Area, Seneca Fouts Memorial State Natural Area, Koberg Beach State Recreation Site, Memaloose State Park, and Mayer State Park;
- (g) Molalla River State Park;
- (h) Champeog State Park;
- (i) Willamette Mission State Park;
- (j) Cascadia State Park;
- (k) Willamette River Middle Fork State Parks Master Plan, 2006, including: Elijah Bristow State Park; Jasper State Recreation Site; Pengra Access; Dexter State Recreation Site; Lowell State Recreation Site; and the parks that comprise the Fall Creek State Recreation Area, including Winberry Park, North Shore Park, Sky Camp, Cascara Campground, Fisherman's Point Group Camp, Free Meadow, Lakeside 1 and Lakeside 2;
- (l) Cove Palisades State Park Master Plan, as amended in 2002;
- (m) Silver Falls State Park Master Plan, as amended in 1999; as amended in 2009;
- (n) Curry County State Parks Master Plan, including: Floras Lake State Park, renamed as Floras Lake State Natural Area; Cape Blanco State Park; Paradise Point Ocean Wayside, renamed as Paradise Point State Recreation Site; Port Orford Heads Wayside, renamed as Port Orford Heads State Park; Humbug Mountain State Park; Otter Point Wayside, renamed as Otter Point State Recreation Site; Cape Sebastian State Park, renamed as Cape Sebastian State Scenic Corridor; Otter Point Wayside; Port Orford Cedar Forest Wayside, renamed as Port Orford Cedar Forest State Scenic Corridor; and Buena Vista Ocean Wayside; Pistol River State Scenic Viewpoint; Samuel H. Boardman State Scenic Corridor; Harris Beach State Recreation Area; McVay State Recreation Site; Winchuck State Recreation Site; Crissey Field State Recreation Site; Alfred A. Loeb State Park;
- (o) Hat Rock State Park Master Plan, renamed as Hat Rock State Recreation Area;
- (p) Deschutes County State Parks, including: La Pine and Tumalo State Parks; Cline Falls, renamed as Cline Falls State Scenic Viewpoint; and Pilot Butte, renamed as Pilot Butte State Scenic Viewpoint;
- (q) Sunset Bay District Parks, including: Umpqua Lighthouse State Park (this chapter was replaced by the Umpqua Lighthouse State Park Master Plan, 2004); William M. Tugman State Park; Yoakam Point State Park, renamed as Yoakam Point State Natural Site; Sunset Bay State Park; Shore Acres State Park; and Cape Arago State Park;

ADMINISTRATIVE RULES

(r) Bullards Beach District Parks, including: Seven Devils State Wayside, renamed as Seven Devils State Recreation Site; Bullards Beach State Park; Bandon Ocean Wayside, renamed as Face Rock State Scenic Viewpoint; and Bandon State Park, renamed as Bandon State Natural Area;

(s) Tillamook County Coastal State Parks, including: Oswald West State Park; Nehalem Bay State Park; Cape Meares State Park, renamed as Cape Meares State Scenic Viewpoint; Neahkanie-Manzanita State Wayside, renamed as Neahkanie-Manzanita State Recreation Site; Manhattan Beach State Wayside, renamed as Manhattan Beach State Recreation Site; Rockaway Beach State Wayside, renamed as Rockaway Beach State Recreation Site; Twin Rocks State Wayside, renamed as Twin Rocks State Natural Site; Oceanside Beach State Wayside, renamed as Oceanside Beach State Recreation Site; and Neskowin Beach State Wayside, renamed as Neskowin Beach State Recreation Site;

(t) Beverly Beach District Parks South, including: Boiler Bay State Park, renamed as Boiler Bay State Scenic Viewpoint; Rocky Creek State Wayside, renamed as Rocky Creek State Scenic Viewpoint; Otter Crest State Wayside, renamed as Otter Crest State Scenic Viewpoint; Devil's Punchbowl State Park, renamed as Devil's Punchbowl State Natural Area; Beverly Beach State Park; Agate Beach State Wayside, renamed as Agate Beach State Recreation Site; and Ellmaker State Park, renamed as Ellmaker State Wayside;

(u) Smith Rock State Park;

(v) Collier District Parks, including: Booth State Wayside, renamed as Booth State Scenic Corridor; Chandler State Wayside; Collier Memorial State Park; Goose Lake State Recreation Area; Jackson F. Kimball State Park, renamed as Jackson F. Kimball State Recreation Site; and Klamath Falls-Lakeview Forest Wayside, renamed as Klamath Falls-Lakeview Forest State Scenic Corridor;

(w) Banks-Vernonia State Park, renamed as Banks-Vernonia State Trail;

(x) Sumpter Valley Dredge State Park, renamed as Sumpter Valley Dredge State Heritage Area;

(y) Illinois River Forks State Park;

(z) Wallowa County State Parks Master Plan, 2000;

(aa) L.L. "Stub" Stewart Memorial State Park Master Plan, 2005;

(bb) Master Plan for Clay Myers State Natural Area at Whalen Island, 2003;

(cc) South Beach State Park Master Plan, 2003;

(dd) Prineville Reservoir Resource Management Plan/Master Plan, 2003;

(ee) Detroit Lake State Park Master Plan, 2002;

(ff) Umpqua Lighthouse State Park Master Plan, 2004;

(gg) Fort Yamhill State Heritage Area Master Plan, 2004;

(hh) Thompson's Mills State Heritage Site Master Plan, 2006;

(ii) Luckiamute State Natural Area Master Plan, 2009;

(jj) Iwetemlaykin State Heritage Site Master Plan, 2009;

(kk) Kam Wah Chung State Heritage Site Master Plan, 2009.

(2) The master plan documents which have been incorporated by reference into this division are available from the State Parks and Recreation Department, 725 Summer Street NE, Suite C, Salem OR 97301.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 390.180(1)(c)

Stats. Implemented: ORS 390.180(1)(c)

Hist.: PRD 9-1998, f. 7-29-98, cert. ef. 7-31-98; PRD 4-1999, f. & cert. ef. 5-14-99; PRD 9-2000, f. 6-14-00, cert. ef. 7-1-00; PRD 1-2001, f. & cert. ef. 2-1-01; PRD 5-2001, f. & cert. ef. 6-29-01; PRD 6-2001, f. & cert. ef. 9-6-01; PRD 3-2002, f. & cert. ef. 3-22-02; PRD 2-2003, f. & cert. ef. 2-27-03; PRD 3-2003, f. & cert. ef. 2-27-03; PRD 5-2003, f. & cert. ef. 7-8-03; PRD 9-2003, f. & cert. ef. 10-13-03; PRD 11-2003, f. & cert. ef. 11-7-03; PRD 7-2004, f. & cert. ef. 5-14-04; PRD 9-2004, f. & cert. ef. 6-14-04; PRD 1-2005, f. & cert. ef. 2-4-05; PRD 3-2005, f. & cert. ef. 5-4-05; PRD 4-2006, f. 7-14-06, cert. ef. 7-14-06; PRD 5-2006, f. 9-15-06, cert. ef. 10-1-06; PRD 1-2009, f. 1-15-09, cert. ef. 2-1-09; PRD 3-2009, f. 3-12-09, cert. ef. 4-1-09; PRD 4-2009, f. 4-15-09, cert. ef. 5-1-09; PRD 5-2009, f. 4-15-09, cert. ef. 5-1-09; PRD 6-2009, f. 5-14-09, cert. ef. 6-1-09

Physical Therapist Licensing Board Chapter 848

Rule Caption: Amend current Board rule expense budget figure for 2007–2009 Board budget.

Adm. Order No.: PTLB 1-2009

Filed with Sec. of State: 5-14-2009

Certified to be Effective: 5-14-09

Notice Publication Date: 4-1-2009

Rules Amended: 848-005-0010

Subject: Projections indicate that the Board will exceed its approved 2007–2009 biennium budget. The expenditure variance is a direct result of the Governor's implementation of a new executive

salary plan not considered in original budget; increase in investigative case loads and usage of contract investigator to manage case loads, and DOJ expenses associated with investigative case advisement, and contested case hearing preparation. The board is proposing to amend its current 2007–2009 budget by \$41,000. In order to amend the current budget, the Board must first notify all licensees, and interested parties, and hold a public hearing thereon as required by ORS Chapter 182.462(1) and (2). Copies of the proposed budget amendment are available on the Board website and by contacting the Board's office.

Rules Coordinator: James Heider—(971) 673-0203

848-005-0010

Board Budget

The Physical Therapist Licensing Board hereby adopts by reference the Physical Therapist Licensing Board 2007-2009 Biennium Budget of \$900,000 covering the period from July 1, 2007 through June 30, 2009. The Executive Director of the Board will amend budgeted accounts as necessary within the approved budget of \$900,000 for the effective operation of the Board. The Board will not exceed the approved 2007-2009 Biennium Budget without amending this rule, notifying holders of licenses, and holding a public hearing thereon as required, by ORS Chapter 182.462(1) and (2). Copies of the budget are available from the Board's office.

Stat. Auth.: ORS 688.210

Stats. Implemented: ORS 688.160(5)(c)

Hist.: PTLB 3-1999(Temp), f. & cert. ef. 9-7-99 thru 3-1-00; PTLB 5-1999, f. 11-23-99, cert. ef. 12-1-99; PTLB 5-2001(Temp) f. & cert. ef. 6-18-01 thru 9-30-01; PTLB 6-2001, f. & cert. ef. 10-1-01; PTLB 2-2003, f. 6-30-03, cert. ef. 7-1-03; Renumbered from 848-010-0105, PTLB 2-2004, f. & cert. ef. 12-29-04; PTLB 1-2005, f. & cert. ef. 4-8-05; PTLB 2-2007, f. 5-25-07, cert. ef. 6-1-07; PTLB 1-2009, f. & cert. ef. 5-14-09

Rule Caption: Amend current Board rule expense budget figure to reflect 2009-2011 Board approved expense budget.

Adm. Order No.: PTLB 2-2009

Filed with Sec. of State: 5-14-2009

Certified to be Effective: 7-1-09

Notice Publication Date: 4-1-2009

Rules Amended: 848-005-0010

Subject: The Physical Therapist Licensing Board hereby adopts by reference the Physical Therapist Licensing Board 2009–2011 Biennium Budget of \$938,000 covering the period from July 1, 2009 through June 30, 2011. The Executive Director of the Board will amend budgeted accounts as necessary within the approved budget of \$938,000 for the effective operation of the Board. The Board will not exceed the approved 2009–2011 Biennium Budget without amending this rule, notifying holders of licenses, and holding a public hearing thereon as required by ORS Chapter 182.462(1) and (2). Copies of the budget are available on the Board website or by contacting the Board's office.

Rules Coordinator: James Heider—(971) 673-0203

848-005-0010

Board Budget

The Physical Therapist Licensing Board hereby adopts by reference the Physical Therapist Licensing Board 2009-2011 Biennium Budget of \$938,000 covering the period from July 1, 2009 through June 30, 2011. The Executive Director of the Board will amend budgeted accounts as necessary within the approved budget of \$938,000 for the effective operation of the Board. The Board will not exceed the approved 2009-2011 Biennium Budget without amending this rule, notifying holders of licenses, and holding a public hearing thereon as required, by ORS Chapter 182.462(1) and (2). Copies of the budget are available from the Board's office.

Stat. Auth.: ORS 688.210

Stats. Implemented: ORS 688.160(5)(c)

Hist.: PTLB 3-1999(Temp), f. & cert. ef. 9-7-99 thru 3-1-00; PTLB 5-1999, f. 11-23-99, cert. ef. 12-1-99; PTLB 5-2001(Temp) f. & cert. ef. 6-18-01 thru 9-30-01; PTLB 6-2001, f. & cert. ef. 10-1-01; PTLB 2-2003, f. 6-30-03, cert. ef. 7-1-03; Renumbered from 848-010-0105, PTLB 2-2004, f. & cert. ef. 12-29-04; PTLB 1-2005, f. & cert. ef. 4-8-05; PTLB 2-2007, f. 5-25-07, cert. ef. 6-1-07; PTLB 1-2009, f. & cert. ef. 5-14-09; PTLB 2-2009 f. 5-14-09 cert. ef. 7-1-09

ADMINISTRATIVE RULES

Psychiatric Security Review Board Chapter 859

Rule Caption: Amend existing Rules: OAR 859-040-0010 and OAR 859-040-0015.

Adm. Order No.: PSRB 1-2009

Filed with Sec. of State: 5-5-2009

Certified to be Effective: 5-5-09

Notice Publication Date: 2-1-2009

Rules Amended: 859-040-0010, 859-040-0015

Rules Repealed: 859-040-0010(T), 859-040-0015(T)

Subject: Amend existing Rule: OAR 859-040-0015. Amend existing Rule: OAR 859-040-0010 to adopt subsection 5.

Rules Coordinator: Evangelia King—(503) 229-5596

859-040-0010

Quorum and Decisions

The presence of at least three members of the Board constitutes a quorum:

(1) Three concurring votes (affirmative or negative) are required to make a Board decision.

(2) When three members cannot agree on the decision, the hearing may be continued for no longer than 60 days and the tape of the hearing and the exhibits shall be reviewed by the remaining member(s) and a decision by the majority of the members shall be the finding and order of the Board.

(3) If the attorney for the person objects to the remaining member's or members' review as set forth in section (2) of this rule, the Board may reschedule the matter for a hearing before the entire Board.

(4) If an objection for good cause is made to a specific member of the Board sitting on the panel considering a specific case, that member shall withdraw and, if necessary, the hearing shall be postponed and rescheduled.

(5) If an objection for good cause is made to a specific staff member of the Board being present during the panel's deliberations in a specific case, and if the Board determines that good cause exists, that staff member shall not be present during deliberations in that case.

Stat. Auth.: ORS 161.387

Stats. Implemented: ORS 161.385

Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 1-1995, f. & cert. ef. 1-11-95; PSRB 1-2008(Temp), f. & cert. ef. 12-17-08 thru 6-2-09; PSRB 1-2009, f. & cert. ef. 5-5-09

859-040-0015

Public Meetings Law

All meetings of the PSRB are open to the public in accordance with the Public Meetings Law; the deliberations of the Board are not open to the public. For the purposes of this rule, the term "public" does not include employees of the PSRB.

Stat. Auth.: ORS 161

Stats. Implemented: ORS 161.387

Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 1-2008(Temp), f. & cert. ef. 12-17-08 thru 6-2-09; PSRB 1-2009, f. & cert. ef. 5-5-09

Public Utility Commission Chapter 860

Rule Caption: In the Matter of a Rulemaking to Adopt Federal Pipeline Safety Regulation Amendments.

Adm. Order No.: PUC 5-2009

Filed with Sec. of State: 5-5-2009

Certified to be Effective: 5-5-09

Notice Publication Date: 4-1-2009

Rules Amended: 860-024-0020, 860-024-0021

Subject: As a condition of agreements under ORS 757.039(3) with US Department of Transportation (USDOT), the Commission must certify annually to USDOT that the Commission adopted all current federal pipeline safety regulations applicable to intrastate gas pipelines and liquefied natural gas facilities. The amended rules adopt published USDOT amendments associated with the construction, operation and maintenance of intrastate gas pipelines and liquefied natural gas facilities. The amendments being adopted are from the Code of Federal Regulations, CFR Title 49, Part 192 (6 amendments), Part 193 (1 amendment), and Part 199 (1 amendment).

Rules Coordinator: Diane Davis—(503) 378-4372

860-024-0020

Gas Pipeline Safety

Every gas operator shall construct, operate, and maintain natural gas and other gas facilities in compliance with the standards prescribed by:

(1) 49 CFR, Part 191, and amendments through No. 14 — Transportation of Natural and Other Gas by Pipeline; Annual Reports and Incident Reports in effect on July 13, 1998.

(2) 49 CFR, Part 192, and amendments through No. 108 — Transportation of Natural and Other Gas by Pipeline; Minimum Safety Standards in effect on December 24, 2008.

(3) 49 CFR, Part 199, and amendments through No. 24 — Control of Drug and Alcohol Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations in effect on March 28, 2008.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 757.039

Hist.: PUC 164, f. 4-18-74, ef. 5-11-74 (Order No. 74-307); PUC 172, f. & ef. 1-14-76 (Order No. 76-036); PUC 180, f. 4-8-77, ef. 5-1-77 (Order No. 77-232); PUC 2-1978, f. & ef. 3-16-78 (Order No. 78-158); PUC 6-1980, f. & ef. 10-22-80 (Order No. 80-777); PUC 3-1981, f. & ef. 6-4-81 (Order No. 81-361); PUC 12-1984, f. & ef. 6-5-84 (Order No. 84-424); PUC 18-1984, f. & ef. 9-4-84 (Order No. 84-685); PUC 4-1986, f. & ef. 5-5-86 (Order No. 86-456); PUC 11-1987, f. & ef. 10-8-87 (Order No. 87-861); PUC 16-1989, f. & cert. ef. 11-22-89 (Order No. 89-1529); PUC 8-1992, f. & cert. ef. 5-13-92 (Order No. 92-618 & 92-677); PUC 14-1994, f. & cert. ef. 10-20-94 (Order No. 94-1533); PUC 9-1998, f. & cert. ef. 4-28-98; PUC 19-1998, f. & cert. ef. 11-18-98; PUC 22-2003, f. & cert. ef. 11-28-03; PUC 3-2005, f. & cert. ef. 6-3-05; PUC 9-2007, f. & cert. ef. 9-10-07; PUC 5-2009, f. & cert. ef. 5-5-09

860-024-0021

Liquefied Natural Gas Safety

Every gas operator shall construct, operate, and maintain liquefied natural gas facilities in compliance with the standards prescribed by:

(1) 49 CFR, Part 191, and amendments through No. 14 — Transportation of Natural and Other Gas by Pipeline; Annual Reports and Incident Reports in effect on July 13, 1998.

(2) 49 CFR, Part 193, and amendments through No. 20 — Liquefied Natural Gas Facilities; Minimum Safety Standards in effect on March 28, 2008.

(3) 49 CFR, Part 199, and amendments through No. 24 — Control of Drug and Alcohol Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations in effect on March 28, 2008.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS Ch. 183, 756 & 757

Stat. Implemented: ORS 757.039

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 757.039

Hist.: PUC 3-1981, f. & ef. 6-4-81 (Order No. 81-361); PUC 12-1984, f. & ef. 6-5-84 (Order No. 84-424); PUC 4-1986, f. & ef. 5-5-86 (Order No. 86-456); PUC 11-1987, f. & ef. 10-8-87 (Order No. 87-861); PUC 16-1989, f. & cert. ef. 11-22-89 (Order No. 89-1529); PUC 8-1992, f. & cert. ef. 5-13-92 (Order No. 92-618 & 92-677); PUC 14-1994, f. & cert. ef. 10-20-94 (Order No. 94-1533); PUC 9-1998, f. & cert. ef. 4-28-98; PUC 19-1998, f. & cert. ef. 11-18-98; PUC 22-2003, f. & cert. ef. 11-28-03; PUC 3-2005, f. & cert. ef. 6-3-05; PUC 9-2007, f. & cert. ef. 9-10-07; PUC 5-2009, f. & cert. ef. 5-5-09

Rule Caption: In the Matter of Housekeeping Amendments to OAR 860-034-0010, 860 034-0120, and 860-034-0310.

Adm. Order No.: PUC 6-2009

Filed with Sec. of State: 5-5-2009

Certified to be Effective: 5-5-09

Notice Publication Date: 4-1-2009

Rules Amended: 860-034-0010, 860-034-0120, 860-034-0310

Subject: The amendments to OAR 860-034-0010 clarify that "for good cause shown," the Commission may waive or deviate from the Division 034 rules. By making this clarification, the Commission may be able to process more efficiently such requests by subject companies. The amendments to OAR 860-034-0120 are necessary because an increase in the late payment charge for the subject companies falls within the scope of OAR 860 034-0310, and is not determined by the Commission, as it is for the large telecommunications utilities. The amendments to OAR 860-034-0310 use terms more readily understood by the industry, changing "rate for intrastate telecommunications services" to "rate contained in a tariff schedule." Other housekeeping changes to these three rules increase readability.

Rules Coordinator: Diane Davis—(503) 378-4372

860-034-0010

Scope of the Rules

(1) The adoption of these rules does not preclude the Commission from altering or amending them in whole or in part or from requiring any

ADMINISTRATIVE RULES

other or additional service, equipment, facility, or standard upon a complaint, Commission motion, or small telecommunications utility application. Furthermore, these rules do not in any way relieve any utility from any of its duties under Oregon law. Upon application by a small telecommunications utility and for good cause shown, the Commission may relieve the small telecommunications utility of any obligations under these rules.

(2) The rules contained in this division apply exclusively to telecommunications cooperatives and small telecommunications utilities as defined in section (3) of this rule.

(3) As used in this division:

(a) "Small telecommunications utility" means a telecommunications utility partially exempt from regulation under ORS 759.040;

(b) "Telecommunications utility" has the meaning given the term in ORS 759.005;

(c) "Telecommunications cooperative" or "Type 1 cooperative" means an unincorporated association or cooperative corporation that provides telecommunications services; and

(d) "Type 2 cooperative" means an unincorporated association or cooperative corporation that charges joint rates or provides through services as defined in OAR 860-034-0015.

Stat. Auth.: ORS 183, 756 & 759

Stats. Implemented: ORS 756.040, 759.045, 759.220 & 759.225

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185); PUC 12-1994, f. & cert. ef. 8-31-94 (Order No. 94-1242); PUC 12-1998, f. & cert. ef. 5-7-98; PUC 3-1999, f. & cert. ef. 8-10-99; PUC 4-2001, f. & cert. ef. 1-24-01; PUC 15-2001, f. & cert. ef. 6-21-01; PUC 2-2004(Temp), f. & cert. ef. 1-9-04 thru 7-2-04; PUC 11-2004, f. & cert. ef. 6-2-04; PUC 6-2009, f. & cert. ef. 5-5-09

860-034-0120

Late-Payment Charge

(1) A small telecommunications utility may apply a late-payment charge to customer accounts not paid in full each month, provided the utility has filed the late-payment charge in its rate schedule.

(2) The charge will be based on a monthly late-payment rate applied to overdue account balances at the time of preparing the subsequent month's bill for residential accounts or by the bill due date for all other accounts. The late-payment charge may not be applied to time-payment accounts that are current. The current late-payment rate and the conditions for its application to customer accounts must be specified on the utility bill.

Stat. Auth.: ORS 183, 756 & 759

Stats. Implemented: ORS 759.040 & 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185); PUC 12-1997, f. & cert. ef. 10-30-97; PUC 4-1999, f. & cert. ef. 8-12-99; PUC 4-2001, f. & cert. ef. 1-24-01; PUC 15-2001, f. & cert. ef. 6-21-01; PUC 6-2009, f. & cert. ef. 5-5-09

860-034-0310

Announcement of Rate Increases by Small Telecommunications Utilities

(1) A small telecommunications utility that increases any rate contained in a tariff schedule must notify its affected customers at least 45 days before the proposed effective date of the increase. A copy of such notification must at the same time be provided to the Commission.

(2) The small telecommunications utility must notify its customers by:

(a) Inserting an announcement in the small telecommunications utility's regular billing to its customers; or

(b) Mailing an announcement to each customer.

(3) The announcement must contain the following information:

(a) The list of services subject to increase, current and proposed rates, and amount and percentage of increase for each service;

(b) The reasons for the proposed rate increase;

(c) The effective date of the proposed rate increase;

(d) The Commission's toll-free telephone number and address; and

(e) The following statement: "Customers may petition the Public Utility Commission of Oregon to investigate the rate increase. The Commission will investigate the rate increase if it receives petitions signed by customers (10 percent of customers or 500, whichever is the lesser), on or before (ten days before the proposed effective date). If the Commission does not receive sufficient petitions by (ten days before the proposed effective date), the proposed rates will become effective on (the proposed effective date) without Commission review. Petitions should be sent to the Commission's Consumer Services Division. The Company will provide a current copy of the local exchange directory and its service territory map within ten days of a request from any customer."

Stat. Auth.: ORS 183, 756 & 759

Stats. Implemented: ORS 759.045

Hist.: PUC 6-1993, f. & cert. ef. 2-19-93 (Order No. 93-185); PUC 12-1998, f. & cert. ef. 5-7-98; PUC 3-1999, f. & cert. ef. 8-10-99; PUC 8-1999, f. & cert. ef. 10-18-99; PUC 15-2001, f. & cert. ef. 6-21-01; PUC 11-2003, f. & cert. ef. 7-3-03; PUC 6-2009, f. & cert. ef. 5-5-09

Racing Commission Chapter 462

Rule Caption: Amendments to account wagering and multi-jurisdictional simulcasting and interactive wagering totalizator hub rules.

Adm. Order No.: RC 1-2009

Filed with Sec. of State: 4-21-2009

Certified to be Effective: 7-1-09

Notice Publication Date: 4-1-2009

Rules Amended: 462-210-0030, 462-220-0030, 462-220-0070

Subject: The amended rules pertain to multi-jurisdictional simulcasting and interactive wagering totalizator regarding minimum deposit, source market mitigation, account for customer funds, affiliate sites, tote system approval and location, and reporting change of ownership.

Rules Coordinator: Carol N. Morgan—(971) 673-0208

462-210-0030

Establishing An Account

(1) An established account is necessary to place account wagers. An account may be established at either an account wagering center or by mail to a race meet licensee:

(a) For establishing the account with an account wagering center an application form must be signed or otherwise authorized in a manner acceptable to the commission and include:

(A) The applicant's full legal name;

(B) Principal residence address;

(C) Telephone number;

(D) Social security number;

(E) Proper identification or certification demonstrating that the applicant is at least 18 years of age; and

(F) Any other information required by the commission.

(b) Each application submitted will be subject to electronic verification with respect to name, principal residence address, date of birth and Social Security number by either a national, independent, individual reference service company or another technology which meets or exceeds the reliability, security, accuracy, privacy and timeliness provided by individual reference service companies. If there is a discrepancy between the application submitted and the information provided by the electronic verification described above or if no information on the applicant is available from such electronic verification, another individual reference service may be accessed or another technology meeting the requirements described above may be used to verify the information provided. If these measures prove unsatisfactory, then the applicant will be contacted by the account wagering center and given instructions as to how to resolve the matter;

(c) All account holder identities must be verified via electronic means or copies of other documents before a wager can occur.

(2) In establishing an account a minimum deposit of \$25 is required.

(3) Each account shall have a unique identifying account number. The identifying account number may be changed at any time by the account wagering center provided the account wagering center informs the account holder in writing prior to the change.

(4) The applicant shall supply the account wagering center with an alpha-numeric code, to be used as a secure personal identification code when the account holder is placing an account wager. The account holder has the right to change this code at any time.

(5) The account wagering center may not establish an account for any person whose principal residence address is not within the State of Oregon. The principal residence address shall be established by reliance on the information submitted on the application form provided and certified by the applicant.

(6) The holder of the account shall receive at the time the account is approved:

(a) Unique account identification number;

(b) Copy of the account wagering rules and such other information and material that is pertinent to the operation of the account; and

(c) Such other information as the account wagering center or commission may deem appropriate.

(7) The account wagering center shall accept accounts in the name of a natural person only.

(8) The account is nontransferable between natural persons.

(9) The account wagering center may close or refuse to open an account for what it deems good and sufficient reason, and shall order an account closed if it is determined that information that was used to open an

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account was false, or that the account has been used in violation of these rules.

Stat. Auth.: ORS 462.270(3) & 462.700
Stats. Implemented: ORS 462.142
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 1-2002, f. & cert. ef. 1-3-02; RC 3-2007, f. 3-29-07, cert. ef. 7-1-07; RC 1-2009, f. 4-21-09, cert. ef. 7-1-09

462-220-0030

Approval of the License for a Hub Operation

(1) Prior to operating a hub the entity must apply for and be granted a license from the commission to conduct simulcasting and pari-mutuel wagering in accordance with ORS 462.725 and these rules as a "Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub."

(2) An applicant for a "Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub" license must provide the following information as part of the application:

(a) The applicant's legal name;

(b) If the applicant is a corporation, the names, addresses, dates of birth of its shareholders, directors and officers; if a shareholder is a corporation the date of incorporation, the place of incorporation and the names, addresses, and dates of birth of its shareholders, directors and officers must be provided;

(c) If the applicant is a partnership the names, addresses, dates of birth of the partners; if a partner is a corporation the date of incorporation, the place of incorporation and the names, addresses, and dates of birth of its share holders must be provided;

(d) If the applicant is a corporation ultimately owned by a not-for-profit entity without any shareholders, or is a publicly traded corporation, the information required in subsection (2)(b) and (2)(c) of this rule shall be required from the directors of the membership organization, or the directors and officers of the publicly traded corporation, in lieu of the shareholders;

(e) The names of the race tracks the applicant, or its agent, has contracts with that allow the applicant to provide the simulcast signals and pari-mutuel wagering on the product;

(f) Financial information from the applicant that demonstrates whether the applicant has the financial resources to install and operate a hub;

(g) A detailed budget showing anticipated revenue, expenditures and cash flows by month, from the hub's operation during the license period;

(h) The number of days that the applicant is planning to operate the hub during the fiscal year in which they are seeking to be licensed;

(i) A list of all hub personnel containing the name, position, job location, license number and expiration date. All current gaming licenses should be listed, regardless of jurisdiction;

(j) A chart illustrating the organizational structure, including reporting lines;

(k) A list of all states where the hub is operating; and

(l) Documentation of proper filing that the Hub applicant and/or parent company is registered to do business in the state of Oregon.

(3) As part of the application for licensure as a hub, the applicant shall submit a detailed plan of operations in a format and containing such information as required by the commission. At a minimum, the operating plan shall address the following issues:

(a) The manner in which the proposed simulcasting and wagering system will operate;

(b) The requirements for a "qualified subscriber based service" or "closed loop subscriber based system" set out in OAR 462-220-0010(2);

(c) Programs for responsible wagering;

(d) Mitigation for the effects of account wagering on the source market in Oregon. In addition to the source market mitigation plan as outlined in the application, more detailed source market information shall be provided by the hub at the commission's request. A mitigation plan must include one of the following options:

(A) An agreement with a state commercial race meet licensee as defined in ORS 462.062, a copy of which has been submitted to the commission; or

(B) A written agreement with the Oregon HBPA, a copy of which has been submitted to the commission; or

(C) A written plan submitted to, and approved by, the commission that mitigates the effect of account wagering and provides equitable compensation to the commercial race meet licensee as defined in ORS 462.062. Source market fees shall be paid statewide on Oregon accounts. Accounts must be available to Oregon residents if a hub is licensed in Oregon.

(e) The requirements for accounts established and operated for persons whose principal residence is outside of the state of Oregon. The commission may require changes in a proposed plan of operations as a condi-

tion of granting a license. No subsequent changes in the system's operation may occur unless ordered by the commission or until approval is obtained from the commission after it receives a written request.

(f) A list of any affiliate sites or potential affiliate sites of the hub. The operating plan must provide the following information and meet the following affiliate guidelines:

(A) The name and web address of the affiliate site.

(B) The person or companies involved in the affiliate agreement.

(C) That the affiliate site agreement is clearly noted as either a marketing or service agreement.

(D) Customers using the affiliate site will be customers of the licensed hub, subject to the same verification process and account operational procedures as any other customer of said hub licensee.

(E) The wagers placed through the affiliate site will be processed through equipment owned and operated by the licensed hub and their commission approved tote provider.

(F) The commission approved totalizator provider will incorporate the handle of the affiliate site into the handle report for the licensed hub, or generate a separate daily report for this handle. In either case, the handle will count as part of the hub licensee's handle, and the hub licensee will be responsible for all taxes on the handle generated from their own site and any affiliate sites.

(G) The affiliate site will be branded in some form to indicate to the customer that they will be wagering through systems operated by the licensed hub. The commission reserves the right to approve or deny any affiliate sites. Additionally, the commission may determine a handle level at which an affiliate site may need to apply for its own hub license, or at which the hub licensee must be subject to the tax rate described in OAR 462-220-0040(3)(c).

(4) The commission may conduct investigations or inspections or request additional information from the applicant as it deems appropriate in determining whether to approve the license application.

(5) The fee of \$200 per day that the hub is scheduled to operate must accompany the application. If the license is denied by the commission the fee will be refunded less the amount equal to the amount that the commission expended in conducting investigations and inspections which was in excess of the expenses that would have otherwise been incurred by the commission.

(6) To ensure that the funds of an applicant's account holders will be properly held and maintained by the applicant:

(a) The applicant must provide evidence to the commission that the applicant has established a segregated account (the Bank Account) with an FDIC insured bank in which all funds of its account holders will be deposited solely for the benefit of the account holders:

(A) No hub shall use the funds deposited in the Bank Account for any purpose except to facilitate the wagering activities and other instructions or agreements of account holders. The funds of an account holder held in the Bank Account shall remain the property of the account holder for all purposes until wagered by the account holder or otherwise withdrawn or used in accordance with the account holder's instruction or agreement;

(B) The hub shall maintain a record of each deposit, withdrawal or other use of funds held in the Bank Account for each account holder (the Customer Record);

(C) Any account holder, who claims that any credit or debit to his or her Customer Record is incorrect or who claims that any deposit, withdrawal or use of the account holder's funds is incorrect, may file a claim with the commission. The commission shall investigate all claims and provide the hub with an opportunity to respond to such claim. The hub may submit any information, documentation or other evidence supporting its position with respect to the claim. If the commission determines that the Customer Record is incorrect or that any deposit, withdrawal or use of an account holder's funds was incorrect, the hub shall have 10 days to correct same as instructed by the commission. Such correction may require the hub to correct the Customer Record for the account holder, to deposit additional funds into the Bank Account for the account holder, to remit funds directly to the account holder, or any combination thereof.

(b) The applicant must provide a \$50,000 irrevocable bond, letter of credit, or other security instrument to the commission, in a form acceptable to the commission, which designates the commission as the beneficiary thereof (the Security Instrument). The Security Instrument shall permit the commission to make draws to cover such amounts as the commission finds is necessary. For example, if a hub fails to deposit funds into the Bank Account for an account holder or to remit funds directly to the account holder, as described in subsection 6(a)(C) above, within 10 days of the commission's decision, the commission may draw down on or take other

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appropriate action against the Security Instrument to ensure the account holder is immediately made whole.

(7) An applicant licensed under this section may enter into such agreements, as for what it deems good and sufficient reasons, that are necessary to promote, advertise and further the sport of racing or that may be necessary for the effective operation of interstate account wagering, including, without limitation, television production and telecommunications services.

(8) An applicant must maintain an operational presence within the State of Oregon. A call center for customer wagering, a sub-contract with an existing call center for customer wagering, or a business office is required. In addition, totalizator equipment must be located in Oregon, and services must be provided by a totalizator vendor identified in the hub operating plan as approved by the commission.

(9) An applicant with a customer call center not located in Oregon must provide the following to the commission:

- (a) Access to customer call monitoring and electronic wagering data;
- (b) On site regulatory visits of the call center by authorized commission staff; and

(c) Reimbursement to the commission for expenses associated with out-of-state regulatory visits.

Stat. Auth.: ORS 462.270(3) & 462.725

Stats. Implemented: ORS 462.725

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 3-2007, f. 3-29-07, cert. ef. 7-1-07; RC 1-2009, f. 4-21-09, cert. ef. 7-1-09

462-220-0070

Powers of the Commission to Review and Audit Records; Reporting Requirements

(1) The commission, or its staff, will be given unrestricted access, for review and audit, to all records and financial information of the hub operator, including all account information. This information will be made available to the commission or commission staff, by the hub operator, at the hub location, upon notice from the commission or commission staff, at all reasonable times to the extent such disclosure is not expressly prohibited by law. Commission access to and use of information concerning wager transactions and account wagering customers shall be considered proprietary and shall not be disclosed publicly except as may be required by law. This shall not prevent the sharing of this information for investigative purposes.

(2) The following reports shall be submitted to the Commission:

(a) Wagering Center Closure: A report signed by the hub's managing employee must be filed with the commission within forty-eight (48) hours whenever the account wagering center is closed during normal operating hours;

(b) Transmission Failure: A report signed by the hub's managing employee must be filed with the commission within forty-eight (48) hours whenever wagers are not transmitted to, received by, or otherwise accepted by a racetrack for any reason. The financial implication of such failure should be detailed in this report;

(c) Irregularities or wrong doings: All licensees shall report any known or suspected rules violations by any person involving account wagering immediately to the commission and cooperate in subsequent investigations.

(3) Miscellaneous. The following reports shall be available for inspection by the commission upon request:

- (a) Affiliate account wagering handle;
- (b) Reports for taxation purposes;
- (c) Customer Complaints;
- (d) List of inactive accounts;
- (e) List of Excluded Persons;
- (f) List of account holders, set out by jurisdiction;
- (g) Log of all system accesses and adjustments to the master file; and
- (h) List of all deposits, withdrawals, wagers and winning payouts.

(4) The commission may require the hub operator to annually submit audited financial statements.

(5) The commission requires a 14 day notice in a change of hub ownership prior to such a sale if reasonably possible. In the event that such notice cannot be given, or if all necessary financial soundness checks and personal background checks cannot be completed in that time, the commission may issue a 60 day temporary license pending completion of those investigations.

Stat. Auth.: ORS 462.270(3) & 462.725

Stats. Implemented: ORS 462.725

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 3-2007, f. 3-29-07, cert. ef. 7-1-07; RC 1-2009, f. 4-21-09, cert. ef. 7-1-09

Secretary of State, Elections Division Chapter 165

Rule Caption: Registration Procedures for Newly Naturalized Citizens.

Adm. Order No.: ELECT 6-2009

Filed with Sec. of State: 5-4-2009

Certified to be Effective: 5-4-09

Notice Publication Date: 4-1-2009

Rules Amended: 165-005-0050

Subject: This amendment incorporates language which allows for 17 year olds who are newly naturalized U.S. Citizens to register to vote as provided for in ORS 247.016.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-005-0050

Registration Procedures for Newly Naturalized Citizens

(1) The purpose of these rules are to establish procedures for registering to vote an otherwise qualified person who will become a naturalized United States citizen after the registration cutoff but prior to the next election.

(2) For purposes of this rule, these terms mean:

(a) "Qualified Person" — A resident of the State of Oregon who is a United States citizen by 8pm on the day of the election; 17 years of age or older; has resided in this state for 20 days immediately preceding the election at which the person will vote; is registered more than 20 calendar days prior to the election.

(b) "Naturalized United States Citizen" — A citizen of another country who has met the Bureau of Citizenship and Immigration Services requirements to obtain U.S. citizenship and, through a legal procedure, becomes a citizen of the United States.

(c) "Evidence of Citizenship" — A Certificate of Naturalization, which is an identity document proving U.S. citizenship, issued by the Bureau of Citizenship and Immigration Services, after the person takes the Oath of Allegiance to the United States.

(3) A person who will become a United States citizen after the 21st calendar day preceding an election, and who wishes to register to vote in that election, shall appear personally in the office of any County Elections Official, before the 20th day before the election, to request a voter registration form. The person shall explain that the person become a naturalized United States citizen after the voter registration deadline but prior to the next election.

(4) The office of the County Elections Official shall permit the person to complete and submit a voter registration form. The County Elections Official shall include a notation that the individual will be a citizen, after the voter registration deadline but prior to the next election.

(5) The office of the County Elections Official shall explain to the person that unless the person appears before the county clerk and provides evidence of citizenship by 8pm on the day of the election, the person's pending registration will be canceled. If the evidence of citizenship is presented before 8pm on election day, the person shall be issued a ballot for that election.

(6) If the person fails to provide timely evidence of citizenship, the office of the County Elections Official shall cancel the person's pending registration.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 247.015

Hist.: ELECT 23-1990, f. & cert. ef. 7-13-90; ELECT 25-1994, f. & cert. ef. 10-27-94; ELECT 1-2001, f. & cert. ef. 2-1-01; ELECT 8-2003, f. & cert. ef. 9-3-03; ELECT 6-2009, f. & cert. ef. 5-4-09

Rule Caption: Method of Calculating Total Eligible Voters for Property Tax Measure Elections.

Adm. Order No.: ELECT 7-2009

Filed with Sec. of State: 5-4-2009

Certified to be Effective: 5-4-09

Notice Publication Date: 4-1-2009

Rules Amended: 165-007-0130

Subject: This rule is amended to incorporate Article XI, Section 11k of the Oregon Constitution as passed by voters at the November 4, 2008, General Election. The rule will now only apply to elections that

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are not held in May or November of every year. In addition, this rule amendment updates terminology.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-007-0130

Method of Calculating Total Eligible Voters for Property Tax Measure Elections

(1) The purpose of this rule is to assist county elections officials in calculating the total number of eligible voters for purposes of applying Article XI, section 11(8) of the Oregon Constitution. As provided in Article XI, section 11k, the turnout requirements do not apply to elections held in May or November of any year. For purposes of applying Article XI, section 11(8) of the Oregon Constitution and this rule, active registered voters are eligible voters, and inactive registered voters are not eligible voters.

(2) To calculate the total number of eligible voters within the district holding the election, county elections officials must:

(a) Determine the number of active registered voters as of the voter registration deadline in ORS 247.025. This is the base group of “registered voters eligible to vote.”

(b) Add to the base group of “registered voters eligible to vote” any voter who is ineligible due to a change in residence address, or any inactive voter, who updates their voter registration as provided in ORS 247.307.

(c) Add to the base group of “registered voters eligible to vote” any voter determined to have been placed on the inactive list in error.

(d) Subtract from the base group of “registered voters eligible to vote,” all voters who are determined during the particular election to be ineligible to vote, based on information received during the conduct of the election. These subtractions shall be made in the following manner:

(A) Subtract all voters who were mailed a ballot, which is returned as undeliverable, if the information on the returned envelope shows that the voter’s residence address has changed, or that the voter is deceased.

(B) Subtract all voters for whom written information is received, other than a returned ballot, showing to the satisfaction of the county elections official that the voter is ineligible to vote.

(3) The information regarding eligibility used to make the calculations described in (2)(b) through (d) shall be made based on information received by the county elections official after the voter registration deadline in ORS 247.025 and not later than 8:00 p.m. on election day. Information received after that time shall not be used to calculate the total number of eligible voters for that election.

(4) The calculation of the percentage of accepted ballots to the number of eligible voters to vote on the measure for a particular election shall be not later than the thirtieth (30th) day after the election.

(5) A voter eligible to vote within the district holding an election subject to Article XI, section 11(8) of the Oregon Constitution will be considered to have an accepted ballot if the ballot has been returned to an elections office and the ballot is determined to be qualified to be counted (outer envelope contains signature of voter, signature matches the registration signature of the voter, no marks on outside of envelope which would cause ballot to be rejected). If these conditions are met, the ballot is “accepted” even if the ballot, when opened for counting, is determined to be deficient and is not counted, or if the voter does not vote on the particular measure at issue in the calculation.

(6) For purposes of determining voter eligibility in local elections, Appendix A of this rule will apply.

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

Stat. Auth.: ORS 246.120, 246.150, 254.465, 254.470 & Or. Const. Art. XI, Sec. 11(8)

Stats. Implemented: Or. Const. Art. XI, Sec. 11(8)

Hist.: ELECT 3-1997, f. & cert. ef. 2-25-97; ELECT 11-1997, f. & cert. ef. 10-27-97; ELECT 12-1999(Temp) f. & cert. ef. 10-19-99 thru 4-14-00; ELECT 4-2000, f. & cert. ef. 2-4-2000; ELECT 9-2003, f. & cert. ef. 9-3-03; ELECT 8-2006, f. & cert. ef. 4-27-06; ELECT 16-2006, f. & cert. ef. 12-29-06; ELECT 7-2009, f. & cert. ef. 5-4-09

Rule Caption: Adoption of Amendments to the 2008 Campaign Finance Manual.

Adm. Order No.: ELECT 8-2009

Filed with Sec. of State: 5-4-2009

Certified to be Effective: 5-4-09

Notice Publication Date: 4-1-2009

Rules Amended: 165-012-0005

Subject: This amendment supplements the 2008 Campaign Finance Manual by clarifying the deadline for providing amendments to campaign transactions correcting any insufficient information.

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) This amendment supplements the 2008 Campaign Finance Manual by clarifying the deadline for providing amendments to campaign transactions correcting any insufficient information. After the Elections Division has reviewed submitted campaign transactions, an exam letter is sent that 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 date is later.

[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. 5-2-07 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

Rule Caption: Update of the Mitigating Circumstances for Non-campaign Finance Civil Penalty Election Law Violations.

Adm. Order No.: ELECT 9-2009

Filed with Sec. of State: 5-4-2009

Certified to be Effective: 5-4-09

Notice Publication Date: 4-1-2009

Rules Amended: 165-013-0020

Subject: This rule describes the penalty matrix and mitigating circumstances for non-campaign finance election law violations. This amendment incorporates changes to the mitigating circumstances to reflect current practices within the Secretary of State Elections Division.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-013-0020

Penalty Matrix for Non-Campaign Finance Civil Penalty Election Law Violations

(1)(a) This penalty matrix applies to civil penalties for violations of election laws that are not covered by the penalty matrices in the Campaign Finance Manual (late and insufficient campaign finance reports and new transactions to campaign finance reports), or other campaign finance violations as outlined in 165-013-0010.

(b) The penalty amount will be calculated against the same person, candidate or entity as described below for a period of four years from the date the violation occurs, for any election law violation, other than campaign finance violations covered in the penalty matrices in the Campaign Finance Manual and other campaign finance violations as outlined in 165-013-0010. In determining whether the offense is to be considered against the same person, candidate or entity, the following factors are to be considered:

(A) A person is considered the same candidate, regardless of the office(s) for which the person runs within this state, or whether there is a lapse in time between candidacies.

(B) A political committee is considered the same, regardless of who the treasurer is, or if the political committee has changed names but is established by the same group of persons.

(C) The same individual.

(D) One occurrence is considered one violation.

(E) Notwithstanding (F) or (G), if a violation is the first on record for the person, and multiple occurrences of the same statutory provision are described in an election law complaint, the occurrences will be combined (to be considered as one violation) and considered a first violation of the statutory provision, except in such cases where specific circumstances war-

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rant separating the occurrences to impose fines for each violation. This would be appropriate when different persons were affected by the election law offense. Each subsequent occurrence of violation of the same statutory provision after the issuance of a notification letter or a determination of election law violation, within the four-year cycle, may be considered as separate violations.

(F) Violations of Article IV, Section 1(b) will be calculated by deeming each individual signature sheet that contains signatures that were collected in violation of Section 1(b) as a single occurrence with a minimum civil penalty of \$100.

(G) Violations of ORS 260.569, will be calculated by deeming each individual signature sheet that contains a signature a violation of 260.569 or each signed voter registration card in violation of 260.569 as a single occurrence with a minimum civil penalty of \$100.

(2) Mitigating Circumstances: The burden is on the person alleged to have committed the election law violation to show that a mitigating circumstance exists and caused the election law violation. The only mitigating circumstances which will be considered, if applicable to the specific situation, include:

(a) The violation is a direct result of a valid personal emergency of the involved person(s). A valid personal emergency is an emergency such as a serious personal illness or death in the immediate family of the involved person(s). Personal emergency does not include a common cold or flu, or a long-term illness where other arrangements could have been made. In this case, independent written verification must be provided;

(b) The violation is the direct result of an error by an elections officer;

(c) The violation is the direct result of fire, flood or other calamitous event, resulting in physical destruction of, or inaccessibility to, any records required to be kept to document compliance with Oregon election law. ("Calamitous event" means a phenomenon of an exceptional character, the effects of which could not have been reasonably prevented or avoided by the exercise of due care or foresight);

(d) The violation of ORS 260.432 occurred after a publication produced and distributed by a governing body relating to a ballot measure was reviewed by the governing body's legal counsel before its distribution. The legal counsel must have advised the governing body in writing that the publication as distributed was impartial information that the governing body could legally produce and distribute, and was not in violation of election law;

(e) The violation of ORS 260.432 occurred after a publication produced and distributed by a governing body relating to a ballot measure was reviewed by the Secretary of State's office, Elections Division. The Secretary of State must have advised the governing body in writing that the publication as drafted was impartial information that the governing body could legally produce and distribute or for which suggestions were provided towards the goal of assuring the publication was impartial information regarding the ballot measure. If the Secretary of State issued an advice letter with suggested changes, the governing body must have substantially followed the advice provided. However, this mitigating factor may be disallowed, even if such an advice letter was issued, if a complaint and investigation indicates sufficient evidence that the public body presented inaccurate or unbalanced information, not within the purview of this office to have knowledge of prior to the complaint, which has the effect of promoting or opposing the adoption of the measure;

(f) The violation of ORS 260.432(2) occurred, but the public employee had voiced their objection to the person who coerced, commanded or required the employee to perform the prohibited campaign activity during their work time. Despite the stated objection, the person was still required to perform the activity that violated 260.432(2); or

(g) The violation of ORS 260.432(2) occurred when a supervisor asked the public employee to perform the prohibited campaign activity, consisting of clerical tasks, as a part of the public employee's job duties during work time. A "request" made by a supervisor is considered a command or requirement within the meaning of 260.432(1). If the violation involves a written document, the public employee performed clerical tasks only and is not the author of the material.

(3)(a) Penalty Matrix. These mitigating circumstances may be considered in reducing, in whole or in part, the civil penalty. If the violation is a direct result of an error by an elections officer, the violation is waived and no penalty is assessed.

(b) For purposes of determining penalty amounts for violations of non-campaign finance civil penalty election law violations, Appendix B of this rule will apply. [Appendix not included. See ED. NOTE.]

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

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 260.995

Hist.: ELECT 14-2000, f. 7-31-00, cert. ef. 8-4-00; ELECT 22-2003, f. & cert. ef. 12-5-03; ELECT 16-2005, f. & cert. ef. 12-30-05; ELECT 15-2007, f. cert ef. 12-31-07; ELECT 9-2009, f. & cert. ef. 5-4-09

Rule Caption: Repeals Signature Verification Procedures for Petitions Submitted No Later than January 4, 2008.

Adm. Order No.: ELECT 10-2009

Filed with Sec. of State: 5-4-2009

Certified to be Effective: 5-4-09

Notice Publication Date: 4-1-2009

Rules Repealed: 165-014-0031

Subject: This rule is proposed for repeal because all signatures submitted under this rule have been processed. The rule had a limited application only to signatures submitted on or before January 4, 2008.

Rules Coordinator: Brenda Bayes—(503) 986-1518

Rule Caption: Amends Signature Verification Procedures for Sponsorship Signatures.

Adm. Order No.: ELECT 11-2009

Filed with Sec. of State: 5-4-2009

Certified to be Effective: 5-4-09

Notice Publication Date: 4-1-2009

Rules Amended: 165-014-0032

Subject: This amendment incorporates the requirements for an SEL 301 Statement One or More/No Circulators Will Be Paid and an SEL 310 Prospective Petition for State Initiative Measure which designates not more than three chief petitioners must be filed at the time sponsorship signatures are submitted for verification. A technical update is also included which reflects that sponsorship signatures must be attached to the text at all times during circulation.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-014-0032

Statistical Sampling Procedures for State Petition Sponsorship Signatures

This rule is adopted to implement ORS 250.045(1). ORS 250.045(1) requires a prospective state initiative petition must contain a statement of sponsorship signed by at least 1,000 electors.

(1) The statement of sponsorship containing signatures of at least 1,000 electors must be submitted for verification to the Elections Division. No more than 2,000 sponsorship signatures will be accepted for verification at any one time. At the time sponsorship signatures are submitted for verification the chief petitioners must also file an SEL 301 Statement One or More/No Circulators Will Be Paid and an SEL 310 Prospective Petition for State Initiative Measure which designates not more than three chief petitioners.

(a) SEL 317 Statement of Sponsorship for State Initiative Petition Signature Sheet is designated as the form to gather 1,000 sponsorship signatures when no circulators are being paid.

(b) SEL 318 Statement of Sponsorship for State Initiative Petition Signature Sheet is designated as the form to gather 1,000 sponsorship signatures when some circulators are being paid.

(c) Form SEL 317 or SEL 318 will be circulated using white paper when a volunteer is gathering sponsorship signatures, and will be circulated on pastel colored paper when a paid circulator is gathering sponsorship signatures.

(d) The text of the prospective initiative petition must either be copied onto the back of or stapled to the Statement of Sponsorship for State Initiative Petition Signature Sheet (SEL 317 or SEL 318) for circulation.

(2) Two signature samples may be taken in order to determine if the petition contains the required number of sponsorship signatures. The sampling formula referred to in this rule is contained in Appendix 3, which is incorporated into this rule by reference.

(3) The Secretary of State's staff will first review, and remove prior to verification, each cover and signature sheet that does not meet the following criteria:

(a) The text of the prospective initiative petition must either be copied onto the back or stapled to the Statement of Sponsorship for State Initiative Petition Signature Sheet. If the text is stapled to the Statement of Sponsorship for State Initiative Petition Signature Sheet, it must remain stapled at all times.

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(b) The circulator certification is sufficient as required by OAR 165-014-0270.

(c) All information included in the optional information fields about the petition signers, such as their printed name, address and date signed, complies with the requirements of ORS 260.567.

(4) The necessary information from the petition signature sheets will be entered into a computer program for the signature selection process.

(a) Any individual signature line that is not certified by the circulator's certification date will not be included in the sample.

(b) Any individual signature line on which the printed name, residence address or date appears not to comply with ORS 260.567 will not be included in the sample.

(5) The size of the first sample of signatures will be determined by the number of signatures submitted for verification. The sample size is contained in Appendix 3. If upon completion of the first sample, it can not be determined with confidence that the petition contains signatures of at least 1,000 electors, signature verification will continue on all remaining signatures.

(6) The Oregon Centralized Voter Registration System (OCVR) will be used to conduct signature verification.

(7) Using the "first" random sampling selection lists, the appropriate petition signature lines are verified against the voter's current registration card.

(8) The Secretary of State will immediately consolidate and tabulate the verification data, generated from OCVR, for the "first" sample.

(9) The sampling formula to determine acceptance or rejection will be applied to the data from the "first" sample. If the petition is accepted as a result of the "first" sample the Secretary of State will immediately notify the chief petitioners. If the petition is not accepted as a result of the "first" sample, the remaining signatures will be verified.

(10) If the results of the "first" sample do not qualify the petition the remaining signature data will be added to the "first" sample data and the combined results will show that:

(a) The petition has a sufficient number of valid signatures to qualify for submission of the prospective petition; or

(b) The petition does not have a sufficient number of valid signatures to qualify for submission of the prospective petition.

(11) In the event additional signatures are filed no more than 2,000 additional sponsorship signatures will be accepted for verification. A single sample will be taken. The verification procedures applied to the combined "first" and "second" sample will be applied to the second submission of signatures. If the results of the sample taken from the second submission of signatures do not qualify the prospective petition for submission, the chief petitioners must begin the sponsorship process again.

(12) The Elections Division will notify the chief petitioners of the result of the signature verification:

(a) Not later than 10 business days after receipt of the sponsorship signatures;

(b) Not later than 20 business days after receipt of sponsorship signatures for three or more initiatives received in single day; or

(c) Not later than 20 business days after receipt of sponsorship signatures for which all signatures are required to be verified.

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

Stat. Auth.: ORS 246.150, 250.045 & 250.105

Stats. Implemented: ORS 250.045 & 250.105

Hist.: ELECT 20-2007, f. & cert. ef. 12-31-07; ELECT 11-2009, f. & cert. ef. 5-4-09

Rule Caption: Repeals the Adjusted Terms of Office for Joelson Road District Commissioners.

Adm. Order No.: ELECT 12-2009

Filed with Sec. of State: 5-4-2009

Certified to be Effective: 5-4-09

Notice Publication Date: 4-1-2009

Rules Repealed: 165-020-0430

Subject: This rule is being repealed because the adjusted terms have expired and each position is currently filled by election, as provided in ORS 255.335, at regular district elections for four year terms.

Rules Coordinator: Brenda Bayes—(503) 986-1518

Teacher Standards and Practices Commission Chapter 584

Rule Caption: Amends rules to remove 'recency' as a requirement, clarifies civil rights test, updates definitions and suspends outdated rules.

Adm. Order No.: TSPC 3-2009(Temp)

Filed with Sec. of State: 5-15-2009

Certified to be Effective: 5-15-09 thru 11-11-09

Notice Publication Date:

Rules Amended: 584-005-0005, 584-021-0105, 584-021-0140, 584-021-0150, 584-021-0210, 584-040-0005, 584-048-0006, 584-048-0025, 584-048-0030, 584-048-0035, 584-048-0070, 584-048-0085, 584-048-0095, 584-048-0110, 584-060-0002, 584-060-0012, 584-060-0013, 584-060-0014, 584-060-0022, 584-060-0171, 584-070-0012, 584-070-0014, 584-070-0022, 584-070-0211, 584-070-0221, 584-070-0310, 584-080-0002, 584-080-0012, 584-080-0022, 584-080-0031, 584-080-0161

Rules Suspended: 584-048-0010, 584-048-0015, 584-048-0020, 584-048-0067, 584-048-0090, 584-048-0105, 584-048-0115

Subject: (1) Removes 'recency' requirement for licensure and clarifies CPD in rules.

(2) Removes definitions of *recency*, *successful experience*, and *year of experience* from rules.

(3) Removes requirement for additional preparation from and institution for Nurse Certificates in rules: 584-021-0150 and 584-021-0210.

(4) Clarifies 'required experience' for licensure renewal.

(5) Clarifies licensure requirement change from civil rights workshop to *civil rights and professional ethics test*.

(6) Remove recency requirement from 584-060-0014 and explains eligibility for Initial I, Initial II, and Continuing Teaching Licenses.

(7) Suspends outdated rules and other housekeeping amendments.

Rules Coordinator: Victoria Chamberlain—(503) 378-6813

584-005-0005

Definitions

These definitions apply to Divisions 001-100 unless otherwise indicated by the context:

(1) "Administrators:" Superintendents, assistant superintendents, principals, vice principals, and such other personnel, regardless of title, whose positions require them to evaluate other licensed personnel.

(2) "All Grade Levels:" Grades prekindergarten through 12 (prek-12).

(3) "Alternative Assessment:" Procedures established by the Commission for candidates seeking licensure who fail to achieve a passing score on required matter or specialty area licensure tests for endorsement or authorization.

(4) "Alternative Education Program or School:" A private alternative education program or school registered with the Oregon Department of Education or a public alternative education program or school operated by a school district, education service district, or community college, which is established to serve students identified under ORS 339.250(6) and other students whose academic or professional technical interests and needs are best served through participation in such programs. (See OAR 584-036-0015.)

(5) "Application:" A request for an Oregon license authorizing service in public schools or a request for reinstatement or renewal of such license. As used in these rules, "application" includes the Application Form, C-1, the fee, and all supporting documents necessary for the evaluation for the license.

(6) "Appropriately Assigned:" Assignments for administrator, teacher, supervisor, school counselor, school psychologist, or school nurse duties for which the person involved holds the proper license, endorsements and authorizations. (See OAR 584-036-0081.)

(7) "Approved Institution:" A U.S. regionally accredited institution of higher education approved to prepare licensed personnel by a U.S. governmental jurisdiction in which the institution is located. See definition of "Regional Accrediting Associations" below.

(8) "Approved Program:" An Oregon program of educator preparation approved by TSPC and offered by a regionally accredited Oregon institution. As it applies to out-of-state programs, a program approved by the licensure body of any U.S. governmental jurisdiction authorized to approve educator preparation programs.

(9) "Assistant Superintendent:" A superintendent's immediate subordinate who evaluates licensed personnel. May also be designated Deputy or Associate Superintendent.

(10) "Athletic Coaches:" Licensed personnel employed full time or part time for purposes of participation in interscholastic athletics and whose duties include instruction of students, preprimary through grade twelve. A

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student teacher or intern may serve as an assistant coach without licensure if assigned for a full-time practicum in the school in which he or she is coaching. (See OAR 584-036-0015.)

(11) "Authorization Level:" The grade levels in which a person may teach, i.e., early childhood, elementary, middle level and high school as defined in OAR 584-060-0051.

(12) "Charter School Registration:" The indicator that an unlicensed teacher or administrator has cleared the fingerprints and criminal background check by TSPC. The Charter School Registration is not an indicator of competency or preparation as an educator.

(13) "Commission:" Teacher Standards and Practices Commission (TSPC).

(14) "Competencies:" Ability to apply knowledge and skills appropriately and effectively in achieving the expected outcomes.

(15) "Completion of Approved Program:" The applicant has met the institution's academic requirements and any additional state or federal requirements and has obtained the institution's recommendation for licensure.

(16) "Conditional Assignment:" (Formerly "Missassignment") Assignment of a licensed educator to a position for which he or she does not hold the subject or specialty area endorsement or authorization level required by the rules for licensure. (See OAR 584-036-0081).

(17) "Consortium:" An advisory body to the institution in reviewing, evaluating, and making recommendations on the design, implementation, evaluation, and modification of the program.

(18) "Continuing Professional Development:" A Professional development that meets the requirements of OAR 584, Division 90 and enables an educator to be eligible for renewal of a Basic; Standard; Initial II or Continuing Teaching License.

(19) "Distance Learning Teacher:" A teacher who meets the criteria in OAR 584-036-0017 and provides live interactive instruction transmitted from a remote location or who delivers online education either from within Oregon or from another state and who is employed by one or more Oregon public school districts to teach public school students.

(20) "Education Service District (ESD):" A district created under ORS 334.010 that provides regional educational services to component school districts.

(21) "Educator:" Any person who is authorized to be employed in the instructional program of the public schools, public charter schools and ESDs, and holds a license to teach, administer, supervise, counsel or provide school psychology services.

(22) "Endorsement:" The subject matter or specialty education field or grade authorization in which the individual is licensed to teach.

(23) "Executive Director:" The Executive Director of the Commission. (See ORS 342.410.)

(24) "Expired License:" A license for which an application for renewal was not received by TSPC prior to the date of expiration stated on the license.

(25) "Field Experience:" Learning activities designed to develop professional competence through observing, assisting, or teaching in a public or approved non-public school.

(26) "Instructional Assistant:" A non-licensed position of employment in a school district assigned to assist a licensed teacher in a supportive role in the classroom working directly with students.

(27) "Instructional Faculty:" Full-time and part-time faculty in Oregon-approved educator preparation programs who teach professional courses or supervise field-centered activities and student teachers.

(28) "Intern:" A student of an approved institution who serves as a teacher, personnel specialist, or administrator under the supervision of the institution and of the school district in order to acquire practical experience in lieu of student teaching or supervised practica. Interns may receive both academic credit from the institution and financial compensation from the school district. Interns may serve as assistant coaches.

(29) "Joint Application:" Submitted by the school district in cooperation with the applicant.

(30) "Liaison Officer:" The person designated by the unit to submit all program modifications for TSPC approval, issue all recommendations for licensure under the approved program, authorize all waivers of professional courses for students enrolled in the program, and handle all correspondence between TSPC and the unit.

(31) "Major Modifications:" Changes of program philosophy, curricula, practica, resources, personnel, or performance standards.

(32) "Major Traffic Violation:" Includes driving while under the influence of intoxicants (ORS 487.540); reckless driving (ORS 487.550); fleeing or attempting to elude a police officer (ORS 487.555); driving while

license is suspended or revoked or beyond license restrictions (ORS 487.560); or failure to perform the duties of a driver or witness at an accident (ORS 483.602).

(33) "Mentor:" Educators who have demonstrated the appropriate subject matter knowledge and teaching and/or administrative skills, which when assisting beginning educators, should substantially improve the induction and professional growth of beginning educators in this state.

(34) "Misassignment:" See definition of "Conditional Assignment" above.

(35) "National Board For Professional Teaching Standards (NBPTS):" A professional board established to award a National Teaching Certificate to qualified educators.

(36) "Oregon Schools:" Includes public school districts, education service districts, registered private schools preprimary through grade twelve, state and federal schools, special state-supported schools, and public charter schools in Oregon serving students ages three through twenty-one, private schools accredited by the Northwest Commission on College and Universities, and private proprietary career schools registered by the Oregon Department of Education.

(37) "Out of State Licenses or Certificates:" A certificate or license valid for full-time employment, at least equivalent to the Oregon license being requested, issued by one of the United States, a U.S. jurisdiction (American Samoa, Commonwealth of Northern Marianas, District of Columbia, Guam, Puerto Rico, and Virgin Islands), or the U.S. Department of Defense.

(38) "Personal Qualifications:" Personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator.

(39) "Personnel Service:" A type of license issued to counselors, supervisors, and school psychologists.

(40) "Practicum or Practica:" All supervised field experiences other than student teaching or internships. A practicum may be part of the field experience necessary to add an endorsement.

(41) "PRAXIS:" A series of professional assessments for beginning educators produced and administered by Educational Testing Service (ETS) and adopted by TSPC as licensure examinations.

(42) "Principal:" The administrator of each school building or buildings as designated by the school district board.

(43) "Private Schools:" A private school, preprimary through grade twelve, registered with the Oregon Department of Education in compliance with provisions of ORS 345.525 and 345.535 or approved or registered by another U.S. jurisdiction or government.

(44) "Professional Development Plan:" A plan for personal professional growth during the next licensure renewal cycle.

(45) "Professional Development Units (PDU):" A unit of domain-related activity that equals one clock hour of professional development and contributes to completion of an educator's professional development plan. (See OAR 584-090-001 et seq.)

(46) "Program Administrator:" Managers of school programs and coordinators of district-wide programs that are accountable at the building level.

(47) "Program Review Committee:" Committee appointed by the Commission to conduct an on-site review for purposes of approval of an educator preparation program.

(48) "Public Funds:" All monies expended by public school districts and for which the school board has responsibility, including funds from local, state, federal, and private sources. (See ORS 342.120(9).)

(49) "Public Schools:" Public school districts, education service districts and public charter school created under ORS Ch. 338, which are supported by local and state public funds and for which the school board has responsibility, for the program of instruction carried out in that school.

(50) "Regional Accrediting Associations:" Colleges and universities approved for teacher education must be accredited by the appropriate regional association at the time the degree or program is completed. The regional associations are: New England Association of Schools and Colleges, Commission on Institutions of Higher Education; North Central Association of Colleges and Schools, The Higher Learning Commission; Northwest Commission on Colleges and Universities; Middle States Association of Colleges and Schools, Commission on Higher Education; Southern Association of Colleges and Schools, Commission on Colleges; or Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities.

(51) "Reinstatement:" Restoration of the validity of a license which has expired, been suspended, or been revoked. (See OAR 584-050-0015.)

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(52) "Renewal:" Extension of validity of a current license. An application for renewal must be submitted prior to the expiration date stated on the license.

(53) "School:" A single school building or combination of buildings which the school board designates as a school.

(54) "School Administrator:" The principal, vice principals and assistant principals at each school.

(55) "School Board:" The board of directors of a local school district or an education service district, the governing board of a public charter school, a registered private school, or the directors of a state, federal, or special state-supported school.

(56) "School Counselor:" A licensed employee of the district assigned to assist students to: develop decision-making skills, obtain information about themselves, understand opportunities and alternatives available in educational programs, set tentative career and educational goals, accept increasing responsibilities for their own actions, develop skills in interpersonal relations, and utilize school and community resources.

(57) "School District:" Includes administrative school districts; common school districts; joint school districts; union high school districts; county units; education service districts; registered private schools; and state, federal, and special state-supported schools. May also include school districts from other states.

(58) "School Nurse:" A registered nurse who is licensed by the Teacher Standards and Practices Commission as qualified to conduct and coordinate the health service programs of a school. (See OAR 584 div. 21.)

(59) "School Psychologist:" A licensed employee of the district assigned to: assessment of students' mental aptitude, emotional development, motor skills, or educational progress; designing educational programs for students and conferring with licensed personnel regarding such programs; and consulting with parents and students regarding interpretation of assessments and the design of educational programs. (See OAR 584 div. 44 and 70.)

(60) "School Supervisor:" Educators who assist, supervise, and evaluate students enrolled in the field-centered activities, including but not limited to, practica, internships and student teaching. (See OAR 584 div. 17.)

(61) "Self-Contained Classroom:" An assignment for teaching in grades preprimary through nine in which the teacher has primary responsibility for the curriculum.

(62) "Skills:" Ability to use knowledge effectively in the performance of specific tasks typical of those required in an educational position.

(63) "State Board:" The Oregon State Board of Education.

(64) "Student Teacher:" A student of an approved teacher education institution who is assigned to a public or approved private school for professional practica under the supervision of qualified personnel. Student teachers may provide instruction or may serve as assistant coaches.

(65) "Superintendent:" The district's chief administrator who reports directly to the school board.

(66) "Supervisor of Licensed Personnel:" A person assigned to a position which includes the on-the-job supervision or evaluation of licensed personnel. Should not be confused with "School Supervisor" above.

(67) "Teacher:" Includes all licensed employees in the public schools or employed by an education service district who have direct responsibility for instruction, coordination of educational programs or supervision or evaluation of teachers and who are compensated for their services from public funds. "Teacher" does not include a school nurse as defined in ORS 342.455.

(68) "Teacher Education Programs:" Programs preparing teachers, personnel service specialists, or administrators. Oregon Revised Statutes use the term "teacher education" to refer to all programs preparing educational personnel for public elementary and secondary schools, not exclusive to those for classroom teachers.

(69) "Transcripts:" An institution-sealed official record of academic preparation which bears the signature of the registrar and the seal of the institution. Photocopies are not acceptable.

(70) "TSPC:" Teacher Standards and Practices Commission.

(71) "Unit:" The institution, college, school, department, or other administrative body with the responsibility for managing or coordinating all programs offered for the initial and continuing preparation of teachers and other school personnel, regardless of where these programs are administratively housed.

(72) "Vice Principal:" A principal's immediate subordinate assigned to coordination of instruction, discipline, student activities, or supervision or evaluation of staff.

(73) "Violation of Licensure:" Employment by a public school of a teacher or school nurse without a valid license or Conditional Assignment Permit above.

(74) "Work Samples:" A designed and implemented unit of study that demonstrates capacity to foster student learning.

(75) "Year of Experience:" A period of at least eight consecutive months of full-time work or two consecutive years of one-half time or more while holding a license valid for the assignment.

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

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430 & 342.455 - 342.495

Hist.: TSPC 2-1998, f. 2-4-98, cert. ef. 1-15-99; TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 2-2000, f. & cert. ef. 5-15-00; TSPC 5-2000, f. & cert. ef. 9-20-00; TSPC 4-2001, f. & cert. ef. 9-21-01; TSPC 5-2001, f. & cert. ef. 12-13-01; TSPC 2-2002, f. & cert. ef. 3-15-02; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 3-2003, f. & cert. ef. 5-15-03; TSPC 1-2005, f. & cert. ef. 1-21-05; TSPC 11-2006, f. & cert. ef. 8-17-06; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 3-2008(Temp), f. & cert. ef. 5-30-08 thru 11-25-08; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-021-0105

Definitions

As used in OAR chapter 584, division 021, unless otherwise indicated by the context, the following definitions apply:

(1) "Application": A request for an Oregon certificate authorizing service in public schools or a request for reinstatement or renewal of such certificate. As used in these rules, "application" includes the Application Form N-1, the fee, and all supporting documents necessary for the evaluation for the certificate.

(2) "Approved Institutions": Oregon colleges and universities regionally accredited for the preparation of nurses by the Oregon State Board of Nursing or for preparation of teachers by Teacher Standards and Practices Commission and other regionally accredited colleges or universities approved to prepare nurses or teachers by the state or governmental jurisdiction in which the institutions are located. All approved institutions must be accredited by the appropriate regional accrediting association.

(3) "Commission": The Teacher Standards and Practices Commission (TSPC).

(4) "Executive Director": The Executive Director for the Commission.

(5) "Expired Certificate": A certificate for which an application for renewal was not received by TSPC prior to the date of expiration stated on the certificate.

(6) "Joint Application": Submitted by the school board or school superintendent in cooperation with the applicant.

(7) "Nurse": A registered nurse who holds a current license issued by the Oregon State Board of Nursing. See also School Nurse.

(8) "Personal Qualifications": Personal qualifications for certification including possessing good moral character and mental and physical health necessary for employment as a school nurse.

(9) "Registered Private School": A private school, prekindergarten through grade twelve, registered with the Oregon Department of Education.

(10) "Reinstatement": Restoration of the validity of a certificate which has expired, been revoked, or been surrendered.

(11) "Renewal": Extension of validity of a current certificate. An application for renewal must be submitted prior to the expiration date stated on the certificate.

(12) "School Nurse": A registered nurse who is certified by the Teacher Standards and Practices Commission as qualified to conduct and coordinate the health service programs of a school.

(13) "Volunteer Nurse": A registered nurse who serves without remuneration in a school health services program.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 183, 342.455 - 342.495

Hist.: TS 4-1982, f. & ef. 7-22-82; TS 7-1982(Temp), f. & ef. 12-9-82; TS 1-1983, f. & ef. 2-9-83; TS 1-1987, f. & ef. 3-3-87; TS 3-1988, f. & cert. ef. 4-7-88; TS 1-1992, f. & cert. ef. 1-15-92; TS 5-1993, f. & cert. ef. 10-7-93; TS 4-1997, f. 9-25-97, cert. ef. 10-4-97; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 5-2008, f. & cert. ef. 6-13-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-021-0140

Requirements for Applying for Renewal or Reinstatement of Certification

An applicant for renewal or reinstatement of an Oregon School Nurse Certificate must:

(1) Provide the information requested on the Application, Form N-1, and sign in the space provided. The character questions pertaining to dismissal, revocation, and conviction must be answered and supporting materials attached to the application, if necessary;

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(2) Present a statement verifying satisfactory completion of a Commission-approved workshop or course on the laws prohibiting discrimination, if not previously verified;

(3) Submit all required fees;

(4) Provide verification of professional upgrading satisfactory to the school district, if applicable;

(5) Provide evidence satisfactory to the Commission of fitness to serve as school nurse, if the application is for reinstatement of a surrendered or revoked certificate;

(6) Submit the employing school district's request for the certificate if the application is for renewal of an Emergency School Nurse Certificate;

(7) Submit a current registered nurse license issued by the Oregon State Board of Nursing. A photocopy is acceptable; and

(8) Submit official transcripts of nine quarter hours or six semester hours of additional preparation during the life of the current certificate or since expiration of the certificate, if unable to verify adequate or acceptable experience during the life of the certificate.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 183, 342.455 - 342.495

Hist.: TS 4-1982, f. & ef. 7-22-82; TS 7-1982(Temp), f. & ef. 12-9-82; TS 1-1983, f. & ef. 2-9-83; TS 7-1986, f. 10-15-86, ef. 1-15-87; TS 1-1988, f. 1-14-88, cert. ef. 1-15-88; TS 6-1989, f. & cert. ef. 10-6-89; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-021-0150

Renewal for Professional School Nurse Certificate

The Professional School Nurse Certificate may be renewed upon verification that the applicant holds a current registered nurse license issued by the Oregon State Board of Nursing and that the following requirements have been met: The applicant completed at least 960 clock hours of successful school nurse experience during the life of the certificate and completed three quarter hours, two semester hours or 60 clock hours of professional upgrading. Professional upgrading must be approved by the school district as part of the professional improvement program for the school nurse. Professional upgrading may include, but is not limited to: College and university courses, community college courses, established workshops, or planned experiences in nursing.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 183, 342.455 - 342.495

Hist.: TS 4-1982, f. & ef. 7-22-82; TS 7-1986, f. 10-15-86, ef. 1-15-87; TS 1-1988, f. 1-14-88, cert. ef. 1-15-88; TS 6-1989, f. & cert. ef. 10-6-89; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-021-0210

Reinstatement of Expired School Nurse Certificates

(1) For one year after expiration, a Professional Nurse Certificate may be reinstated upon payment of the required late application fee. Applicable renewal requirements must also be met. (See OAR 584-021-0150 for renewal requirements.)

(2) The applicant also must hold a current registered nurse license issued by the Oregon State Board of Nursing. The additional preparation must be completed within the three-year period prior to application for reinstatement.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 183, 342.175 - 342.190, 342.455 - 342.495

Hist.: TS 4-1982, f. & ef. 7-22-82; TS 1-1988, f. 1-14-88, cert. ef. 1-15-88; TS 2-1989, f. & cert. ef. 2-16-89; TS 6-1989, f. & cert. ef. 10-6-89; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-040-0005

Standard Teaching License Requirements

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant shall be granted a Standard Teaching License.

(2) The Standard Teaching License is issued for five years and is renewable repeatedly under conditions specified below. It is valid for regular teaching at one or more designated authorization levels in one or more designated specialties and for substitute teaching at any level in any specialty.

(3) The applicant must provide verification of teaching experience in Oregon schools while holding a Basic Teaching License or a Five-Year Regular License valid for the assignment in one of the following ways:

(a) Three years of one-half time or more experience is required; or

(b) For persons holding a Basic Teaching License prior to January 1, 1990, two years of experience or three years of one-half time or more experience, whichever is less.

(4) Notwithstanding subsection (5) below, the applicant must provide evidence of one of the following:

(a) Completion of an approved Standard Teaching License program which culminates with forty-five quarter hours or thirty semester hours of upper-division or graduate study beyond the bachelor's degree and includes the following:

(A) Verification of completion of the professional preparation described in OAR 584-040-0008 unless the application is for a Standard Teaching License with a standard special education endorsement, in which case the professional preparation in OAR 584-040-0008 is not required; and

(B) Evidence of completion of the academic preparation for one of the standard endorsements outlined in OAR 584-040-0010 through 584-040-0300 in a field in which the basic endorsement is held, or completion of two of the basic subject matter endorsements outlined in OAR 584-038-0010 through 584-038-0280. Fifteen of the quarter hours or 12 semester hours that are required for the endorsement(s) must be at graduate level; or

(b) Completion of a master's or higher degree in the arts and sciences, or an advanced degree in the professions from a regionally accredited institution in the United States or the foreign equivalent of such a degree approved by the Commission;

(c) Completion of an inservice program offered by an approved teacher education program granting credit for the experience, culminating in either a master's degree or forty-quarter hours or thirty semester hours of upper-division or graduate study beyond the bachelor's degree.

(5) The holder of a Basic Teaching License with a Basic Special Education endorsement must qualify for a Standard Teaching License in the following manner:

(a) Upon expiration of the second Basic Teaching License, the holder of a Basic Special Education endorsement must qualify for a Standard Teaching License with a Standard Special Education endorsement by verifying fifteen quarter hours or ten semester hours of graduate preparation in special education.

(b) The severe exceptional needs learner endorsement is an exception to this rule; it may be renewed without completion of a Standard Teaching License. (See OAR 584-048-0030 regarding renewal of the severe exceptional needs learner endorsement.)

(6) An applicant who does not complete the requirements of (4)(a)(B) above, will not be given a Standard Endorsement, but would retain any Basic Endorsement that the applicant holds.

(7) The applicant must have a passing score on a test of knowledge of U.S. and Oregon civil rights laws at the conclusion of a course or workshop approved by the commission.

(8) The Standard Teaching License may be renewed under the provisions of 584-048-0035 together with completion of the professional development requirements as described in 584-090-0005.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 1-1982, f. & ef. 1-5-82; TS 3-1983, f. & ef. 5-16-83; TS 4-1983, f. 5-17-83, ef. 7-1-83; TS 6-1984, f. 12-27-84, ef. 1-15-85; TS 4-1985, f. 10-4-85, ef. 1-1-86; TS 7-1986, f. 10-15-86, ef. 1-15-87; TS 1-1987, f. & ef. 3-3-87; TS 1-1988, f. 1-14-88, cert. ef. 1-15-88; TS 3-1988, f. & cert. ef. 4-7-88; TS 6-1989, f. & cert. ef. 10-6-89; TS 7-1989, f. & cert. ef. 12-13-89; TS 1-1992, f. & cert. ef. 1-15-92; TS 4-1994, f. 7-19-94, cert. ef. 10-15-94; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 1-2004(Temp), f. & cert. ef. 3-17-04 thru 9-12-04; TSPC 6-2004, f. & cert. ef. 8-25-04; TSPC 6-2005(Temp), f. & cert. ef. 8-16-05 thru 1-30-06; TSPC 9-2005, f. & cert. ef. 11-15-05; TSPC 9-2006, f. & cert. ef. 6-15-06; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-048-0006

Renewal Generally

(1) Upon filing a timely, correct, and complete application in form and manner prescribed by the commission, a qualified applicant shall be granted renewal of any license issued by Teacher Standards and Practices Commission as described in the following sections.

(2) Renewal requirements must be completed during the life of any active license held by the educator.

(3) Educators are required to renew only the licenses valid for their current assignments.

(4) An applicant who meets all requirements for the Standard Teaching License except teaching experience in Oregon schools will be granted a third Basic Teaching License without further preparation. Thereafter, if the experience requirement has not been met, the applicant may renew the Basic Teaching License upon verification of continuing professional development pursuant to OAR 584, division 90.

(5) An applicant for administrator license who stops out for service in the Peace Corps, VISTA, Armed Forces or other comparable service program is permitted one additional renewal of their administrative license before having to qualify for the Standard or Continuing Administrator license.

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(6) An applicant who completes all requirements for the Standard Personnel Service License except the experience in Oregon schools will be granted a third Basic Personnel Service License without further preparation.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.200 & 342.400
Hist.: TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-048-0010 Renewal of Licenses Based Upon Continuous Licensed Employment

(1) Educators are required to renew only the licenses valid for their current assignments.

(2) A renewable license may be renewed or reinstated upon application and verification of continuous employment on any approved TSPC license.

(3) A licensed educator working in a charter school may use any educational experience while employed at the charter school to renew any license held by the educator.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.200 & 342.400
Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-29-77, ef. 1-1-78; TS 6-1980, f. & ef. 12-23-80; TS 1-1982, f. & ef. 1-5-82; TS 2-1989, f. & cert. ef. 2-16-89; TS 7-1989, f. & cert. ef. 12-13-89; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 13-2006, f. & cert. ef. 11-22-06; Suspended by TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-048-0015 Experience Acceptable for Renewal of Licenses

(1) For purposes of renewing licenses based upon verification of one year of full-time experience, the Commission accepts educational experience in:

(a) Public schools and regionally accredited private schools in the United States;

- (b) State and federal schools in Oregon;
- (c) Registered private schools in Oregon;
- (d) Special state-supported schools in Oregon;
- (e) The Oregon Department of Education;
- (f) The Teacher Standards and Practices Commission;
- (g) The Oregon Department of Human Resources;
- (h) Juvenile court schools in Oregon;
- (i) Oregon Education Service Districts;
- (j) Public schools in other governmental jurisdictions;
- (k) Schools operated by the U.S. Department of Defense; or
- (l) Other experience approved by the Executive Director.

(2) Notwithstanding OAR 584-048-0010, the applicant must have been appropriately assigned. See OAR 584-005-0005 for definitions of "Appropriately Assigned," and "Year of Experience."

(3)(a) College instructors who teach at public or private higher education institutions or public community colleges may verify either one year of full-time teaching experience or the equivalent throughout the life of their license;

(b) The experience must be related to education or related to the license which they are seeking to renew; and

(c) Verification of employment in private or public higher education or a community college must be provided by the institution's registrar, designated personnel officer, or dean of the school or college.

(4) The Executive Director may accept for renewal of licenses teaching experience in an Oregon private professional technical school that is licensed by the Superintendent of Public Instruction if such experience is directly related to the endorsement(s) held by the applicant and to the curriculum offered in Oregon school districts.

(5) Where one full year of experience during the life of the license is required for renewal, the following equivalent combinations may be substituted:

(a) One hundred eighty days of teaching in Oregon schools or other states' schools if accepted by the Executive Director;

(b) Any combination of time .5 FTE or more that totals 180 days of experience during the life of the license will be accepted;

(c) Nine quarter or six semester hours of preparation completed in a regionally accredited institution; or

(d) A combination of experience and academic credit germane to the license may be submitted in satisfaction of this requirement in which one quarter hour of preparation equals 20 days and one semester hour equals 30 days of experience.

Stat. Auth.: ORS 342
Stat. Implemented: ORS 342.120 - 342.200
Hist.: TS 15, f. 1-20-76, ef. 1-1-77; TS 17, 12-19-77, ef. 1-1-78; TS 3-1978, f. 7-24-78, ef. 1-1-79; TS 1-1982, f. & ef. 1-5-82; TS 3-1983, f. & ef. 5-16-83; TS 7-1986, f. 10-15-86, ef. 1-15-87; TS 1-1987, f. & ef. 3-3-87; TS 3-1988, f. & cert. ef. 4-7-88; TS 2-1989, f. & cert. ef.

2-16-89; TS 1-1992, f. & cert. ef. 1-15-92; TS 5-1993, f. & cert. ef. 10-7-93; TS 4-1997, f. 9-25-97, cert. ef. 10-4-97; TSPC 1-1998, f. & cert. ef. 2-4-98; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 2-2007, f. & cert. ef. 4-23-07; Suspended by TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-048-0020 Renewal of Teaching Licenses — Special Provisions

(1) Notwithstanding other rules for renewal in this division, an applicant for renewal of a Basic, Initial, Standard or Continuing License may be eligible for renewal based on experience other than teaching for at least one renewal.

(2) An eligible applicant with a license in subsection (1) above may submit verification of 12 months of service during the life of the current license in:

- (a) The Armed Forces;
- (b) The Peace Corps; or
- (c) VISTA.

(3) An applicant who qualifies under this rule is permitted one additional renewal of the Basic or Initial Teaching License before having to qualify for the Standard, the Initial II Teaching license or the Continuing Teaching License.

(4) An applicant who meets all requirements for the Standard Teaching License except teaching experience in Oregon schools will be granted a third Basic Teaching License without further preparation. Thereafter, if the experience requirement has not been met, the applicant may renew the Basic Teaching License upon verification of one full year of experience or equivalent pursuant to OAR 584-048-0015.

(5)(a) An applicant for renewal of a Basic, Initial, Standard, Continuing, or Five-Year Teaching License may provide verification of volunteer experience or employment as an instructional assistant in Oregon schools in lieu of one year of full-time teaching experience or in lieu of nine (9) quarter hours or six (6) semester hours of additional preparation.

(b) A combination of volunteer or instructional assistant experience, and credit hours totaling 360 hours, may be submitted in accordance with the provisions set forth below:

(A) One hundred and twenty (120) hours of volunteer or instructional assistant (paid or unpaid) experience may be substituted for up to three quarter or two semester credit hours as experience necessary for renewal, provided the experience is obtained within one academic school year. This method may be used over the life of the license to complete renewal requirements.

(B) Only educational experience in any environment mentioned in OAR 584-048-0015(1), during the work day will be accepted. Work such as extracurricular activities outside of the normal work day will not be counted.

(C) At least 360 hours of volunteer work must be verified during the life of the license. Verification of the subjects; grade-levels or educational projects must also be included on the PEER form completed by the district or a representative supervisor if work is not completed in a district.

(6) An applicant for renewal of a Basic, Initial, Standard, Continuing, or Five-Year Teaching License may provide verification of teaching or administrative employment in a charter school as acceptable experience in lieu of one year of full-time teaching experience or other renewal requirements pursuant to Division 48.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.200
Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 6-1980, f. & ef. 12-23-80; TS 1-1982, f. & ef. 1-5-82; TSPC 6-1983, f. & ef. 10-18-83; TS 6-1984, f. 12-27-84, ef. 1-15-85; TS 8-1986, f. 12-19-86, ef. 1-15-87; TS 1-1988, f. 1-14-88, ef. 1-15-88; TS 2-1989, f. & cert. ef. 2-16-89; TS 3-1989, f. & cert. ef. 7-31-89; TS 7-1989, f. & cert. ef. 12-13-89; TS 1-1992, f. & cert. ef. 1-15-92; TS 5-1993, f. & cert. ef. 10-7-93; TSPC 5-2001, f. & cert. ef. 12-13-01; TSPC 9-2006, f. & cert. ef. 6-15-06; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 2-2007, f. & cert. ef. 4-23-07; Suspended by TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-048-0025 Renewal of Basic Teaching Licenses for General Education Elementary, Middle, and Junior High Schools Only

(1) The Basic Teaching License with a subject matter endorsement may be renewed for a period of three years for use in an elementary, middle, or junior high school only.

(2) Authorizations to teach are for preprimary through grade nine or for grades five through nine as appropriate for the endorsement.

(3) Continuing Professional Development is required for renewal pursuant to OAR 584 division 90.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.200 & 342.400
Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 6-1980, f. & ef. 12-23-80; TS 2-1981(Temp), f. & ef. 8-17-81; TS 1-1982, f. & ef. 1-5-82; TS 3-1983, f. & ef. 5-16-82; TSPC 6-1983, f. & ef. 10-18-83; TS 1-1988, f. 1-14-88, ef. 1-15-88; TS 6-1989, f. &

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cert. ef. 10-6-89; TS 7-1989, f. & cert. ef. 12-13-89; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

1992, f. & cert. ef. 1-15-92; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-048-0030

Renewal of Basic Licenses for Special Education

(1) The Basic Teaching License with a special education endorsement may be renewed for three years if the teacher has completed 24 quarter hours of upper-division or graduate credit toward completion of a Standard Teaching License program.

(2) Basic special education endorsements are renewable only once; thereafter, the teacher must qualify for a Standard Teaching License with a standard special education endorsement.

(3) Notwithstanding subsection (1) above, a Basic Teaching License with a Severe Exceptional Needs Learner endorsement may be renewed upon verification of continuing professional development pursuant to OAR 584 division 90.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200 & 342.400

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 2-1981(Temp), f. & ef. 8-17-81; TS 1-1982, f. & ef. 1-5-82; TS 1-1988, f. 1-14-88, ef. 1-15-88; TS 6-1989, f. & cert. ef. 10-6-89; TS 1-1992, f. & cert. ef. 1-15-92; TS 1-1996, f. & cert. ef. 1-29-96; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-048-0035

Standard Teaching License Renewal

A Standard Teaching License may be renewed upon verification of continuing professional development pursuant to OAR 584 division 90.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200 & 342.400

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 6-1980, f. & ef. 12-23-80; TS 1-1982, f. & ef. 1-5-82; TS 3-1983, f. & ef. 5-16-83; TSPC 6-1983, f. & ef. 10-18-83; TS 8-1986, f. 12-19-86, ef. 1-15-87; TS 1-1988, f. 1-14-88, ef. 1-15-88; TS 4-1989(Temp), f. & cert. ef. 7-31-89; TS 6-1989, f. & cert. ef. 10-6-89; TS 7-1989, f. & cert. ef. 12-13-89; TS 1-1992, f. & cert. ef. 1-15-92; TS 1-1996, f. & cert. ef. 1-29-96; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-048-0067

Renewal of Personnel Service Licenses — Special Provisions

(1) An applicant who completes all requirements for the Standard Personnel Service License except the experience in Oregon schools will be granted a third Basic Personnel Service License without further preparation.

(2) Thereafter, a Basic Personnel Service License may be renewed upon verification of one of the following:

(a) One full year of experience or equivalent pursuant to OAR 584-048-0015(5); and

(b) Continuing Professional Development as required in OAR 584 division 90.

(3) An applicant who meets all requirements for the Continuing School Counselor or Continuing School Psychologist License except for school counseling/school psychologist experience in Oregon schools and documentation of the advanced competencies for the Continuing School Counselor or Continuing School Psychologist License may renew the Initial License contingent upon recent educational experience. However, the applicant must acquire the Continuing License within three years after accepting a contracted position of half time or more in an Oregon school.

(4) An applicant for renewal of a Basic, Initial, Standard, or Continuing License may submit verification of 12 months of service in the Armed Forces, the Peace Corps, or VISTA during the life of the current Basic or Initial License. An applicant who qualifies under this section is permitted one additional renewal of the Basic or Initial License before having to qualify for the Standard or Continuing License or is permitted one renewal of the Standard or Continuing License on the basis of this experience.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200 & 342.400

Hist.: TS 1-1982, f. & ef. 1-5-82; TS 6-1984, f. 12-27-84, ef. 1-15-84; TS 1-1988, f. 1-14-88, ef. 1-15-88; TS 6-1989, f. & cert. ef. 10-6-89; TS 1-1992, f. & cert. ef. 1-15-92; TS 5-1993, f. & cert. ef. 10-7-93; TSPC 5-2001, f. & cert. ef. 12-13-01; TSPC 13-2006, f. & cert. ef. 11-22-06; Suspended by TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-048-0070

Standard Personnel Service License Renewal

A Standard Personnel Service License may be renewed upon verification of continuing professional development pursuant to 584 division 90.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200 & 342.400

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 1-1982, f. & ef. 1-5-82; TS 3-1983, f. & ef. 5-16-83; TS 8-1986, f. 12-19-86, ef. 1-15-87; TS 1-1988, f. 1-14-88, ef. 1-15-88; TS 4-1989(Temp), f. & cert. ef. 7-31-89; TS 6-1989, f. & cert. ef. 10-6-89; TS 1-

584-048-0085

Renewal of a Basic Administrative License

(1)(a) The Basic Administrative License with the administrator endorsement may be renewed twice for a period of two years each time, on the recommendation of an institution offering an approved program for preparation of administrators. The recommendation shall be contingent upon completion of nine quarter or six semester hours applicable to a Standard Administrative License.

(b) The additional preparation must be completed subsequent to issuance of the current license unless completion of the academic requirements for the Standard Administrative License has been verified prior to application for renewal of the Basic Administrative License.

(c) Use of the license is limited to serving as a vice principal.

(2) Upon assuming a principal position, the educator must hold a basic or standard administrator endorsement.

(3)(a) The Basic Administrative License with the superintendent endorsement may be renewed twice, for a period of two years each time, on the recommendation of an institution offering an approved preparation program for superintendents.

(b) The recommendation shall be contingent upon satisfactory completion of 12 quarter or 8 semester hours of the program applicable to a Standard Administrative or Continuing Administrator License. The additional preparation must be completed subsequent to issuance of the current license.

(4) A Basic Administrative License may be renewed upon verification of continuing professional development pursuant to 584 division 90.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200 & 342.400

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 2-1979, f. 8-21-79, ef. 1-1-80; TS 6-1980, f. & ef. 12-23-80; TS 1-1982, f. & ef. 1-5-82; TS 6-1984, f. 12-27-84, ef. 1-15-85; TS 2-1986, f. 4-18-86, ef. 1-15-88; TS 1-1987, f. & ef. 3-3-87; TS 1-1988, f. 1-14-88, ef. 1-15-88; TS 2-1989, f. & cert. ef. 2-16-89; TS 4-1989(Temp), f. & cert. ef. 7-31-89; TS 6-1989, f. & cert. ef. 10-6-89; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-048-0090

Renewal of Administrative License — Special Provisions

(1) An applicant may submit verification of 12 months service in the Armed Forces, Peace Corps, or VISTA during the validity of the Basic, Initial, Standard, or Continuing Administrative License.

(2) An applicant who qualifies under this section is permitted one additional renewal of the Basic or Initial Administrative License before having to qualify for the Standard or Continuing Administrative License or is permitted one renewal of the Standard or Continuing Administrative License on the basis of this experience.

(3) An applicant who meets all requirements for the Standard Administrative License except the requirement of three years of experience in Oregon schools will be granted a fourth Basic Administrative License without further preparation.

(4) Thereafter, if the experience requirement has not been met, the applicant may renew the Basic Administrative License upon verification of the following:

(a) One full year of experience or equivalent pursuant to OAR 584-048-0015; and

(b) Continuing Professional Development as required in OAR 584 division 90.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200 & 342.400

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 2-1979, f. 8-21-79, ef. 1-1-80; TS 1-1982, f. & ef. 1-5-82; TS 3-1983, f. & ef. 5-16-83; TS 6-1984, f. 12-27-84, ef. 1-15-85; TS 1-1988, f. 1-14-88, ef. 1-15-88; TS 6-1989, f. & cert. ef. 10-6-89; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 5-2001, f. & cert. ef. 12-13-01; TSPC 10-2006(Temp), f. 6-15-06, cert. ef. 7-1-06 thru 12-27-06; TSPC 13-2006, f. & cert. ef. 11-22-06; Suspended by TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-048-0095

Standard Administrative License Renewal

(1) An applicant who meets all requirements for the Standard Administrative License except the requirement of three years of experience in Oregon schools will be granted a fourth Basic Administrative License without further preparation.

(2) A Standard Administrative License may be renewed for five years upon verification of continuing professional development pursuant to 584 division 90.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200 & 342.400

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 1-1982, f. & ef. 1-5-82; TS 3-1983, f. & ef. 5-16-83; TS 2-1986, f. 4-18-86, ef. 1-15-88; TS 8-1986, f. 12-19-86,

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ef. 1-15-87; TS 1-1988, f. 1-14-88, ef. 1-15-88; TS 2-1989, f. & cert. ef. 2-16-89; TS 4-1989(Temp), f. & cert. ef. 7-31-89; TS 6-1989, f. & cert. ef. 10-6-89; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-048-0105

Five-Year Teaching License Renewal

A Five-Year Teaching License originally issued prior to October 15, 1965, may be renewed on verification of one full year of experience or equivalent pursuant to OAR 584-048-0015.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.200 & 342.400
Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 6-1980, f. & ef. 12-23-80; TS 1-1982, f. & ef. 1-5-82;
TS 3-1983, f. & ef. 5-16-83; TSPC 6-1983, f. & ef. 10-18-83; TS 1-1988, f. 1-14-88, ef. 1-15-88; TS 6-1989, f. & cert. ef. 10-6-89; TS 7-1989, f. & cert. ef. 12-13-89; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 2-2008, f. & cert. ef. 4-15-08; Suspended by TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-048-0110

Administrative License Renewal

An Administrative License originally issued prior to October 15, 1965 may be renewed on verification of continuing professional development pursuant to 584 division 90.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 200 & 342.400
Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 1-1982, f. & ef. 1-5-82; TS 3-1983, f. & ef. 5-16-83; TS 1-1988, f. 1-14-88, ef. 1-15-88; TS 6-1989, f. & cert. ef. 10-6-89; TS 7-1989, f. & cert. ef. 12-13-89; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-048-0115

Reinstatement of Expired Licenses

(1)(a) For one year after expiration, a license may be reinstated, or upgraded if it would not have been renewable at the time of application, upon payment of the regular and late application fees and satisfaction of applicable renewal or upgrading requirements.

(b) In each case, the proviso that renewal experience or education must be gained during the life of the license is waived, and the applicable time span becomes the most recent three years.

(2) Thereafter, a renewable expired license may be reinstated as if renewed upon completion of renewal requirements, including applicable experience consistent with OAR 584-017-0015 within the last three years, and payment of the regular and late application fees.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.200 & 342.400
Hist.: TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 5-2001, f. & cert. ef. 12-13-01; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 8-2008, f. & cert. ef. 11-13-08; Suspended by TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-060-0002

Definitions for Division 060

(1) "Alternative Assessment:" Procedures established by the Commission for candidates seeking licensure who fail to achieve a passing score on required subject matter or specialty area licensure tests for endorsement or authorization.

(2) "Application:" A request for an Oregon license authorizing service in public schools or a request for reinstatement or renewal of such license. As used in these rules, "application" includes the Application Form, C-1, the fee, and all supporting documents necessary for the evaluation for the license. A copy of the C-1 can be found on TSPC's Web page at: www.tspc.state.or.us.

(3) "Appropriately Assigned:" Assignments for administrator, teacher, supervisor, school counselor, school psychologist, or school nurse duties for which the person involved holds the proper license, endorsements and authorizations. See OAR 584-036-0081.

(4) "Approved Institution:" A U.S. regionally accredited institution of higher education approved to prepare licensed personnel by a U.S. governmental jurisdiction in which the institution is located. See definition of "Regional Accrediting Associations" at OAR 584-005-0005.

(5) "Approved Programs:" An Oregon program of educator preparation approved by TSPC and offered by a regionally accredited Oregon institution. As it applies to out-of-state programs, a program approved by the licensure body of any U.S. governmental jurisdiction authorized to approve educator preparation programs.

(6) "Authorization Level:" The grade levels in which a person may teach, i.e., early childhood, elementary, middle level and high school as defined in OAR 584-060-0051.

(7) "Basic Skills Tests:" Tests of basic reading, writing and mathematics as approved by the commission. These tests may only be waived if

the applicant possesses a regionally accredited doctor's degree or was licensed in Oregon prior to 1985.

(8) "Completion of Approved Program:" The applicant has met the institution's academic requirements and any additional state or federal requirements and has obtained the institution's recommendation for licensure.

(9) "Endorsement:" The subject matter or specialty education field and/or grade authorization in which the individual is licensed to teach.

(10) "National Board for Professional Teaching Standards (NBPTS):" A professional board established to award a National Teaching Certificate to qualified educators.

(11) "Out of State Licenses or Certificates:" A certificate or license valid for full-time employment which is at least equivalent to the Oregon license being requested and is issued by one of the United States, a U.S. jurisdiction (American Samoa, Commonwealth of Northern Marianas, District of Columbia, Guam, Puerto Rico, and Virgin Islands), or the U.S. Department of Defense.

(12) "Personal Qualifications:" Personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator.

(13) "Private Schools:" A private school, preprimary through grade twelve, registered with the Oregon Department of Education in compliance with provisions of ORS 345.525 and 345.535 or approved or registered by another U.S. jurisdiction or government.

(14) "Regional Accrediting Associations:" Colleges and universities approved for teacher education must be accredited by the appropriate regional association at the time the degree or program is completed. The regional associations are: New England Association of Schools and Colleges, Commission on Institutions of Higher Education; North Central Association of Colleges and Schools, The Higher Learning Commission; Northwest Commission on Colleges and Universities; Middle States Association of Colleges and Schools, Commission on Higher Education; Southern Association of Colleges and Schools, Commission on Colleges; or Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities.

(15) "Renewal:" Extension of validity of a current license. An application for renewal must be submitted prior to the expiration date stated on the license.

(16) "Teacher:" Includes all licensed employees in the public schools or employed by an education service district who have direct responsibility for instruction, coordination of educational programs or supervision or evaluation of teachers and who are compensated for their services from public funds. "Teacher" does not include a school nurse as defined in ORS 342.455.

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

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165, 342.223 - 342.232
Hist.: TSPC 6-2004, f. & cert. ef. 8-25-04; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-060-0012

Initial I Teaching License Requirements

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant shall be granted an Initial I Teaching License for three years. The first license will be issued for three years plus time to the applicant's birthday.

(2) The Initial I Teaching License is valid for regular teaching at one or more designated authorization levels in one or more designated specialties and for substitute teaching at any level in any specialty. (See 584-060-0051 and 584-060-0052 for Authorization Levels.)

(3) To be eligible for an Initial I Teaching License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator; and

(b) Hold a bachelor's degree or higher from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the commission. A master's degree or a doctoral degree from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure; and

(c) Complete an initial teacher education program approved by the commission in Oregon, or complete a state-approved teacher preparation program in any U.S. jurisdiction, or complete a foreign program evaluated as satisfactory by an Oregon institution approved to offer the corresponding program; and

ADMINISTRATIVE RULES

(d) Receive a passing score as currently specified by the commission on each of one or more tests of subject mastery for license endorsement or authorization; and

(A) Any subject-matter test, except the basic skills tests, may be waived if the applicant demonstrates special academic preparation satisfactory to the commission together with five years of experience teaching the specific subject matter on a license valid for the assignment in a public school or regionally accredited private school in a U.S. jurisdiction before holding any Oregon license. The five years of experience must be acquired entirely outside of the state of Oregon and must be obtained while holding an out-of-state license valid for the assignment.

(B) Some applicants may be eligible for alternative assessment for waiver of the subject-matter tests only. (See OAR 584-052-0030 to 0033 regarding Alternative Assessment guidelines and regulations.)

(e) Receive a passing score as currently specified by the commission on a test of basic verbal and computational skills; (See 584-060-0002(7) for definition of Basic Skills Tests.)

(f) Obtain a passing score on a test of knowledge of U.S. and Oregon civil rights laws and professional ethics; and

(g) Furnish fingerprints in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in the commission's licensure application.

(4) Applicants who have completed programs from states other than Oregon will be required to submit a C-2 form from the institution granting program completion, in addition to transcripts, verifying completion of the teacher education program. A license from another state valid for unrestricted full time teaching may be accepted in lieu of a C-2. A teaching license issued by the U.S. Department of Defense will be considered as a license from another state. Completion of alternative routes teaching programs through school districts or other avenues are subject to Executive Director approval.

(5) The Initial I Teaching License may be renewed two times for three years upon showing progress toward completion of the renewal requirements as described in OAR 584-060-0013 during the life of the Initial I Teaching License under the following conditions:

(a) The progress must meet or exceed the equivalent of 3 semester hours or 4.5 quarter hours of graduate coursework germane to the license or directly germane to public school employment.

(b) The educator must qualify for an Initial II Teaching License upon expiration of ten years following the date the first Initial I Teaching License was issued. A one year unconditional extension may be obtained if the educator is unable to meet all requirements within the nine year period. (See, OAR 584-060-0013 Initial II Teaching License.)

(6) The Executive Director may grant an extension to the Initial I Teaching License for a term determined by the director, if and only if extraordinary circumstances can be demonstrated that the teacher was unable to complete the requirements for the Initial II Teaching License during the life of the Initial I Teaching License.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.165 & 342.136

Hist.: TSPC 1-2005, f. & cert. ef. 1-21-05; TSPC 5-2005(Temp), f. & cert. ef. 7-1-05 thru 12-28-05; TSPC 7-2005, f. & cert. ef. 8-24-05; TSPC 1-2007(Temp), f. & cert. ef. 3-30-07 thru 9-26-07; Administrative correction 10-16-07; TSPC 7-2007, f. & cert. ef. 12-14-07; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-060-0013

Initial II Teaching License Requirements

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant shall be granted an Initial II Teaching License for three years.

(2) To be eligible for an Initial II Teaching License, and if the Initial I Teaching License was granted on the basis of a completed teacher preparation program culminating in a bachelor's degree, the applicant must:

(a) Complete a master's degree or higher in the arts and sciences or an advanced degree in the professions from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the commission, together with an equally accredited bachelor's degree; or

(b) In lieu of a master's degree, a candidate must complete graduate level coursework germane to the license or directly germane to public school employment as follows:

(A) At least ten semester hours or fifteen quarter hours in subject-matter coursework; and

(B) At least ten semester hours or fifteen quarter hours in graduate-level education-related coursework; and

(C) At least ten semester hours or fifteen quarter hours in graduate-level electives.

(3) To be eligible for an Initial II Teaching License, and if the Initial I Teaching License was granted on the basis of a post-baccalaureate completed teacher preparation program whether the program culminates in a master's degree, the applicant must complete one of the following (a)-(c):

(a) Six semester hours or nine quarter hours of graduate level academic credit from a regionally accredited college or university, or the graduate level credit must:

(A) Be completed after the Initial I Teaching License has first been issued; and

(B) Be germane to the teaching license or directly germane to public school employment; and

(C) May include pedagogy, or content related to an existing endorsement or authorization, or content related to a new endorsement or authorization. (Completion of this required coursework does not guarantee completion of commission approved endorsement requirements offered by any Oregon college or university)

(b) A commission-approved school district program determined to be equivalent to (a) above; or

(c) Any commission-approved professional assessment.

(d) In all cases, the combination of a post-baccalaureate program and the additional hours required by this subsection must be equivalent to a master's degree or 45 quarter hours or 30 semester hours.

(4) The Initial II Teaching License may be renewed repeatedly for three years upon completion of:

(a) All the requirements in either (3) or (4) above; and

(b) A professional development plan in accordance with OAR 584-090.

(5) A teacher may choose to become eligible for the Continuing Teaching License in lieu of obtaining the Initial II Teaching License. (See OAR 584-060-0022.)

(6) Teachers issued Initial Teaching Licenses prior to July 1, 2005 must meet the requirements of this rule prior to the expiration of ten (10) years from the date the first Initial Teaching License was issued. The additional year granted to licensees holding an Initial Teaching License prior to October 13, 2003, will be included in the ten year calculation for meeting the requirements of this rule.

(7) This rule applies to all Initial Teaching Licenses issued after December 1998.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.165 & 342.136

Hist.: TSPC 1-2005, f. & cert. ef. 1-21-05; TSPC 5-2005(Temp), f. & cert. ef. 7-1-05 thru 12-28-05; TSPC 7-2005, f. & cert. ef. 8-24-05; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-060-0014

Initial Teaching License for Out-of-State Candidate First Application

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant who is applying for licensure in Oregon for the first time and has completed an out-of-state approved teacher-education program shall be granted an Initial Teaching License for eighteen (18) months.

(2) The Initial Teaching License is valid for regular teaching at one or more designated authorization levels in one or more designated specialties and for substitute teaching at any level in any specialty. (See 584-060-0052 for Authorization Levels.)

(3) To be eligible for an Initial Teaching License, an out-of-state applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator; and

(b) Hold a bachelor's degree or higher from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the commission. A master's degree or a doctoral degree from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure; and

(c) Complete an initial teacher education program in any U.S. jurisdiction, or complete a foreign program evaluated as satisfactory by an Oregon institution approved to offer the corresponding program; and

(A) Applicants who have completed programs from states other than Oregon will be required to submit a C-2 form from the institution granting program completion, in addition to transcripts, verifying completion of the teacher education program;

(B) A license from another state valid for unrestricted full time teaching may be accepted in lieu of a C-2. A teaching license issued by the U.S. Department of Defense will be considered as a license from another state.

ADMINISTRATIVE RULES

(C) Completion of alternative routes teaching programs through school districts or other state-approved programs are subject to Executive Director approval;

(d) Furnish fingerprints in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in the commission's licensure application. (See also, OAR 584-036-0062 for Criminal Records Check Requirement;)

(4) Upon expiration of the Initial Teaching License the applicant must apply for any of the following:

(a) An Initial I Teaching License : Qualified applicants will be issued an Initial I Teaching License for 18 months plus time to the applicant's next birthday. The fee for the Initial I granted pursuant to this rule is \$50.

(b) An Initial II Teaching License: Qualified applicants will be issued an Initial II Teaching License for three years plus time to the applicant's next birthday. The fee for the Initial II Teaching License is \$100.

(c) A Continuing Teaching License: Qualified applicants will be issued a Continuing Teaching License for five years plus time to the applicant's next birthday. The fee for the Continuing Teaching License is \$100.

(5) To be eligible for an Initial I Teaching License, an applicant must:

(a) Receive a passing score as currently specified by the commission on a test of basic verbal and computational skills; and (See, 584-060-0002(7) for definition of Basic Skills Tests;)

(b) Receive a passing score as currently specified by the commission on each of one or more tests of subject-matter mastery for licensure endorsement or authorization;

(A) Any subject-matter test, except the basic skills tests, may be waived if the applicant demonstrates special academic preparation satisfactory to the commission together with five years of experience teaching the specific subject matter on a license valid for the assignment in a public school or regionally accredited private school in a U.S. jurisdiction before holding any Oregon license. The five years of experience must be acquired entirely outside of the state of Oregon and must be obtained while holding an out-of-state license valid for the assignment; or

(B) Some applicants may be eligible for alternative assessment for waiver of the subject-matter tests only. (See OAR 584-052-0030 to 0033 regarding Alternative Assessment guidelines and regulations.)

(c) Obtain a passing score on a test of knowledge of U.S. and Oregon civil rights laws and professional ethics.

(d) See, OAR 584-060-0012(5) for Initial I Teaching License renewal requirements.

(6) To be eligible for an Initial II Teaching License, an applicant must:

(a) Meet all the requirements for the Initial I Teaching License; and

(b) Meet the requirements for the Initial II Teaching License. (See, OAR 584-060-0013.)

(c) See OAR 584-060-0013(4) for Initial II Teaching License renewal requirements.

(7) To be eligible for a Continuing Teaching License, an applicant must:

(a) Meet all the requirements for the Initial I Teaching License; and

(b) Meet the requirements for a Continuing Teaching License. (See, OAR 584-060-022.)

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.165, 342.136, 342.223 - 342.232

Hist.: TSPC 1-2007(Temp), f. & cert. ef. 3-30-07 thru 9-26-07; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-060-0022

Continuing Teaching License Requirements

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant shall be granted a Continuing Teaching License.

(2) This license is issued for five years and is renewable repeatedly under conditions specified below.

(3) This license is valid for regular teaching at one or more designated authorization levels in one or more designated specialties and for substitute teaching at any level in any specialty.

(4) To be eligible for a Continuing Teaching License an applicant must:

(a) Meet or complete all requirements of the Initial I and the Initial II Teaching Licenses; and

(b) Hold a master's degree or higher in the arts and sciences or an advanced degree in the professions from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the commission, together with an equally accredited bachelor's degree; and

(c) Have taught five years of at least half-time or more on any non-provisional license appropriate for the assignment; and

(d) Demonstrate minimum competencies, knowledge and skills in accordance with OAR 584-017-0160 by completing one of the following:

(A) A TSPC approved Continuing Teaching License program offered by a college or university; or

(B) A doctorate degree in education from a regionally accredited institution; or the foreign equivalent of such degree approved by the commission; or

(C) Certification by the National Boards of Professional Teaching Standards; or

(D) Certificate of Clinical Competence awarded by the American Speech and Hearing Association for those holding a communication disorders endorsement; or

(E) A commission-approved school district program; or

(F) Any commission-approved professional assessment.

(G) A Professional Certificate issued by the State of Washington.

(5) The Continuing Teaching License may be renewed for five years upon completion of a professional development plan in accordance with OAR 584-090.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.165, 342.125 & 342.138

Hist.: TSPC 1-2005, f. & cert. ef. 1-21-05; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-060-0171

Limited Teaching License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant may be granted a Limited Teaching License.

(2) This license, issued for three years and renewable, is valid at any level and designated for one or more highly specialized subjects of instruction for which the commission does not issue a specific endorsement.

(a) The Executive Director has the authority to grant a Limited Teaching License for an exception to some discreet subjects within an established endorsement upon a showing of district need. Requests for exceptions to established endorsements may be submitted to the commission for approval at the Executive Director's discretion.

(3) This license is valid for substitute teaching at any level but only in subjects listed on the license.

(4) To be eligible for a Limited Teaching License the applicant must have:

(a) Transcripts documenting an accredited associate's degree or its approved equivalent in objectively evaluated post-secondary education related to the intended subject of instruction,

(b) Obtain a passing score on a test of knowledge of U.S. and Oregon civil rights laws and professional ethics; and

(c) Furnish fingerprints in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in the commission's licensure application. (See also, OAR 584-036-0062 for Criminal Records Check Requirement.

(5) The Limited Teaching License is restricted to use within a district that has applied for it jointly with the teacher, whose qualifications and job description are subject to commission approval.

(6) Upon application, the co-applicant district must describe its particular need in relation to the co-applicant teacher's documented qualifications, agree to provide a mentor up to the first renewal of the license, and attest that circumstances prevent hiring a suitable teacher holding any other full-time license appropriate for the role to be filled.

(7) To be eligible for renewal of the Limited Teaching License, an applicant must:

(a) For the first renewal only:

(A) The district must identify the mentor assigned to the teacher including a signed statement from a district administrator attesting to the teacher's progress during the first three years of the license.

(B) Receive a passing score as currently specified by the commission on a test of basic verbal and computational skills; or in lieu of a passing score on basic skills, the district must submit a letter from the district that includes a statement from the principal verifying that the students taught by the teacher continue to make satisfactory academic progress;

(b) For all subsequent renewals:

(A) Provide a statement from the district attesting that the teacher's assignment is exactly the same as originally requested; and

(B) Establish, maintain and report a professional development plan in accordance with OAR 584-090-0020.

(C) A teacher with a Limited Teaching License who works less than .5 FTE during the school year, averaged out over the entire year, need not report continuing professional development.

Stat. Auth.: ORS 342

ADMINISTRATIVE RULES

Stats. Implemented: ORS 342.120 - 342.430 & 342.985
Hist.: TSPC 3-1999, f. & cert. ef. 7-15-99; TSPC 6-2003(Temp), f. & cert. ef. 11-13-03 thru 5-9-04; TSPC 3-2004, f. & cert. ef. 5-14-04; TSPC 1-2005, f. & cert. ef. 1-21-05; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 2-2009, f. & cert. ef. 3-12-09; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-070-0012

Initial I School Counselor License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant shall be granted an Initial I School Counselor License for three years.

(2) The Initial I School Counselor License is valid as designated for regular counseling at early childhood and elementary grade levels; at elementary and middle-level grade levels; or at middle and high school grade levels, or at all four levels.

(a) The license is also valid for substitute counseling at any level; and

(b) The license is also valid for substitute teaching at any level in any specialty.

(3) To be eligible for an Initial I School Counselor License, an applicant must satisfy all of the following general preparation requirements:

(a) A teaching experience satisfied in one of the following ways:

(A) Two academic years of experience as a full-time licensed teacher in a public education setting or in a regionally accredited private school in any state or other U.S. jurisdiction; or

(B) Completion of a practicum approved by the commission in teaching at any grade authorization level, as part of an initial graduate program or separately;

(b) A master's or higher degree in counseling, education, or related behavioral sciences from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the commission, together with any equally accredited bachelor's degree;

(c) Completion in Oregon or another U.S. jurisdiction, as part of the master's degree or separately, of an initial graduate program in school counseling at an institution approved for counselor education by the commission;

(d) A passing score as currently specified by the commission on a test of professional knowledge for school counselors, or five years of experience counseling full time on a nonprovisional license valid for the assignment in a public school or regionally accredited private school in any U.S. jurisdiction before holding any Oregon license;

(e) Receive a passing score as currently specified by the commission on a test of basic verbal and computational skills; (See OAR 584-036-0080 and 584-036-0082 for information related to Basic Skills Tests.)

(f) Obtain a passing score on a test of knowledge of U.S. and Oregon civil rights laws and professional ethics; and

(g) Furnish fingerprints in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in the commission's licensure application; and] (See also, OAR 584-036-0062 for Criminal Records Check Requirement.)

(4) The Initial I School Counselor License may be renewed two times for three years upon showing progress toward completion of the renewal requirements as described in OAR 584-070-0014 during the life of the Initial I School Counselor License under the following conditions:

(a) The progress must meet or exceed the equivalent of 3 semester hours or 4.5 quarter hours of graduate coursework germane to the license or directly germane to public school employment; and

(b) The educator must qualify for an Initial II School Counselor License upon expiration of ten years following the date the first Initial School Counselor License was issued if the license was issued prior to July 1, 2005. All School Counselor Licenses issued after June 30, 2005 must qualify for an Initial II School Counselor License upon the expiration of nine years following the date the first Initial School Counselor License was issued; and

(c) If the Initial I School Counselor license was issued on the basis of an out-of-state nonprovisional license rather than completion of an Oregon-approved program; the educator must have completed any incomplete requirements in subsection (3) above;

(d) If the educator is eligible for application of OAR 584-048-0062, Special Provisions for Renewal of Personnel Service Licenses.

(5) The Executive Director may grant an extension to the Initial I School Counselor License for a term determined by the director, if and only if extraordinary circumstances can be demonstrated that the school counselor was unable to complete the requirements for the Initial II School Counselor License during the life of the Initial I School Counselor License.

(6) School counselor licenses are authorized for grade levels that are the same as those used to authorize teachers (see OAR 584-060-0051 and 584-060-0052), except that the levels are authorized in pairs: early child-

hood and elementary (ECE/ELE); or middle-level and high school (ML/HS).

(a) Early childhood and elementary authorization is valid up through grade eight in any school.

(b) Middle level and high school authorization is valid in grades five through twelve in any school.

(c) The Initial I School Counselor License is authorized for either two or four grade authorization levels, i.e., one or both pairs, on the basis of professional education, experience, previous licensure, and specialized academic course work verified by one of the following:

(A) Evidence verified by an Oregon-approved School Counseling Program; or

(B) An out-of-state non-provisional School Counselor License valid for all grade levels;

(7) On an Initial I School Counselor License authorized for only two levels, the remaining pair of levels can be added prior to attainment of the Initial II School Counselor or the Continuing School Counselor License. The remaining levels will be added upon acquisition of practical experience in one of two ways:

(a) A practicum of four (4) semester hours or six (6) quarter hours at either or both of the paired new grade authorization levels, entailing a minimum of 200 clock hours, in an institution approved to prepare for those grade authorization levels; or

(b) One academic year at either or both of the paired new grade authorization levels as permitted in subsection (8) below.

(8) A counselor authorized for only one of the paired grade authorization levels may counsel in the remaining unauthorized grade levels for a period of not more than three years while pursuing authorization at the other paired authorization grade levels upon request for a conditional assignment permit pursuant to OAR 584-036-0081.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165, 342.223 - 342.232

Hist.: TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 5-2008, f. & cert. ef. 6-13-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-070-0014

Initial II School Counselor License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant shall be granted an Initial II School Counselor License for three years.

(2) The Initial II School Counselor License is valid as designated for regular counseling at early childhood and elementary grade levels; at elementary and middle-level grade levels; or at middle and high school grade levels, or at all four levels.

(a) The license is also valid for substitute counseling at any level; and

(b) The license is also valid for substitute teaching at any level in any specialty.

(3)(a) To be eligible for an Initial II School Counselor License, the applicant must complete six (6) semester hours or nine (9) quarter hours of graduate level academic credit from a regionally accredited college or university.

(b) The graduate level credit must:

(A) Be completed after the Initial I School Counselor License has first been issued; and

(B) Be germane to the School Counselor License or directly germane to public school employment.

(4) The Initial II School Counselor License may be renewed repeatedly for three years upon completion of a professional development plan in accordance with OAR 584-090.

(5) A school counselor may choose to become eligible for the Continuing School Counselor License in lieu of obtaining the Initial II School Counselor License. (See OAR 584-070-0022 Continuing School Counselor License.)

(6) Educators issued an Initial School Counselor License prior to July 1, 2005 must meet the requirements of this rule prior to the expiration of ten years from the date the first Initial School Counselor License was issued. The additional year granted to licensees holding an Initial School Counselor License prior to October 13, 2003, will be included in the ten year calculation for meeting the requirements of this rule.

(7) Educators issued an Initial School Counselor License after June 30, 2005 must meet the requirements of this rule prior to the expiration of nine years from the date the first Initial School Counselor License was issued.

(8) This rule applies to all Initial School Counselor Licenses issued after January 1999.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165, 342.223 - 342.232

ADMINISTRATIVE RULES

Hist.: TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 7-2007, f. & cert. ef. 12-14-07; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-070-0022

Continuing School Counselor License Requirements

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant shall be granted a Continuing School Counselor License.

(2) The Continuing School Counselor License is issued for five years and is renewable repeatedly under conditions specified below.

(3) The Continuing School Counselor License is valid for counseling at all age or grade levels in any school building and for substitute teaching at any level in any specialty.

(4) To be eligible for a Continuing School Counselor License an applicant must:

(a) Meet or complete all requirements of the Initial I School Counselor License; and

(b) Hold a master's or higher degree in the behavioral sciences or their derivative therapeutic professions from a regionally accredited institution in the United States, or hold the foreign equivalent of such degree approved by the commission, together with an equally accredited bachelor's degree.

(A) As part of the master's degree or separately, the applicant must have completed an initial graduate program in school counseling in any U.S. jurisdiction at an institution approved for school counselor licensure by the state in which the school counselor license was issued or in the alternative is approved by the commission; and

(c) Have five years of school counseling experience at least half-time or more on any non-provisional license appropriate for the assignment; and

(d) Demonstrate minimum competencies, knowledge and skills in accordance with OAR 584-017-0451 by completing one of the following:

(A) An advanced program in counseling competencies in a TSPC-approved Continuing School Counselor Program consisting of at least six semester hours or nine quarter hours of graduate credit or the equivalent beyond the initial graduate program in school counseling. As part of the advanced program, the applicant must have had a practica in counseling school students.

(B) Validation of all advanced counseling competencies through assessment by a commission-approved professional development program offered by an institution, an employer, or the two working together; or

(C) An accredited doctor's degree in educational, vocational, or clinical counseling; or in clinical or counseling psychology.

(5) The Continuing School Counselor License may be renewed for five years upon completion of a professional development plan in accordance with OAR 584-090.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165, 342.223 - 342.232

Hist.: TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-070-0211

Initial School Psychologist License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant may be granted an Initial School Psychologist License for three years.

(2) The Initial School Psychologist License is valid for:

(a) School psychology at all age or grade levels;

(b) Substitute counseling at any level; and

(c) Substitute teaching at any level in any specialty.

(3) To be eligible for an Initial School Psychologist License, an applicant must satisfy all of the following general preparation requirements:

(a) A master's or higher degree in the behavioral sciences or their derivative therapeutic professions from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the commission, together with an equally accredited bachelor's degree in any field;

(b) Completion in Oregon or another U.S. jurisdiction, as part of the master's degree or separately, of an initial graduate program in school psychology at an institution approved for psychologist education by the commission; or certification from the National Association of School Psychologists.

(c) A passing score as currently specified by the commission on a test of professional knowledge for school psychologists, or five years of experience practicing school psychology on a license valid for the assignment full time in a public school or regionally accredited private school in a U.S. jurisdiction before holding any Oregon license;

(d) A passing score as currently specified by the commission on a test of basic verbal and computational skills, unless the applicant held an

Oregon educator license before 1985 or has a regionally accredited doctor's degree;

(e) A passing score on a test of knowledge of U.S. and Oregon civil rights laws; and

(f) Furnish fingerprints in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in the commission's licensure application. (See also, OAR 584-036-0062 for Criminal Records Check Requirement.)

(4) The Initial School Psychologist License may be renewed repeatedly for three years upon completion of a professional development plan in accordance with OAR 584-090.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165, 342.223 - 342.232

Hist.: TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 5-2001, f. & cert. ef. 12-13-01; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 8-2008, f. & cert. ef. 11-13-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-070-0221

Continuing School Psychologist License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant may be granted a Continuing School Psychologist License.

(2) The Continuing School Psychologist License is issued for five years and is renewable repeatedly under conditions specified below.

(3) The Continuing School Psychologist License is valid for school psychology at all age or grade levels, for substitute counseling at any level, and for substitute teaching at any level in any specialty.

(4) To be eligible for a Continuing School Psychologist License, an applicant must:

(a) Meet and complete all of the requirements for the Initial School Psychologist License;

(b) Hold a master's or higher degree in the behavioral sciences or their derivative therapeutic professions from a regionally accredited institution in the United States, or hold the foreign equivalent of such degree approved by the commission, together with an equally accredited bachelor's degree;

(c) Have five years of school psychology experience at least half-time or more on any non-provisional license appropriate for the assignment; and

(d) Demonstrate minimum competencies, knowledge and skills in accordance with OAR 584-017-0360 by completing one of the following:

(A) Complete an advanced program in psychologist competencies consisting of at least six semester hours or nine quarter hours of graduate credit or the equivalent; or

(B) Validation of all advanced psychology competencies through assessment by a commission-approved professional development program offered by an institution, an employer, or the two working together; or

(C) By obtaining a current National School Psychology Certificate awarded by the National Association of School Psychologists; or

(D) By having a regionally accredited doctor's degree in educational, clinical or counseling psychology.

(5) The Continuing School Psychologist License may be renewed for five years upon completion of a professional development plan in accordance with OAR 584-090.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165 & 342.223 - 342.232

Hist.: TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 8-2008, f. & cert. ef. 11-13-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-070-0310

Limited Student Service License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant shall be granted a Limited Student Service License. This license, issued for three years and renewable, is valid at any authorization level and designated for a specialized type of direct service to students for which the commission at its discretion may not require a counselor or psychologist license. It is not valid for substitution of any kind.

(2) To be eligible for a Limited Student Service License the applicant must:

(a) Have a bachelor's degree or higher from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the commission, together with an equally valid master's degree or other specialized preparation related to the intended service role and ordinarily equivalent to one academic year of graduate study. Awarding of a higher degree in the arts and sciences or an advanced degree in the professions from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure.

(b) Demonstrate knowledge of applicable civil rights laws; and

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(c) Furnish fingerprints in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in the commission's licensure application. (See also, OAR 584-036-0062 for the Criminal Records Check Requirement.)

(3) The Limited Student Service License is restricted to use within a district that has applied for it jointly with the applicant, whose qualifications and job description are subject to commission approval. Upon application, the co-applicant district must describe its particular need in relation to the co-applicant specialist's qualifications summarized on a submitted resume, agree to provide a mentor during the first year of the assignment, and attest that the role to be filled has been structured so as not to require a licensed school counselor or psychologist.

(4) The holder of a Limited Student Service License shall use only the title specifically approved by the commission and shall not use any unapproved title or imply any unapproved function. Titles such as "advisor" or "student service specialist" or "student assistance specialist" will more readily be approved. The following provisos apply:

(a) No holder of a limited license shall use a title containing words derived from "psychology" nor claim to be a psychologist or to render psychological services without obtaining a school psychologist license from the commission unless licensed as a psychologist or psychologist associate by the Board of Psychologist Examiners. Under ORS 675.990(1)(b), a violation of this subsection is a Class A misdemeanor.

(b) The commission at its discretion may consider a title indicating a therapeutic student service role like counseling or social work, for a specialist who has a corresponding master's or doctor's degree, if the applicant is licensed by the Board of Licensed Professional Counselors and Therapists or is demonstrably prevented from gaining admission to a graduate program in school counseling or school psychology and therefore cannot reasonably be required to apply for a non-renewable transitional license.

(c) The commission will ordinarily approve an appropriate social work title for an applicant licensed by the Board of Clinical Social Workers.

(5) To be eligible for renewal of the Limited Student Service License, an applicant must obtain a passing score as currently specified by the commission on a test of basic verbal and computational skills, unless the applicant held an Oregon educator license before 1985 or has a regionally accredited doctor's degree. The applicant must also obtain a passing score on a test of knowledge of U.S. and Oregon civil rights laws and professional ethics.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165, 342.223 - ORS 342.232

Hist.: TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 9-1999, f. & cert. ef. 11-22-99; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-080-0002

Definitions for Division 80

(1) "All Grade Levels:" Grades prekindergarten through 12 (prek-12).

(2) "Application:" A request for an Oregon license authorizing service in public schools or a request for reinstatement or renewal of such license. As used in these rules, "application" includes the Application Form, C-1, the fee, and all supporting documents necessary for the evaluation for the license. A copy of the C-1 can be found on TSPC's Web page at: www.tspc.state.or.us.

(3) "Appropriately Assigned:" Assignments for administrator, teacher, supervisor, school counselor, school psychologist, or school nurse duties for which the person involved holds the proper license, endorsements and authorizations. See OAR 584-036-0081.

(4) "Approved Institution:" A U.S. regionally accredited institution of higher education approved to prepare licensed personnel by a U.S. governmental jurisdiction in which the institution is located. See definition of "Regional Accrediting Associations" at OAR 584-005-0005.

(5) "Approved Programs:" An Oregon program of educator preparation leading to licensure approved by TSPC and offered by a regionally accredited Oregon institution. As it applies to out-of-state programs, a program approved by the licensure body of any U.S. governmental jurisdiction authorized to approve educator preparation programs.

(6) "Completion of Approved Program:" The applicant has met the institution's academic requirements and any additional state or federal requirements and has obtained the institution's recommendation for licensure.

(7) "Out of State Licenses or Certificates:" A license or certificate valid for full-time employment which is at least equivalent to the Oregon license being requested and is issued by one of the United States, a U.S. jurisdiction (American Samoa, Commonwealth of Northern Marianas,

District of Columbia, Guam, Puerto Rico, and Virgin Islands), or the U.S. Department of Defense.

(8) "Personal Qualifications:" Personal qualifications for licensure including attainment of at least eighteen (18) years of age and possessing good moral character and mental and physical health necessary for employment as an educator.

(9) "Regional Accrediting Associations:" Colleges and universities approved for teacher education must be accredited by the appropriate regional association at the time the degree or program is completed. The regional associations are: New England Association of Schools and Colleges, Commission on Institutions of Higher Education; North Central Association of Colleges and Schools, The Higher Learning Commission; Northwest Commission on Colleges and Universities; Middle States Association of Colleges and Schools, Commission on Higher Education; Southern Association of Colleges and Schools, Commission on Colleges; or Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities.

(10) "Renewal:" Extension of validity of a current license. An application for renewal must be submitted prior to the expiration date stated on the license.

(11) "Teacher:" Includes all licensed employees in the public schools or employed by an education service district who have direct responsibility for instruction, coordination of educational programs or supervision or evaluation of teachers and who are compensated for their services from public funds. "Teacher" does not include a school nurse as defined in ORS 342.455.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 143, 342.153, 342.165 & 342.223 - 232

Hist.: TSPC 10-2006(Temp), f. 6-15-06, cert. ef. 7-1-06 thru 12-27-06; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-080-0012

Initial Administrator License (IAL)

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant shall be granted an Initial Administrator License.

(2) The Initial Administrator License is valid for three (3) years and may be renewed under the conditions set forth in subsections below.

(3) The Initial Administrator License is valid for school administration at all age or grade levels in any administrative position. This license is also valid for substitute teaching at any level in any specialty. (See OAR 584-060-0181 for explanation of Substitute Teaching.)

(4) To be eligible for an Initial Administrator License, an applicant must satisfy all of the following provisions within this subsection. The applicant must:

(a) Educator Fitness: Possess the personal qualifications for licensure including attainment of at least eighteen (18) years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Licensed Experience: Have three (3) academic years of experience as a full-time licensed educator on any license appropriate for the assignment in:

(A) A public school or regionally accredited private school in any state or other U.S. jurisdiction; or

(B) In one or more of the following schools in Oregon:

(i) An education service district school;

(ii) A state-operated or state-supported school;

(iii) A federal school;

(iv) A private elementary or secondary school registered by the state Department of Education; or

(v) A private proprietary career school licensed by the superintendent of public instruction.

(c) Master's Degree: Hold a master's or higher degree in the arts and sciences or an advanced degree in the professions from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the commission, together with an equally accredited bachelor's degree;

(d) Approved Administrator Program: Complete, as part of the master's degree or separately, an initial graduate program in school administration at an institution approved for administrator education;

(A) A candidate for initial licensure who has completed an administrator preparation program outside the state of Oregon must:

(i) Have completed at least eighteen (18) semester hours or twenty-seven (27) quarter hours of graduate credit in school administration or educational leadership; and

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(ii) Receive a passing score on tests of knowledge of Oregon school law and finance at the conclusion of or in lieu of a course or courses approved by the commission.

(e) Civil Rights: Obtain a passing score on a test of knowledge of U.S. and Oregon civil rights laws and professional ethics. An emergency license will be issued for ninety (90) days during which time the applicant must complete the civil rights requirement; and

(f) Fingerprints: Furnish fingerprints in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in the commission's licensure application. (See OAR 584-036-0062 for Criminal Records Check Requirement.)

(5) Renewal: The Initial Administrator License may be renewed up to two (2) times if the applicant makes progress toward completion of the Continuing Administrator License by completing at least six (6) semester hours or nine (9) quarter hours of academic credit in an approved Continuing Administrator License Program upon each renewal. A transcript of the completed coursework is required for renewal. (See OAR 584-048-0090 for additional "Special Provisions" which may apply to renewing an Initial Administrator License.)

(6) Reinstatement for Administrator Experience: An applicant may reinstate an expired Initial Administrator License for one (1) three-year period for the purposes of completing the administrative experience requirements for the Continuing Administrator License under the following conditions:

(a) The applicant has completed all requirements for the CAL except for the administrative experience required;

(b) The application includes a request from a district for reinstatement; and

(7) Incomplete CAL Programs: Initial Administrator License holders who are unable to complete the academic requirements for the Continuing Administrator License within nine (9) years after the Initial Administrator License was first granted may only take an administrator position upon joint application with an employing district requesting a Restricted Transitional Administrator License.

(8) Licenses issued prior to October 13, 2003: All Initial Administrator Licenses for positions other than a Superintendent issued after January 1, 1999 and prior to and including October 13, 2003 have ten (10) years to complete the requirements of the Continuing Administrator License. Initial Administrator Licenses issued after October 13, 2003, with the exception of Superintendents subject to subsection (9) below, have nine (9) years, or two (2) renewal cycles to complete the requirements of the Continuing Administrator License.

(9) Superintendency on the Initial Administrative License: The Continuing Administrator Licensure program must be completed within the three (3) years following the next renewal of the Initial Administrator License if the holder of an Initial Administrator License takes a position as a Superintendent at any time within the life of the Initial Administrator License.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120, 342.147, 342.165

Hist.: TSPC 10-2006(Temp), f. 6-15-06, cert. ef. 7-1-06 thru 12-27-06; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-080-0022

Continuing Administrator License (CAL)

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant shall be granted a Continuing Administrator License.

(2) The Continuing Administrator License is issued for five (5) years and is renewable repeatedly under conditions specified below.

(3) The Continuing Administrator License is valid for school administration at all age or grade levels in any position and for substitute teaching at any level in any specialty.

(4) To be eligible for a Continuing Administrator License, an applicant must satisfy all of the following provisions within this subsection. The applicant must:

(a) Educator Fitness: Possess the personal qualifications for licensure including attainment of at least eighteen (18) years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Master's Degree: Hold a master's degree or higher;

(c) Program of Advanced Competency: Complete beyond both the master's degree and beyond the initial graduate program in school administration, an advanced program in administrative competencies consisting of at least eighteen (18) semester hours or twenty-seven (27) quarter hours of graduate credit or the equivalent.

(A) Advanced Program Waiver: Exceptionally, the applicant may qualify for waiver of the advanced institutional program or the assessment of advanced competencies by having a regionally accredited doctor's degree in school administration or educational leadership;

(B) Out-of-State Advanced Program:

(i) If the eighteen (18) semester hours or twenty-seven (27) quarter hours beyond the master's degree, required in subsection (c) above, was completed out-of-state, no additional validation will be required so long as the applicant also has five (5) years of administrative experience on any unrestricted out-of-state administrator license.

(ii) The out-of-state experience may be cumulative and need not be continuous in one state.

(iii) If the applicant does not have five (5) years of administrative experience, the advanced program will be evaluated by the Commission to determine equivalency. The evaluation will be based upon an established rubric representing the equivalent programs offered by Oregon approved administrator preparation programs.

(iv) After TSPC evaluation, additional coursework may be required to acquire the Continuing Administrator License.

(d) Fingerprints: Furnish fingerprints in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in the commission's licensure application. (See OAR 584-036-0062 for Criminal Records Check Requirement.); and

(e) Civil Rights: A passing score on a test of knowledge of U.S. and Oregon civil rights laws and professional ethics. An emergency license will be issued for ninety (90) days during which time the applicant must complete the civil rights requirement;

(f) Professional Knowledge Test: A passing score on a test of professional administrator knowledge or completion of alternative assessment pursuant to OAR 584-052-0030 et seq. approved by the Commission; and

(g) Experience on an Administrative License: Have three (3) years of one-half time or more experience on any administrator license appropriate for the assignment in a public or accredited private school setting.

(5) The Continuing Administrator License may be renewed for five (5) years upon completion of professional development pursuant to OAR 584 division 90

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120, 342.147, 342.165

Hist.: TSPC 10-2006(Temp), f. 6-15-06, cert. ef. 7-1-06 thru 12-27-06; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

584-080-0031

Distinguished Administrator License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant may be granted a Distinguished Administrator License.

(2) The Distinguished Administrator License is issued for five years and is renewable repeatedly under conditions specified below.

(3) The Distinguished Administrator License is voluntary and is valid for school administration at all age or grade levels in any position and for substitute teaching at any level in any specialty.

(4) To be eligible for a Distinguished Administrator License, an applicant must have:

(a) Completed, beyond the advanced administrator program specified in OAR 584-080-0022 an advanced education leadership or school administration program consisting of at least 12 semester hours or 18 quarter hours of graduate credit or the equivalent; or in the alternative, hold a regionally accredited doctor's degree in school administration or educational leadership.

(A) Completion of the advanced program must be verified by the institution offering the program or through official transcripts.

(B) Doctorates in programs other than school administration or educational leadership do not qualify for this license.

(b) Three years of half time or more experience on a transitional, initial, continuing, or out-of-state administrative license valid for the assignment functioning as a superintendent in a public school district, education service district, or regionally accredited private school system.

(5) The Distinguished Administrator License may be renewed for five years upon completion of professional development pursuant to OAR 584 division 90.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165 & 342.223 - 342.232

Hist.: TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 4-2001, f. & cert. ef. 9-21-01; TSPC 10-2006(Temp), f. 6-15-06, cert. ef. 7-1-06 thru 12-27-06; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 8-2008, f. & cert. ef. 11-13-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

ADMINISTRATIVE RULES

584-080-0161

Exceptional Administrator License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, an unconventionally qualified applicant may be granted an Exceptional Administrator License at the sole discretion of the commission as permitted under ORS 342.200.

(2) The Exceptional Administrator License is issued for three years and renewable under conditions that the Executive Director may specify, is valid only for a designated position with a job description approved by the Executive Director.

(3) To be eligible for an Exceptional Administrator License the applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Hold a master's or higher degree in the arts and sciences or an advanced degree in the professions from a regionally accredited institution or approved foreign equivalent;

(c) Demonstrate extraordinary professional experience that compensates for lack of experience in prekindergarten-12 schools;

(d) Demonstrate knowledge of applicable civil rights laws. An applicant from out of state may submit an affidavit for the first Oregon license assuring that the applicant has read Discrimination and the Oregon Educator and has completed the self-study questions; and

(e) Furnish fingerprints in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in the commission's licensure application; (See OAR 584-036-0062 for Criminal Records Check Requirement).

(4) Experience that included supervising teachers or working directly with students in some educational setting shall be required as a qualification for any Exceptional Administrator License to be used for supervising teachers or working directly with students in Oregon schools.

(5) The Exceptional Administrator License will be restricted to use in a district that has applied for it jointly with the administrator.

(a) Upon application, the co-applicant district must describe its particular need in relation to the co-applicant administrator's qualifications summarized on a submitted resume; and

(b) The district must attest that no suitable candidate with any unrestricted administrator license is comparably qualified and available for the role to be filled.

(6) The Exceptional Administrator License may be renewed the first time upon demonstration of the following:

(a) A passing score on the test of professional administrator knowledge approved by the Commission for the Continuing Administrator License; and

(b) Obtain a passing score on a test of knowledge of U.S. and Oregon civil rights laws and professional ethics.

(7) After the first renewal, the Exceptional Administrator License may be continuously renewed upon demonstration of continuing professional development requirements in accordance with OAR 584 division 90.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.123, 342.125, 342.126, 342.127, 342.140, 342.165 & 342.200
Hist.: TSPC 3-1999, f. & cert. ef. 7-15-99; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09

Veterinary Medical Examining Board Chapter 875

Rule Caption: Restores original language concerning waived Continuing Education requirements for new licensees.

Adm. Order No.: VMEB 1-2009

Filed with Sec. of State: 4-20-2009

Certified to be Effective: 4-20-09

Notice Publication Date: 11-1-2007

Rules Amended: 875-010-0090

Subject: 875-010-0090 This is to be a permanent amendment, correcting a filling error that inadvertently omitted text. Text should read: (1) All active licensees, including veterinarians and certified veterinary technicians, must comply with the CE provided in this rule in order to renew their licenses. An active licensee is one who practices in Oregon for 30 calendar days or more in each year. A veterinarian or veterinary technician who has less than one year of practice experience is not required to report CE until the next reporting year period following completion of one year of experience.

Rules Coordinator: Lori V. Makinen—(971) 673-0224

875-010-0090

Continuing Education Requirements (CE)

(1) All active licensees, including veterinarians and certified veterinary technicians, must comply with the CE provided in this rule in order to renew their licenses. An active licensee is one who practices in Oregon for 30 calendar days or more in each year.

(2) "Inactive" veterinary and certified veterinary technician licensees need not comply with the educational requirements, and may renew their licenses in an "inactive" status. An "inactive" licensee is one who practices in Oregon for less than 30 calendar days in each year.

(3) Active licensees wishing to obtain a renewal of their license must complete the minimum required number of CE hours every two years. Veterinarians shall report 30 hours of CE to the Board with license renewals for every odd-numbered year. Certified veterinary technicians shall report 15 hours of CE to the Board for every even-numbered year beginning January 2008. The required hours may be satisfied with any combination of the following continuing education activities:

(a) Attendance at scientific workshops or seminars approved by the Board.

(b) A maximum of four hours for veterinarians or two hours for certified veterinary technicians reading approved scientific journals. One subscription to an approved journal is equal to one hour of credit.

(c) A maximum of six hours for veterinarians or three hours for certified veterinary technicians of workshops or seminars on non-scientific subjects relating to the practice of veterinary medicine such as communication skills, practice management, stress management, or chemical impairment.

(d) A maximum of 15 hours for veterinarians of audio or video recordings, electronic, computer or interactive materials or programs on scientific or non-scientific subjects, as set forth in subsection (3)(c) above, and prepared or sponsored by any of the organizations defined in subsection (4) below. The sponsor must supply written certification of course completion. Certified veterinary technicians may report all required 15 hours of required CE under the provisions of this subsection.

(4) Workshops, seminars, and prepared materials on scientific and non-scientific subjects relating to veterinary medicine sponsored by the following organizations are approved:

(a) American Veterinary Medical Association (AVMA) and Canadian Veterinary Medical Association (CVMA);

(b) Specialty and allied groups of the American Veterinary Medical Association and Canadian Veterinary Medical Association;

(c) Regional meetings such as the Inter-Mountain Veterinary Medical Association, Central Veterinary Conference, and Western Veterinary Conference;

(d) Any state or province veterinary medical association;

(e) Any local or regional veterinary medical association;

(f) The American Animal Hospital Association;

(g) American and Canadian Veterinary Schools accredited by the American Veterinary Medical Association;

(h) All state veterinary academies;

(i) Animal Medical Center, New York;

(j) Angel Memorial Medical Center;

(k) Other programs receiving prior approval by the Board;

(l) The Board may approve other sponsors for lectures or prepared materials upon written request by the attending veterinarian or the sponsor.

(5) The following scientific journals are approved by the Board to satisfy all or a portion of the two hours of non-lecture CE activities:

(a) Journal of the American Veterinary Medical Association;

(b) Journal of the Canadian Veterinary Medical Association;

(c) The Journal of Veterinary Research;

(d) Veterinary Medicine;

(e) Small Animal Clinician;

(f) Modern Veterinary Practice;

(g) Publications of the AVMA/CVMA Approved Constituent Specialty Groups;

(h) Compendium of Continuing Education;

(i) Journal of American Animal Hospital Association;

(j) Other publications approved in advance by the Board.

(6) Study in a graduate resident program at an AVMA-approved veterinary school will satisfy the CE requirements for the year in which the veterinarian is enrolled in such program.

(7) Reporting CE credits:

(a) At the time of making application for license renewal in years when CE reporting is required, the veterinarian shall certify on the application form that 30 hours of CE, and the veterinary technician shall certify on the application form that 15 hours of CE, as set forth in this rule have been

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satisfied. Proof of participation in such CE programs must be kept by the licensee for a period of at least two years, and the licensee must permit the Board or any of its agents or designees to inspect CE records. Any such failure to keep these records or produce them to the Board, its agents or designees shall constitute grounds for non-renewal of the license, or, if the license has been issued for that year, for revocation of the license;

(b) Proof of compliance with the CE requirement of this rule may be supplied through registration forms at lectures, certificates issued by the sponsors of lectures, subscriptions to journals, and other documentation approved by the Board.

(8) The Board may approve CE programs presented by non-veterinarians, if program content is pertinent or complementary to veterinary medicine.

Stat. Auth.: ORS 686.210

Stats. Implemented: ORS 686.410 - 686.420

Hist.: VMEB 1-2006, f. & cert. ef. 2-8-06; VMEB 2-2006, f. & cert. ef. 5-11-06; VMEB 1-2008, f. & cert. ef. 2-11-08; VMEB 2-2008(Temp), f. & cert. ef. 2-11-08 thru 8-9-08; Administrative correction 8-21-08; VMEB 13-2008, f. & cert. ef. 12-15-08; VMEB 1-2009, f. & cert. ef. 4-20-09

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101-005-0040	2-24-2009	Amend(T)	4-1-2009	111-080-0005(T)	1-30-2009	Repeal	3-1-2009
101-005-0070	2-24-2009	Amend(T)	4-1-2009	111-080-0030	4-1-2009	Adopt	5-1-2009
101-005-0080	2-24-2009	Amend(T)	4-1-2009	111-080-0030(T)	4-1-2009	Repeal	5-1-2009
101-030-0026	2-24-2009	Adopt(T)	4-1-2009	122-060-0020	12-11-2008	Adopt(T)	1-1-2009
104-050-0000	4-22-2009	Adopt	6-1-2009	122-060-0020(T)	3-6-2009	Suspend	4-1-2009
104-050-0010	4-22-2009	Adopt	6-1-2009	123-024-0031	5-7-2009	Amend(T)	6-1-2009
104-050-0020	4-22-2009	Adopt	6-1-2009	123-024-0045	5-7-2009	Adopt(T)	6-1-2009
104-050-0030	4-22-2009	Adopt	6-1-2009	123-049-0005	3-6-2009	Amend(T)	4-1-2009
104-050-0040	4-22-2009	Adopt	6-1-2009	123-049-0030	3-6-2009	Amend(T)	4-1-2009
104-050-0050	4-22-2009	Adopt	6-1-2009	123-049-0050	3-6-2009	Amend(T)	4-1-2009
104-050-0060	4-22-2009	Adopt	6-1-2009	123-070-1000	2-24-2009	Amend	4-1-2009
104-050-0070	4-22-2009	Adopt	6-1-2009	123-070-1100	2-24-2009	Amend	4-1-2009
104-050-0080	4-22-2009	Adopt	6-1-2009	123-070-1150	2-24-2009	Amend	4-1-2009
104-050-0090	4-22-2009	Adopt	6-1-2009	123-106-0000	2-24-2009	Repeal	4-1-2009
104-050-0100	4-22-2009	Adopt	6-1-2009	123-106-0010	2-24-2009	Repeal	4-1-2009
111-010-0015	1-30-2009	Amend	3-1-2009	123-106-0020	2-24-2009	Repeal	4-1-2009
111-010-0015	3-10-2009	Amend(T)	4-1-2009	123-106-0030	2-24-2009	Repeal	4-1-2009
111-010-0015	5-1-2009	Amend	6-1-2009	123-106-0040	2-24-2009	Repeal	4-1-2009
111-010-0015(T)	1-30-2009	Repeal	3-1-2009	123-106-0050	2-24-2009	Repeal	4-1-2009
111-010-0015(T)	5-1-2009	Repeal	6-1-2009	123-106-0060	2-24-2009	Repeal	4-1-2009
111-020-0001	1-30-2009	Amend	3-1-2009	123-106-0070	2-24-2009	Repeal	4-1-2009
111-020-0001	3-10-2009	Amend(T)	4-1-2009	123-106-0080	2-24-2009	Repeal	4-1-2009
111-020-0001	5-1-2009	Amend	6-1-2009	123-106-0090	2-24-2009	Repeal	4-1-2009
111-020-0001(T)	1-30-2009	Repeal	3-1-2009	123-155-0000	2-24-2009	Amend	4-1-2009
111-020-0001(T)	5-1-2009	Repeal	6-1-2009	123-155-0175	2-24-2009	Amend	4-1-2009
111-040-0035	5-5-2009	Suspend	6-1-2009	123-155-0350	2-24-2009	Amend	4-1-2009
111-040-0040	5-5-2009	Amend(T)	6-1-2009	123-500-0000	5-1-2009	Adopt	6-1-2009
111-050-0001	1-30-2009	Amend	3-1-2009	123-500-0005	5-1-2009	Adopt	6-1-2009
111-050-0001(T)	1-30-2009	Repeal	3-1-2009	123-500-0020	5-1-2009	Adopt	6-1-2009
111-050-0010	1-30-2009	Amend	3-1-2009	123-500-0030	5-1-2009	Adopt	6-1-2009
111-050-0010(T)	1-30-2009	Repeal	3-1-2009	123-500-0040	5-1-2009	Adopt	6-1-2009
111-050-0015	1-30-2009	Amend	3-1-2009	123-500-0050	5-1-2009	Adopt	6-1-2009
111-050-0015(T)	1-30-2009	Repeal	3-1-2009	123-500-0060	5-1-2009	Adopt	6-1-2009
111-050-0020	1-30-2009	Adopt	3-1-2009	123-500-0070	5-1-2009	Adopt	6-1-2009
111-050-0020(T)	1-30-2009	Repeal	3-1-2009	125-045-0235	1-23-2009	Amend(T)	3-1-2009
111-050-0025	1-30-2009	Adopt	3-1-2009	125-075-0015	1-6-2009	Amend	2-1-2009
111-050-0025(T)	1-30-2009	Repeal	3-1-2009	125-125-0540	5-11-2009	Amend	6-1-2009
111-050-0030	1-30-2009	Adopt	3-1-2009	125-125-0700	1-26-2009	Adopt	3-1-2009
111-050-0030(T)	1-30-2009	Repeal	3-1-2009	125-160-0010	1-23-2009	Amend	3-1-2009
111-050-0035	1-30-2009	Adopt	3-1-2009	125-160-0010(T)	1-23-2009	Repeal	3-1-2009
111-050-0035(T)	1-30-2009	Repeal	3-1-2009	125-160-0020	1-23-2009	Adopt	3-1-2009
111-050-0045	1-30-2009	Adopt	3-1-2009	125-160-0020(T)	1-23-2009	Repeal	3-1-2009
111-050-0045(T)	1-30-2009	Repeal	3-1-2009	125-247-0280	2-13-2009	Amend(T)	3-1-2009
111-050-0050	1-30-2009	Adopt	3-1-2009	125-249-0150	2-13-2009	Amend(T)	3-1-2009
111-050-0050(T)	1-30-2009	Repeal	3-1-2009	137-045-0050	2-26-2009	Amend(T)	4-1-2009
111-050-0060	1-30-2009	Adopt	3-1-2009	137-050-0320	5-7-2009	Amend(T)	6-1-2009
111-050-0060(T)	1-30-2009	Repeal	3-1-2009	137-050-0330	5-7-2009	Amend(T)	6-1-2009
111-050-0065	1-30-2009	Adopt	3-1-2009	137-050-0340	5-7-2009	Amend(T)	6-1-2009
111-050-0065(T)	1-30-2009	Repeal	3-1-2009	137-050-0360	5-7-2009	Amend(T)	6-1-2009
111-050-0070	1-30-2009	Adopt	3-1-2009	137-050-0360	5-12-2009	Amend(T)	6-1-2009
111-050-0070(T)	1-30-2009	Repeal	3-1-2009	137-050-0360(T)	5-12-2009	Suspend	6-1-2009
111-050-0075	1-30-2009	Adopt	3-1-2009	137-050-0420	5-7-2009	Amend(T)	6-1-2009
111-050-0075(T)	1-30-2009	Repeal	3-1-2009	137-050-0430	5-7-2009	Amend(T)	6-1-2009
111-050-0080	1-30-2009	Adopt	3-1-2009	137-050-0475	5-7-2009	Amend(T)	6-1-2009
111-050-0080(T)	1-30-2009	Repeal	3-1-2009	137-050-0485	5-7-2009	Adopt(T)	6-1-2009
111-080-0001	1-30-2009	Adopt	3-1-2009	137-055-1320	4-1-2009	Amend	5-1-2009

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137-055-2165	5-7-2009	Amend(T)	6-1-2009	141-085-0027	3-1-2009	Repeal	3-1-2009
137-055-3020	4-1-2009	Amend	5-1-2009	141-085-0028	3-1-2009	Repeal	3-1-2009
137-055-3080	4-1-2009	Amend	5-1-2009	141-085-0029	3-1-2009	Repeal	3-1-2009
137-055-3100	4-1-2009	Amend	5-1-2009	141-085-0031	3-1-2009	Repeal	3-1-2009
137-055-3420	1-2-2009	Amend	2-1-2009	141-085-0034	3-1-2009	Repeal	3-1-2009
137-055-3420	5-7-2009	Amend(T)	6-1-2009	141-085-0036	3-1-2009	Repeal	3-1-2009
137-055-3420(T)	1-2-2009	Repeal	2-1-2009	141-085-0064	3-1-2009	Repeal	3-1-2009
137-055-3430	5-7-2009	Amend(T)	6-1-2009	141-085-0066	3-1-2009	Repeal	3-1-2009
137-055-3430	5-14-2009	Amend(T)	6-1-2009	141-085-0068	3-1-2009	Repeal	3-1-2009
137-055-3430(T)	5-14-2009	Suspend	6-1-2009	141-085-0070	3-1-2009	Repeal	3-1-2009
137-055-3460	4-1-2009	Amend	5-1-2009	141-085-0075	3-1-2009	Repeal	3-1-2009
137-055-6210	1-2-2009	Amend	2-1-2009	141-085-0079	3-1-2009	Repeal	3-1-2009
137-055-6210(T)	1-2-2009	Repeal	2-1-2009	141-085-0080	3-1-2009	Repeal	3-1-2009
141-001-0000	12-10-2008	Amend	1-1-2009	141-085-0085	3-1-2009	Repeal	3-1-2009
141-001-0005	12-10-2008	Amend	1-1-2009	141-085-0090	3-1-2009	Repeal	3-1-2009
141-001-0010	12-10-2008	Amend	1-1-2009	141-085-0095	3-1-2009	Repeal	3-1-2009
141-001-0020	12-10-2008	Amend	1-1-2009	141-085-0096	3-1-2009	Repeal	3-1-2009
141-040-0020	1-1-2009	Amend	1-1-2009	141-085-0115	3-1-2009	Repeal	3-1-2009
141-040-0030	1-1-2009	Amend	1-1-2009	141-085-0121	3-1-2009	Repeal	3-1-2009
141-040-0035	1-1-2009	Repeal	1-1-2009	141-085-0126	3-1-2009	Repeal	3-1-2009
141-040-0040	1-1-2009	Repeal	1-1-2009	141-085-0131	3-1-2009	Repeal	3-1-2009
141-040-0211	1-1-2009	Amend	1-1-2009	141-085-0136	3-1-2009	Repeal	3-1-2009
141-040-0212	1-1-2009	Amend	1-1-2009	141-085-0141	3-5-2009	Repeal	4-1-2009
141-040-0213	1-1-2009	Adopt	1-1-2009	141-085-0146	3-1-2009	Repeal	3-1-2009
141-040-0214	1-1-2009	Amend	1-1-2009	141-085-0151	3-1-2009	Repeal	3-1-2009
141-045-0010	1-1-2009	Amend	1-1-2009	141-085-0156	3-1-2009	Repeal	3-1-2009
141-045-0021	1-1-2009	Amend	1-1-2009	141-085-0161	3-1-2009	Repeal	3-1-2009
141-045-0031	1-1-2009	Amend	1-1-2009	141-085-0166	3-1-2009	Repeal	3-1-2009
141-045-0041	1-1-2009	Amend	1-1-2009	141-085-0171	3-1-2009	Repeal	3-1-2009
141-045-0061	1-1-2009	Amend	1-1-2009	141-085-0176	3-1-2009	Repeal	3-1-2009
141-045-0100	1-1-2009	Amend	1-1-2009	141-085-0240	3-1-2009	Repeal	3-1-2009
141-045-0115	1-1-2009	Amend	1-1-2009	141-085-0244	3-1-2009	Repeal	3-1-2009
141-045-0126	1-1-2009	Amend	1-1-2009	141-085-0246	3-1-2009	Repeal	3-1-2009
141-045-0130	1-1-2009	Amend	1-1-2009	141-085-0248	3-1-2009	Repeal	3-1-2009
141-050-0500	12-10-2008	Amend	1-1-2009	141-085-0250	3-1-2009	Repeal	3-1-2009
141-050-0530	12-10-2008	Repeal	1-1-2009	141-085-0252	3-1-2009	Repeal	3-1-2009
141-050-0535	12-10-2008	Repeal	1-1-2009	141-085-0254	3-1-2009	Repeal	3-1-2009
141-050-0890	12-10-2008	Renumber	1-1-2009	141-085-0256	3-1-2009	Repeal	3-1-2009
141-050-0900	12-10-2008	Amend	1-1-2009	141-085-0257	3-1-2009	Repeal	3-1-2009
141-050-0905	12-10-2008	Amend	1-1-2009	141-085-0262	3-1-2009	Repeal	3-1-2009
141-050-0910	12-10-2008	Repeal	1-1-2009	141-085-0263	3-1-2009	Repeal	3-1-2009
141-050-0920	12-10-2008	Amend	1-1-2009	141-085-0264	3-1-2009	Repeal	3-1-2009
141-050-0940	12-10-2008	Amend	1-1-2009	141-085-0266	3-1-2009	Repeal	3-1-2009
141-050-0945	12-10-2008	Repeal	1-1-2009	141-085-0400	3-1-2009	Repeal	3-1-2009
141-050-0965	12-10-2008	Amend	1-1-2009	141-085-0406	3-1-2009	Repeal	3-1-2009
141-050-0972	12-10-2008	Amend	1-1-2009	141-085-0410	3-1-2009	Repeal	3-1-2009
141-050-0976	12-10-2008	Amend	1-1-2009	141-085-0421	3-1-2009	Repeal	3-1-2009
141-050-0982	12-10-2008	Amend	1-1-2009	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
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141-085-0525	3-1-2009	Adopt	3-1-2009	141-089-0110	3-1-2009	Amend	3-1-2009
141-085-0530	3-1-2009	Adopt	3-1-2009	141-089-0115	3-1-2009	Amend	3-1-2009
141-085-0535	3-1-2009	Adopt	3-1-2009	141-089-0120	3-1-2009	Amend	3-1-2009
141-085-0540	3-1-2009	Adopt	3-1-2009	141-089-0130	3-1-2009	Amend	3-1-2009
141-085-0545	3-1-2009	Adopt	3-1-2009	141-089-0135	3-1-2009	Amend	3-1-2009
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141-085-0560	3-1-2009	Adopt	3-1-2009	141-089-0155	3-1-2009	Amend	3-1-2009
141-085-0565	3-1-2009	Adopt	3-1-2009	141-089-0157	3-1-2009	Repeal	3-1-2009
141-085-0570	3-1-2009	Adopt	3-1-2009	141-089-0165	3-1-2009	Amend	3-1-2009
141-085-0575	3-1-2009	Adopt	3-1-2009	141-089-0170	3-1-2009	Amend	3-1-2009
141-085-0580	3-1-2009	Adopt	3-1-2009	141-089-0175	3-1-2009	Amend	3-1-2009
141-085-0585	3-1-2009	Adopt	3-1-2009	141-089-0185	3-1-2009	Amend	3-1-2009
141-085-0590	3-1-2009	Adopt	3-1-2009	141-089-0190	3-1-2009	Amend	3-1-2009
141-085-0595	3-1-2009	Adopt	3-1-2009	141-089-0200	3-1-2009	Amend	3-1-2009
141-085-0610	3-1-2009	Repeal	3-1-2009	141-089-0205	3-1-2009	Amend	3-1-2009
141-085-0620	3-1-2009	Repeal	3-1-2009	141-089-0210	3-1-2009	Amend	3-1-2009
141-085-0630	3-1-2009	Repeal	3-1-2009	141-089-0215	3-1-2009	Amend	3-1-2009
141-085-0640	3-1-2009	Repeal	3-1-2009	141-089-0220	3-1-2009	Amend	3-1-2009
141-085-0650	3-1-2009	Repeal	3-1-2009	141-089-0225	3-1-2009	Amend	3-1-2009
141-085-0660	3-1-2009	Repeal	3-1-2009	141-089-0230	3-1-2009	Amend	3-1-2009
141-085-0665	3-1-2009	Adopt	3-1-2009	141-089-0240	3-1-2009	Amend	3-1-2009
141-085-0670	3-1-2009	Adopt	3-1-2009	141-089-0245	3-1-2009	Amend	3-1-2009
141-085-0675	3-1-2009	Adopt	3-1-2009	141-089-0250	3-1-2009	Amend	3-1-2009
141-085-0680	3-1-2009	Adopt	3-1-2009	141-089-0255	3-1-2009	Amend	3-1-2009
141-085-0685	3-1-2009	Adopt	3-1-2009	141-089-0260	3-1-2009	Amend	3-1-2009
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141-085-0695	3-1-2009	Adopt	3-1-2009	141-089-0275	3-1-2009	Amend	3-1-2009
141-085-0700	3-1-2009	Adopt	3-1-2009	141-089-0280	3-1-2009	Amend	3-1-2009
141-085-0705	3-1-2009	Adopt	3-1-2009	141-089-0295	3-1-2009	Amend	3-1-2009
141-085-0710	3-1-2009	Adopt	3-1-2009	141-089-0300	3-1-2009	Amend	3-1-2009
141-085-0715	3-1-2009	Adopt	3-1-2009	141-089-0310	3-1-2009	Amend	3-1-2009
141-085-0720	3-1-2009	Adopt	3-1-2009	141-089-0350	3-1-2009	Amend	3-1-2009
141-085-0725	3-1-2009	Adopt	3-1-2009	141-089-0355	3-1-2009	Amend	3-1-2009
141-085-0730	3-1-2009	Adopt	3-1-2009	141-089-0370	3-1-2009	Amend	3-1-2009
141-085-0735	3-1-2009	Adopt	3-1-2009	141-089-0390	3-1-2009	Amend	3-1-2009
141-085-0740	3-1-2009	Adopt	3-1-2009	141-089-0400	3-1-2009	Amend	3-1-2009
141-085-0745	3-1-2009	Adopt	3-1-2009	141-089-0405	3-1-2009	Amend	3-1-2009
141-085-0750	3-1-2009	Adopt	3-1-2009	141-089-0415	3-1-2009	Amend	3-1-2009
141-085-0755	3-1-2009	Adopt	3-1-2009	141-089-0420	3-1-2009	Amend	3-1-2009
141-085-0760	3-1-2009	Adopt	3-1-2009	141-089-0430	3-1-2009	Amend	3-1-2009
141-085-0765	3-1-2009	Adopt	3-1-2009	141-089-0500	3-1-2009	Amend	3-1-2009
141-085-0770	3-1-2009	Adopt	3-1-2009	141-089-0505	3-1-2009	Amend	3-1-2009
141-085-0775	3-1-2009	Adopt	3-1-2009	141-089-0515	3-1-2009	Amend	3-1-2009
141-085-0780	3-1-2009	Adopt	3-1-2009	141-089-0520	3-1-2009	Amend	3-1-2009
141-085-0785	3-1-2009	Adopt	3-1-2009	141-089-0530	3-1-2009	Amend	3-1-2009
141-086-0185	1-1-2009	Amend	1-1-2009	141-089-0550	3-1-2009	Repeal	3-1-2009
141-086-0190	1-1-2009	Repeal	1-1-2009	141-089-0555	3-1-2009	Repeal	3-1-2009
141-086-0200	1-1-2009	Amend	1-1-2009	141-089-0560	3-1-2009	Repeal	3-1-2009
141-086-0210	1-1-2009	Amend	1-1-2009	141-089-0565	3-1-2009	Repeal	3-1-2009
141-086-0220	1-1-2009	Amend	1-1-2009	141-089-0570	3-1-2009	Repeal	3-1-2009
141-086-0222	1-1-2009	Adopt	1-1-2009	141-089-0572	3-1-2009	Repeal	3-1-2009
141-086-0225	1-1-2009	Amend	1-1-2009	141-089-0575	3-1-2009	Repeal	3-1-2009
141-086-0228	1-1-2009	Amend	1-1-2009	141-089-0580	3-1-2009	Repeal	3-1-2009
141-086-0230	1-1-2009	Amend	1-1-2009	141-089-0585	3-1-2009	Amend	3-1-2009
141-086-0240	1-1-2009	Amend	1-1-2009	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

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141-091-0005	12-10-2008	Amend	1-1-2009	166-200-0005	12-10-2008	Amend	1-1-2009
141-091-0015	12-10-2008	Amend	1-1-2009	166-200-0010	12-10-2008	Amend	1-1-2009
141-100-0000	3-1-2009	Amend	3-1-2009	166-200-0015	12-10-2008	Amend	1-1-2009
141-100-0020	3-1-2009	Amend	3-1-2009	166-200-0020	12-10-2008	Amend	1-1-2009
141-100-0030	3-1-2009	Amend	3-1-2009	166-200-0025	12-10-2008	Amend	1-1-2009
141-100-0040	3-1-2009	Amend	3-1-2009	166-200-0030	12-10-2008	Amend	1-1-2009
141-100-0050	3-1-2009	Amend	3-1-2009	166-200-0035	12-10-2008	Amend	1-1-2009
141-100-0055	3-1-2009	Amend	3-1-2009	166-200-0040	12-10-2008	Amend	1-1-2009
141-100-0060	3-1-2009	Amend	3-1-2009	166-200-0045	12-10-2008	Amend	1-1-2009
141-100-0070	3-1-2009	Amend	3-1-2009	166-200-0050	12-10-2008	Amend	1-1-2009
141-100-0080	3-1-2009	Amend	3-1-2009	166-200-0055	12-10-2008	Amend	1-1-2009
141-100-0090	3-1-2009	Amend	3-1-2009	166-200-0060	12-10-2008	Amend	1-1-2009
150-294.435(1)-(A)	1-1-2009	Amend	2-1-2009	166-200-0065	12-10-2008	Amend	1-1-2009
150-294.435(1)-(B)	1-1-2009	Repeal	2-1-2009	166-200-0070	12-10-2008	Amend	1-1-2009
150-305.220(1)	1-1-2009	Amend	2-1-2009	166-200-0075	12-10-2008	Amend	1-1-2009
150-305.220(2)	1-1-2009	Amend	2-1-2009	166-200-0080	12-10-2008	Amend	1-1-2009
150-307.140	1-1-2009	Amend	2-1-2009	166-200-0085	12-10-2008	Amend	1-1-2009
150-307.455	1-1-2009	Adopt	2-1-2009	166-200-0090	12-10-2008	Amend	1-1-2009
150-308.515(1)(h)	1-1-2009	Adopt	2-1-2009	166-200-0095	12-10-2008	Amend	1-1-2009
150-308A.056	1-1-2009	Amend	2-1-2009	166-200-0100	12-10-2008	Amend	1-1-2009
150-308A.059	1-1-2009	Repeal	2-1-2009	166-200-0105	12-10-2008	Amend	1-1-2009
150-309.110(1)-(B)	1-1-2009	Am. & Ren.	2-1-2009	166-200-0110	12-10-2008	Amend	1-1-2009
150-309.110(1)-(E)	1-1-2009	Am. & Ren.	2-1-2009	166-200-0115	12-10-2008	Amend	1-1-2009
150-311.670(1)	1-1-2009	Adopt	2-1-2009	166-200-0120	12-10-2008	Amend	1-1-2009
150-311.706(1)	1-1-2009	Adopt	2-1-2009	166-200-0125	12-10-2008	Amend	1-1-2009
150-314.402(1)	1-1-2009	Amend	2-1-2009	166-200-0130	12-10-2008	Amend	1-1-2009
150-314.402(4)(b)	1-1-2009	Amend	2-1-2009	166-200-0135	12-10-2008	Amend	1-1-2009
150-314.515(2)	1-1-2009	Amend	2-1-2009	166-200-0140	12-10-2008	Amend	1-1-2009
150-314.752	1-1-2009	Amend	2-1-2009	166-200-0145	12-10-2008	Amend	1-1-2009
150-316.007-(B)	1-1-2009	Amend	2-1-2009	166-300-0025	2-19-2009	Amend	4-1-2009
150-316.007-(B)	1-5-2009	Amend	2-1-2009	170-040-0020	4-10-2009	Amend	5-1-2009
150-316.082(1)-(B)	1-1-2009	Amend	2-1-2009	170-040-0090	11-28-2008	Adopt	1-1-2009
150-316.127-(9)	1-1-2009	Amend	2-1-2009	170-040-0100	11-28-2008	Adopt	1-1-2009
150-316.202(3)	1-1-2009	Amend	2-1-2009	170-055-0001	12-29-2008	Adopt	2-1-2009
150-316.791	1-1-2009	Adopt	2-1-2009	170-055-0005	12-29-2008	Repeal	2-1-2009
150.309.067(1)(b)	1-1-2009	Am. & Ren.	2-1-2009	170-060-0001	12-29-2008	Adopt	2-1-2009
151-020-0030	2-5-2009	Amend(T)	3-1-2009	170-060-0005	12-29-2008	Adopt	2-1-2009
161-002-0000	1-30-2009	Amend(T)	3-1-2009	170-060-1010	12-29-2008	Amend	2-1-2009
161-006-0025	7-1-2009	Amend(T)	6-1-2009	170-061-0000	12-29-2008	Amend	2-1-2009
161-010-0035	1-30-2009	Amend(T)	3-1-2009	170-061-0005	12-29-2008	Repeal	2-1-2009
161-010-0045	1-30-2009	Amend(T)	3-1-2009	170-061-0015	12-29-2008	Amend	2-1-2009
161-010-0085	1-30-2009	Amend	3-1-2009	170-061-0015	4-22-2009	Amend	6-1-2009
161-020-0045	1-30-2009	Amend	3-1-2009	170-061-0020	12-29-2008	Amend	2-1-2009
161-020-0140	1-30-2009	Amend	3-1-2009	170-061-0100	12-29-2008	Amend	2-1-2009
161-020-0150	1-30-2009	Amend	3-1-2009	170-061-0200	12-29-2008	Amend	2-1-2009
161-025-0060	1-30-2009	Amend	3-1-2009	170-061-0300	12-29-2008	Adopt	2-1-2009
165-005-0050	5-4-2009	Amend	6-1-2009	170-061-0400	12-29-2008	Adopt	2-1-2009
165-007-0130	5-4-2009	Amend	6-1-2009	170-062-0000	12-29-2008	Amend	2-1-2009
165-012-0005	5-4-2009	Amend	6-1-2009	170-063-0000	12-29-2008	Amend	2-1-2009
165-013-0020	5-4-2009	Amend	6-1-2009	170-071-0005	12-29-2008	Amend	2-1-2009
165-014-0031	5-4-2009	Repeal	6-1-2009	177-040-0001	1-1-2009	Amend	2-1-2009
165-014-0032	5-4-2009	Amend	6-1-2009	177-040-0005	1-1-2009	Amend	2-1-2009
165-020-0430	5-4-2009	Repeal	6-1-2009	177-040-0017	2-1-2009	Amend	3-1-2009
165-020-2022	2-18-2009	Adopt(T)	4-1-2009	177-040-0017(T)	2-1-2009	Repeal	3-1-2009
165-020-2023	3-3-2009	Adopt(T)	4-1-2009	177-040-0030	1-1-2009	Amend	2-1-2009
165-020-2024	3-5-2009	Adopt(T)	4-1-2009	177-040-0050	1-1-2009	Amend	2-1-2009
165-020-2025	3-16-2009	Adopt(T)	5-1-2009	177-040-0052	1-1-2009	Amend	2-1-2009

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177-040-0061(T)	2-1-2009	Repeal	3-1-2009	250-020-0261	5-1-2009	Amend	5-1-2009
177-045-0000	1-1-2009	Amend	2-1-2009	250-020-0290	5-1-2009	Repeal	5-1-2009
177-045-0010	1-1-2009	Amend	2-1-2009	255-070-0001	4-10-2009	Amend(T)	5-1-2009
177-045-0030	1-1-2009	Amend	2-1-2009	259-001-0005	4-8-2009	Amend	5-1-2009
177-045-0040	1-1-2009	Repeal	2-1-2009	259-008-0010	1-1-2009	Amend	1-1-2009
177-046-0020	11-23-2008	Amend(T)	1-1-2009	259-008-0011	1-1-2009	Amend	1-1-2009
177-046-0020	3-1-2009	Amend	4-1-2009	259-008-0025	4-8-2009	Amend	5-1-2009
177-046-0020(T)	3-1-2009	Repeal	4-1-2009	259-008-0060	12-29-2008	Amend	2-1-2009
177-046-0150	12-1-2008	Repeal	1-1-2009	259-008-0060	4-8-2009	Amend	5-1-2009
177-050-0025	12-1-2008	Amend	1-1-2009	259-008-0065	4-8-2009	Amend	5-1-2009
177-050-0027	12-1-2008	Amend	1-1-2009	259-008-0070	1-1-2009	Amend	1-1-2009
177-050-0100	12-1-2008	Adopt	1-1-2009	259-020-0010	12-29-2008	Amend(T)	2-1-2009
177-050-0100	3-1-2009	Amend	4-1-2009	259-020-0010	2-2-2009	Amend	3-1-2009
177-069-0000	12-1-2008	Adopt	1-1-2009	259-020-0010(T)	2-2-2009	Repeal	3-1-2009
177-069-0010	12-1-2008	Adopt	1-1-2009	259-020-0015	2-2-2009	Amend	3-1-2009
177-069-0020	12-1-2008	Adopt	1-1-2009	259-020-0020	2-2-2009	Amend	3-1-2009
177-069-0030	12-1-2008	Adopt	1-1-2009	259-020-0025	2-2-2009	Amend	3-1-2009
177-069-0040	12-1-2008	Adopt	1-1-2009	291-022-0115	11-25-2008	Amend(T)	1-1-2009
177-069-0050	12-1-2008	Adopt	1-1-2009	291-022-0160	11-25-2008	Amend(T)	1-1-2009
177-075-0010	11-23-2008	Amend(T)	1-1-2009	291-022-0161	11-25-2008	Adopt(T)	1-1-2009
177-075-0010	3-1-2009	Amend	4-1-2009	291-022-0162	11-25-2008	Adopt(T)	1-1-2009
177-075-0010(T)	3-1-2009	Repeal	4-1-2009	291-039-0010	12-16-2008	Amend(T)	2-1-2009
177-081-0020	11-23-2008	Amend(T)	1-1-2009	291-039-0015	12-16-2008	Amend(T)	2-1-2009
177-081-0020	3-1-2009	Amend	4-1-2009	291-042-0005	1-22-2009	Amend	3-1-2009
177-081-0020(T)	3-1-2009	Repeal	4-1-2009	291-042-0010	1-22-2009	Amend	3-1-2009
177-083-0020	11-23-2008	Amend(T)	1-1-2009	291-042-0011	1-22-2009	Amend	3-1-2009
177-083-0020	3-1-2009	Amend	4-1-2009	291-042-0015	1-22-2009	Amend	3-1-2009
177-083-0020(T)	3-1-2009	Repeal	4-1-2009	291-042-0025	1-22-2009	Amend	3-1-2009
177-083-0030	11-23-2008	Amend(T)	1-1-2009	291-042-0035	1-22-2009	Amend	3-1-2009
177-083-0030	3-1-2009	Amend	4-1-2009	291-042-0045	1-22-2009	Repeal	3-1-2009
177-083-0030(T)	3-1-2009	Repeal	4-1-2009	291-062-0100	3-20-2009	Amend(T)	5-1-2009
177-083-0040	11-23-2008	Amend(T)	1-1-2009	291-062-0110	3-20-2009	Amend(T)	5-1-2009
177-083-0040	3-1-2009	Amend	4-1-2009	291-062-0120	3-20-2009	Amend(T)	5-1-2009
177-083-0040(T)	3-1-2009	Repeal	4-1-2009	291-062-0130	3-20-2009	Amend(T)	5-1-2009
177-085-0000	1-4-2009	Amend	1-1-2009	291-062-0140	3-20-2009	Amend(T)	5-1-2009
177-085-0005	1-4-2009	Amend	1-1-2009	291-062-0150	3-20-2009	Amend(T)	5-1-2009
177-085-0010	1-4-2009	Amend	1-1-2009	291-062-0160	3-20-2009	Amend(T)	5-1-2009
177-085-0015	11-23-2008	Amend(T)	1-1-2009	291-062-0170	3-20-2009	Adopt(T)	5-1-2009
177-085-0015	1-4-2009	Amend	1-1-2009	291-070-0120	12-16-2008	Amend(T)	2-1-2009
177-085-0015	3-1-2009	Amend	4-1-2009	291-097-0005	3-10-2009	Amend	4-1-2009
177-085-0015(T)	3-1-2009	Repeal	4-1-2009	291-097-0010	3-10-2009	Amend	4-1-2009
177-085-0020	1-4-2009	Amend	1-1-2009	291-097-0015	3-10-2009	Amend	4-1-2009
177-085-0025	1-4-2009	Amend	1-1-2009	291-097-0020	3-10-2009	Amend	4-1-2009
177-085-0030	1-4-2009	Amend	1-1-2009	291-097-0025	3-10-2009	Amend	4-1-2009
177-085-0035	1-4-2009	Amend	1-1-2009	291-097-0040	3-10-2009	Amend	4-1-2009
177-085-0040	1-4-2009	Amend	1-1-2009	291-097-0050	3-10-2009	Amend	4-1-2009
177-085-0045	1-4-2009	Amend	1-1-2009	291-097-0060	3-10-2009	Amend	4-1-2009
177-085-0050	1-4-2009	Amend	1-1-2009	291-097-0070	3-10-2009	Amend	4-1-2009
177-085-0065	1-4-2009	Amend	1-1-2009	291-097-0080	3-10-2009	Amend	4-1-2009
177-094-0020	11-23-2008	Amend(T)	1-1-2009	291-097-0100	3-10-2009	Amend	4-1-2009
177-094-0020	3-1-2009	Amend	4-1-2009	291-097-0110	3-10-2009	Am. & Ren.	4-1-2009
177-094-0020(T)	3-1-2009	Repeal	4-1-2009	291-097-0120	3-10-2009	Amend	4-1-2009
213-003-0001	1-1-2010	Amend(T)	5-1-2009	291-127-0240	5-15-2009	Amend	6-1-2009
213-003-0001	1-1-2010	Amend(T)	5-1-2009	291-127-0260	12-16-2008	Amend(T)	2-1-2009
213-017-0004	1-1-2010	Amend(T)	5-1-2009	291-127-0260	5-15-2009	Amend	6-1-2009
213-017-0006	1-1-2009	Amend(T)	2-1-2009	291-127-0260(T)	5-15-2009	Repeal	6-1-2009
213-017-0006	1-1-2010	Amend(T)	5-1-2009	291-158-0005	12-26-2008	Amend	2-1-2009

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291-158-0015	12-26-2008	Amend	2-1-2009	333-565-0000	1-1-2009	Amend	2-1-2009
291-158-0025	12-26-2008	Amend	2-1-2009	333-565-0010	4-20-2009	Adopt	6-1-2009
291-158-0035	12-26-2008	Amend	2-1-2009	333-675-0050	1-1-2009	Amend	2-1-2009
291-158-0045	12-26-2008	Amend	2-1-2009	334-001-0000	3-1-2009	Amend	3-1-2009
291-158-0055	12-26-2008	Amend	2-1-2009	334-001-0035	3-1-2009	Amend	3-1-2009
291-158-0065	12-26-2008	Amend	2-1-2009	334-001-0045	3-1-2009	Amend	3-1-2009
291-158-0075	12-26-2008	Amend	2-1-2009	334-001-0060	3-1-2009	Amend	3-1-2009
291-203-0020	5-15-2009	Amend(T)	6-1-2009	334-010-0005	3-1-2009	Amend	3-1-2009
291-203-0040	5-15-2009	Amend(T)	6-1-2009	334-010-0010	3-1-2009	Amend	3-1-2009
291-203-0050	5-15-2009	Amend(T)	6-1-2009	334-010-0012	3-1-2009	Amend	3-1-2009
309-114-0005	1-23-2009	Amend(T)	3-1-2009	334-010-0015	3-1-2009	Amend	3-1-2009
309-114-0005	4-2-2009	Amend(T)	5-1-2009	334-010-0016	3-1-2009	Repeal	3-1-2009
309-114-0005(T)	4-2-2009	Suspend	5-1-2009	334-010-0017	3-1-2009	Amend	3-1-2009
309-114-0010	1-23-2009	Amend(T)	3-1-2009	334-010-0025	3-1-2009	Amend	3-1-2009
309-114-0020	1-23-2009	Amend(T)	3-1-2009	334-010-0031	3-1-2009	Repeal	3-1-2009
330-061-0005	12-5-2008	Amend	1-1-2009	334-010-0033	3-1-2009	Amend	3-1-2009
330-061-0025	12-5-2008	Amend	1-1-2009	334-010-0041	3-1-2009	Am. & Ren.	3-1-2009
330-061-0030	12-5-2008	Amend	1-1-2009	334-010-0046	3-1-2009	Amend	3-1-2009
331-030-0000	12-1-2008	Amend(T)	1-1-2009	334-010-0047	3-1-2009	Amend	3-1-2009
331-030-0005	12-1-2008	Adopt(T)	1-1-2009	334-010-0050	3-1-2009	Amend	3-1-2009
331-030-0010	12-1-2008	Amend(T)	1-1-2009	334-020-0005	3-1-2009	Amend	3-1-2009
331-810-0038	12-1-2008	Adopt	1-1-2009	334-020-0015	3-1-2009	Amend	3-1-2009
332-015-0070	4-1-2009	Amend	5-1-2009	334-020-0020	3-1-2009	Repeal	3-1-2009
332-020-0010	4-1-2009	Amend	5-1-2009	334-020-0025	3-1-2009	Repeal	3-1-2009
333-004-0010	3-2-2009	Amend	4-1-2009	334-020-0030	3-1-2009	Repeal	3-1-2009
333-004-0020	3-2-2009	Amend	4-1-2009	334-020-0035	3-1-2009	Repeal	3-1-2009
333-004-0030	3-2-2009	Amend	4-1-2009	334-020-0040	3-1-2009	Repeal	3-1-2009
333-004-0040	3-2-2009	Amend	4-1-2009	334-020-0045	3-1-2009	Repeal	3-1-2009
333-004-0050	3-2-2009	Amend	4-1-2009	334-020-0050	3-1-2009	Amend	3-1-2009
333-004-0060	3-2-2009	Amend	4-1-2009	334-020-0055	3-1-2009	Amend	3-1-2009
333-004-0070	3-2-2009	Amend	4-1-2009	334-020-0060	3-1-2009	Repeal	3-1-2009
333-004-0080	3-2-2009	Amend	4-1-2009	334-020-0065	3-1-2009	Repeal	3-1-2009
333-004-0090	3-2-2009	Repeal	4-1-2009	334-020-0070	3-1-2009	Repeal	3-1-2009
333-004-0100	3-2-2009	Amend	4-1-2009	334-020-0075	3-1-2009	Repeal	3-1-2009
333-004-0110	3-2-2009	Amend	4-1-2009	334-020-0080	3-1-2009	Repeal	3-1-2009
333-004-0120	3-2-2009	Amend	4-1-2009	334-020-0085	3-1-2009	Repeal	3-1-2009
333-004-0140	3-2-2009	Amend	4-1-2009	334-020-0090	3-1-2009	Repeal	3-1-2009
333-004-0150	3-2-2009	Amend	4-1-2009	334-030-0001	3-1-2009	Amend	3-1-2009
333-004-0160	3-2-2009	Amend	4-1-2009	334-030-0002	3-1-2009	Repeal	3-1-2009
333-010-0200	2-13-2009	Adopt	3-1-2009	334-030-0005	3-1-2009	Amend	3-1-2009
333-010-0205	2-13-2009	Adopt	3-1-2009	334-030-0010	3-1-2009	Repeal	3-1-2009
333-010-0210	2-13-2009	Adopt	3-1-2009	334-030-0025	3-1-2009	Am. & Ren.	3-1-2009
333-010-0215	2-13-2009	Adopt	3-1-2009	334-040-0001	3-1-2009	Adopt	3-1-2009
333-010-0220	2-13-2009	Adopt	3-1-2009	339-010-0023	1-1-2009	Amend	1-1-2009
333-010-0225	2-13-2009	Adopt	3-1-2009	339-010-0035	1-1-2009	Amend	1-1-2009
333-010-0230	2-13-2009	Adopt	3-1-2009	339-010-0050	1-1-2009	Amend	1-1-2009
333-010-0235	2-13-2009	Adopt	3-1-2009	339-020-0015	1-1-2009	Adopt	1-1-2009
333-010-0240	2-13-2009	Adopt	3-1-2009	340-054-0024	5-1-2009	Amend(T)	6-1-2009
333-010-0245	2-13-2009	Adopt	3-1-2009	340-054-0025	5-1-2009	Amend(T)	6-1-2009
333-010-0250	2-13-2009	Adopt	3-1-2009	340-054-0035	5-1-2009	Amend(T)	6-1-2009
333-010-0255	2-13-2009	Adopt	3-1-2009	340-054-0098	5-1-2009	Adopt(T)	6-1-2009
333-010-0260	2-13-2009	Adopt	3-1-2009	340-054-0100	5-1-2009	Adopt(T)	6-1-2009
333-010-0265	2-13-2009	Adopt	3-1-2009	340-054-0102	5-1-2009	Adopt(T)	6-1-2009
333-010-0270	2-13-2009	Adopt	3-1-2009	340-054-0104	5-1-2009	Adopt(T)	6-1-2009
333-010-0275	2-13-2009	Adopt	3-1-2009	340-054-0106	5-1-2009	Adopt(T)	6-1-2009
333-010-0280	2-13-2009	Adopt	3-1-2009	340-054-0108	5-1-2009	Adopt(T)	6-1-2009
333-010-0285	2-13-2009	Adopt	3-1-2009	340-200-0040	12-31-2008	Amend	2-1-2009

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340-216-0060	12-31-2008	Amend	2-1-2009	340-228-0674	12-31-2008	Repeal	2-1-2009
340-228-0600	12-31-2008	Amend	2-1-2009	340-228-0676	12-31-2008	Repeal	2-1-2009
340-228-0601	12-31-2008	Adopt	2-1-2009	340-228-0678	12-31-2008	Repeal	2-1-2009
340-228-0602	12-31-2008	Amend	2-1-2009	340-230-0300	12-31-2008	Amend	2-1-2009
340-228-0603	12-31-2008	Amend	2-1-2009	340-230-0310	12-31-2008	Amend	2-1-2009
340-228-0604	12-31-2008	Repeal	2-1-2009	340-230-0320	12-31-2008	Amend	2-1-2009
340-228-0605	12-31-2008	Repeal	2-1-2009	340-230-0330	12-31-2008	Amend	2-1-2009
340-228-0606	12-31-2008	Amend	2-1-2009	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
340-228-0609	12-31-2008	Adopt	2-1-2009	340-230-0350	12-31-2008	Amend	2-1-2009
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
340-228-0628	12-31-2008	Repeal	2-1-2009	340-244-0210	12-31-2008	Amend	2-1-2009
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
340-228-0637	12-31-2008	Adopt	2-1-2009	340-244-0246	12-31-2008	Adopt	2-1-2009
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
340-228-0650	12-31-2008	Repeal	2-1-2009	350-040-0040	5-1-2009	Amend	5-1-2009
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
340-228-0662	12-31-2008	Repeal	2-1-2009	407-001-0005	12-5-2008	Amend	1-1-2009
340-228-0664	12-31-2008	Repeal	2-1-2009	407-001-0010	12-5-2008	Amend	1-1-2009
340-228-0666	12-31-2008	Repeal	2-1-2009	407-007-0200	1-1-2009	Amend	2-1-2009
340-228-0668	12-31-2008	Repeal	2-1-2009	407-007-0200	4-1-2009	Amend	5-1-2009
340-228-0670	12-31-2008	Repeal	2-1-2009	407-007-0210	1-1-2009	Amend	2-1-2009
340-228-0671	12-31-2008	Repeal	2-1-2009	407-007-0210	4-1-2009	Amend	5-1-2009
340-228-0672	12-31-2008	Repeal	2-1-2009	407-007-0220	1-1-2009	Amend	2-1-2009

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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	410-120-0000	12-1-2008	Amend	1-1-2009
407-007-0240	4-1-2009	Amend	5-1-2009	410-120-0027	1-12-2009	Adopt(T)	2-1-2009
407-007-0250	1-1-2009	Amend	2-1-2009	410-120-0027	1-16-2009	Amend(T)	3-1-2009
407-007-0250	4-1-2009	Amend	5-1-2009	410-120-0027	5-1-2009	Amend(T)	6-1-2009
407-007-0260	1-1-2009	Repeal	2-1-2009	410-120-0027(T)	1-16-2009	Suspend	3-1-2009
407-007-0270	1-1-2009	Repeal	2-1-2009	410-120-0027(T)	5-1-2009	Suspend	6-1-2009
407-007-0280	1-1-2009	Amend	2-1-2009	410-120-1140	12-1-2008	Amend	1-1-2009
407-007-0280	4-1-2009	Amend	5-1-2009	410-120-1180	12-1-2008	Amend	1-1-2009
407-007-0290	1-1-2009	Amend	2-1-2009	410-120-1195	12-1-2008	Amend	1-1-2009
407-007-0290	4-1-2009	Amend	5-1-2009	410-120-1260	12-1-2008	Amend	1-1-2009
407-007-0300	1-1-2009	Amend	2-1-2009	410-120-1280	12-1-2008	Amend	1-1-2009
407-007-0310	1-1-2009	Repeal	2-1-2009	410-120-1340	12-1-2008	Amend	1-1-2009
407-007-0320	1-1-2009	Amend	2-1-2009	410-120-1340	1-1-2009	Amend	1-1-2009
407-007-0320	4-1-2009	Amend	5-1-2009	410-121-0000	1-1-2009	Amend	1-1-2009
407-007-0330	1-1-2009	Amend	2-1-2009	410-121-0030	1-1-2009	Amend	1-1-2009
407-007-0330	4-1-2009	Amend	5-1-2009	410-121-0032	1-1-2009	Amend	1-1-2009
407-007-0340	1-1-2009	Amend	2-1-2009	410-121-0040	12-1-2008	Amend	1-1-2009
407-007-0340	4-1-2009	Amend	5-1-2009	410-121-0060	12-1-2008	Amend	1-1-2009
407-007-0350	1-1-2009	Amend	2-1-2009	410-121-0060	1-1-2009	Amend	1-1-2009
407-007-0350	4-1-2009	Amend	5-1-2009	410-121-0140	12-1-2008	Amend	1-1-2009
407-007-0355	1-1-2009	Adopt	2-1-2009	410-121-0140	1-1-2009	Repeal	1-1-2009
407-007-0355	4-1-2009	Amend	5-1-2009	410-121-0150	12-1-2008	Amend	1-1-2009
407-007-0360	1-1-2009	Repeal	2-1-2009	410-121-0155	4-1-2009	Amend(T)	5-1-2009
407-007-0370	1-1-2009	Amend	2-1-2009	410-121-0157	12-1-2008	Amend	1-1-2009
407-007-0380	1-1-2009	Repeal	2-1-2009	410-121-0185	1-1-2009	Amend	1-1-2009
407-045-0250	5-1-2009	Amend	6-1-2009	410-121-0200	12-1-2008	Amend	1-1-2009
407-045-0260	5-1-2009	Amend	6-1-2009	410-121-0300	1-1-2009	Amend	1-1-2009
407-045-0270	5-1-2009	Repeal	6-1-2009	410-121-0320	12-1-2008	Amend	1-1-2009
407-045-0280	5-1-2009	Amend	6-1-2009	410-121-0625	1-1-2009	Amend	1-1-2009
407-045-0290	5-1-2009	Amend	6-1-2009	410-122-0040	12-1-2008	Amend	1-1-2009
407-045-0300	5-1-2009	Amend	6-1-2009	410-122-0182	1-1-2009	Amend	1-1-2009
407-045-0310	5-1-2009	Amend	6-1-2009	410-122-0200	1-1-2009	Amend	1-1-2009
407-045-0320	5-1-2009	Amend	6-1-2009	410-122-0202	1-1-2009	Amend(T)	2-1-2009
407-045-0330	5-1-2009	Amend	6-1-2009	410-122-0203	1-1-2009	Amend	1-1-2009
407-045-0340	5-1-2009	Amend	6-1-2009	410-122-0204	1-1-2009	Amend	1-1-2009
407-045-0350	5-1-2009	Amend	6-1-2009	410-122-0211	1-1-2009	Adopt	1-1-2009
407-045-0360	5-1-2009	Amend	6-1-2009	410-122-0330	1-1-2009	Amend	1-1-2009
407-120-0300	12-27-2008	Amend	2-1-2009	410-122-0340	1-1-2009	Amend	1-1-2009
407-120-0300(T)	12-27-2008	Repeal	2-1-2009	410-122-0365	1-1-2009	Amend	1-1-2009
407-120-0310	12-27-2008	Amend	2-1-2009	410-122-0560	1-1-2009	Amend	1-1-2009
407-120-0310(T)	12-27-2008	Repeal	2-1-2009	410-122-0580	1-1-2009	Amend	1-1-2009
407-120-0320	12-27-2008	Amend	2-1-2009	410-122-0630	1-1-2009	Amend	1-1-2009
407-120-0320(T)	12-27-2008	Repeal	2-1-2009	410-122-0655	1-1-2009	Amend	1-1-2009
407-120-0325	12-27-2008	Adopt	2-1-2009	410-123-1085	1-1-2009	Amend	1-1-2009
407-120-0325(T)	12-27-2008	Repeal	2-1-2009	410-123-1160	1-1-2009	Amend	1-1-2009
407-120-0330	12-27-2008	Amend	2-1-2009	410-123-1220	1-1-2009	Amend	1-1-2009
407-120-0330(T)	12-27-2008	Repeal	2-1-2009	410-123-1230	1-1-2009	Amend	1-1-2009
407-120-0340	12-27-2008	Amend	2-1-2009	410-123-1240	1-1-2009	Amend	1-1-2009
407-120-0340(T)	12-27-2008	Repeal	2-1-2009	410-123-1260	1-1-2009	Amend	1-1-2009
407-120-0350	12-27-2008	Amend	2-1-2009	410-123-1490	1-1-2009	Amend	1-1-2009
407-120-0350(T)	12-27-2008	Repeal	2-1-2009	410-123-1620	1-1-2009	Amend	1-1-2009
407-120-0360	12-27-2008	Amend	2-1-2009	410-123-1670	1-1-2009	Amend	1-1-2009
407-120-0360(T)	12-27-2008	Repeal	2-1-2009	410-125-0020	1-1-2009	Amend	1-1-2009
407-120-0370	12-27-2008	Amend	2-1-2009	410-125-0041	1-1-2009	Amend	1-1-2009
407-120-0370(T)	12-27-2008	Repeal	2-1-2009	410-125-0045	1-1-2009	Amend	1-1-2009

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410-125-0085	1-1-2009	Amend	1-1-2009	410-141-0520	4-1-2009	Amend(T)	5-1-2009
410-125-0125	12-1-2008	Amend	1-1-2009	410-141-0520	4-17-2009	Amend(T)	6-1-2009
410-125-0141	5-1-2009	Amend(T)	6-1-2009	410-141-0520(T)	1-1-2009	Repeal	1-1-2009
410-125-0155	1-1-2009	Amend	1-1-2009	410-141-0520(T)	4-1-2009	Suspend	5-1-2009
410-125-0181	1-1-2009	Amend	1-1-2009	410-141-0520(T)	4-17-2009	Suspend	6-1-2009
410-125-0195	1-1-2009	Amend	1-1-2009	410-146-0021	12-1-2008	Amend	1-1-2009
410-125-0195	5-1-2009	Amend(T)	6-1-2009	410-146-0040	1-1-2009	Amend	1-1-2009
410-125-0210	12-1-2008	Amend	1-1-2009	410-146-0060	12-1-2008	Amend	1-1-2009
410-125-0220	12-1-2008	Amend	1-1-2009	410-146-0080	12-1-2008	Amend	1-1-2009
410-125-0360	12-1-2008	Amend	1-1-2009	410-146-0085	12-1-2008	Amend	1-1-2009
410-125-0400	12-1-2008	Amend	1-1-2009	410-146-0086	12-1-2008	Amend	1-1-2009
410-125-0600	12-1-2008	Amend	1-1-2009	410-146-0100	12-1-2008	Amend	1-1-2009
410-125-0640	12-1-2008	Amend	1-1-2009	410-146-0120	12-1-2008	Amend	1-1-2009
410-125-0720	12-1-2008	Amend	1-1-2009	410-146-0130	12-1-2008	Amend	1-1-2009
410-125-1020	1-1-2009	Amend	1-1-2009	410-146-0140	12-1-2008	Amend	1-1-2009
410-125-1070	12-1-2008	Amend	1-1-2009	410-146-0340	12-1-2008	Amend	1-1-2009
410-127-0080	12-1-2008	Amend	1-1-2009	410-146-0380	12-1-2008	Amend	1-1-2009
410-129-0080	12-1-2008	Amend	1-1-2009	410-146-0440	12-1-2008	Amend	1-1-2009
410-130-0180	12-1-2008	Amend	1-1-2009	410-147-0020	12-1-2008	Amend	1-1-2009
410-132-0100	12-1-2008	Amend	1-1-2009	410-147-0040	1-1-2009	Amend	1-1-2009
410-133-0040	12-28-2008	Amend	2-1-2009	410-147-0060	12-1-2008	Amend	1-1-2009
410-133-0090	12-28-2008	Amend	2-1-2009	410-147-0120	12-1-2008	Amend	1-1-2009
410-133-0100	12-28-2008	Amend	2-1-2009	410-147-0125	12-1-2008	Amend	1-1-2009
410-133-0140	12-28-2008	Amend	2-1-2009	410-147-0140	12-1-2008	Amend	1-1-2009
410-133-0220	12-28-2008	Amend	2-1-2009	410-147-0160	12-1-2008	Amend	1-1-2009
410-133-0280	12-28-2008	Amend	2-1-2009	410-147-0180	12-1-2008	Amend	1-1-2009
410-136-0240	12-1-2008	Amend	1-1-2009	410-147-0200	12-1-2008	Amend	1-1-2009
410-136-0240	4-1-2009	Amend(T)	5-1-2009	410-147-0220	12-1-2008	Amend	1-1-2009
410-136-0260	12-1-2008	Amend	1-1-2009	410-147-0320	12-1-2008	Amend	1-1-2009
410-136-0300	12-1-2008	Amend	1-1-2009	410-147-0340	12-1-2008	Amend	1-1-2009
410-136-0300	4-1-2009	Amend(T)	5-1-2009	410-147-0360	12-1-2008	Amend	1-1-2009
410-138-0000	12-28-2008	Amend	2-1-2009	410-147-0460	12-1-2008	Amend	1-1-2009
410-138-0005	12-28-2008	Adopt	2-1-2009	410-147-0480	12-1-2008	Amend	1-1-2009
410-138-0007	12-28-2008	Adopt	2-1-2009	410-147-0540	12-1-2008	Amend	1-1-2009
410-138-0009	12-28-2008	Adopt	2-1-2009	410-147-0560	12-1-2008	Amend	1-1-2009
410-138-0020	12-28-2008	Amend	2-1-2009	410-147-0610	12-1-2008	Amend	1-1-2009
410-138-0080	12-28-2008	Amend	2-1-2009	410-147-0620	12-1-2008	Amend	1-1-2009
410-138-0300	12-28-2008	Amend	2-1-2009	411-001-0010	3-3-2009	Repeal	4-1-2009
410-138-0320	12-28-2008	Amend	2-1-2009	411-030-0002	1-1-2009	Amend	2-1-2009
410-138-0380	12-28-2008	Amend	2-1-2009	411-030-0020	1-1-2009	Amend	2-1-2009
410-138-0500	12-28-2008	Amend	2-1-2009	411-030-0033	1-1-2009	Amend	2-1-2009
410-138-0520	12-28-2008	Amend	2-1-2009	411-030-0040	1-1-2009	Amend	2-1-2009
410-138-0560	12-28-2008	Amend	2-1-2009	411-030-0050	1-1-2009	Amend	2-1-2009
410-138-0600	12-28-2008	Amend	2-1-2009	411-030-0055	1-1-2009	Amend	2-1-2009
410-138-0620	12-28-2008	Amend	2-1-2009	411-030-0070	1-1-2009	Amend	2-1-2009
410-138-0680	12-28-2008	Amend	2-1-2009	411-030-0080	1-1-2009	Amend	2-1-2009
410-138-0700	12-28-2008	Amend	2-1-2009	411-030-0090	1-1-2009	Amend	2-1-2009
410-138-0720	12-28-2008	Amend	2-1-2009	411-030-0100	1-1-2009	Amend	2-1-2009
410-138-0740	12-28-2008	Amend	2-1-2009	411-054-0005	1-1-2009	Amend	2-1-2009
410-138-0780	12-28-2008	Amend	2-1-2009	411-054-0008	1-1-2009	Repeal	2-1-2009
410-141-0000	12-1-2008	Amend	1-1-2009	411-054-0012	1-1-2009	Amend	2-1-2009
410-141-0020	12-1-2008	Amend	1-1-2009	411-054-0105	1-1-2009	Amend	2-1-2009
410-141-0120	1-1-2009	Amend	1-1-2009	411-054-0125	3-3-2009	Adopt	4-1-2009
410-141-0220	12-1-2008	Amend	1-1-2009	411-054-0125(T)	3-3-2009	Repeal	4-1-2009
410-141-0266	1-1-2009	Amend	1-1-2009	411-350-0010	3-1-2009	Amend	4-1-2009
410-141-0425	1-5-2009	Adopt(T)	2-1-2009	411-350-0020	3-1-2009	Amend	4-1-2009
410-141-0520	1-1-2009	Amend	1-1-2009	411-350-0030	3-1-2009	Amend	4-1-2009

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411-350-0050	3-1-2009	Amend	4-1-2009	413-200-0281	2-2-2009	Amend	3-1-2009
411-350-0060	3-1-2009	Am. & Ren.	4-1-2009	413-200-0281(T)	2-2-2009	Repeal	3-1-2009
411-350-0070	3-1-2009	Repeal	4-1-2009	413-200-0283	2-2-2009	Amend	3-1-2009
411-350-0080	3-1-2009	Amend	4-1-2009	413-200-0283(T)	2-2-2009	Repeal	3-1-2009
411-350-0090	3-1-2009	Repeal	4-1-2009	413-200-0287	2-2-2009	Amend	3-1-2009
411-350-0100	3-1-2009	Amend	4-1-2009	413-200-0287(T)	2-2-2009	Repeal	3-1-2009
411-350-0110	3-1-2009	Amend	4-1-2009	413-200-0292	2-2-2009	Amend	3-1-2009
411-350-0115	3-1-2009	Adopt	4-1-2009	413-200-0292(T)	2-2-2009	Repeal	3-1-2009
411-350-0120	3-1-2009	Amend	4-1-2009	413-200-0296	2-2-2009	Amend	3-1-2009
413-050-0000	3-19-2009	Amend	4-1-2009	413-200-0301	2-2-2009	Amend	3-1-2009
413-050-0005	3-19-2009	Amend	4-1-2009	413-200-0305	2-2-2009	Amend	3-1-2009
413-050-0010	3-19-2009	Amend	4-1-2009	413-200-0306	2-2-2009	Amend	3-1-2009
413-050-0020	3-19-2009	Amend	4-1-2009	413-200-0306(T)	2-2-2009	Repeal	3-1-2009
413-050-0030	3-19-2009	Amend	4-1-2009	413-200-0308	2-2-2009	Amend	3-1-2009
413-050-0040	3-19-2009	Amend	4-1-2009	413-200-0314	2-2-2009	Amend	3-1-2009
413-050-0050	3-19-2009	Amend	4-1-2009	413-200-0314(T)	2-2-2009	Repeal	3-1-2009
413-070-0900	3-31-2009	Amend(T)	5-1-2009	413-200-0335	2-2-2009	Amend	3-1-2009
413-070-0905	3-31-2009	Amend(T)	5-1-2009	413-200-0354	2-2-2009	Amend	3-1-2009
413-070-0910	3-31-2009	Suspend	5-1-2009	413-200-0358	2-2-2009	Amend	3-1-2009
413-070-0915	3-31-2009	Amend(T)	5-1-2009	413-200-0362	2-2-2009	Amend	3-1-2009
413-070-0917	3-31-2009	Amend(T)	5-1-2009	413-200-0371	2-2-2009	Amend	3-1-2009
413-070-0920	3-31-2009	Amend(T)	5-1-2009	413-200-0371(T)	2-2-2009	Repeal	3-1-2009
413-070-0925	3-31-2009	Amend(T)	5-1-2009	413-200-0379	2-2-2009	Amend	3-1-2009
413-070-0930	3-31-2009	Amend(T)	5-1-2009	413-200-0383	2-2-2009	Amend	3-1-2009
413-070-0935	3-31-2009	Amend(T)	5-1-2009	413-200-0383(T)	2-2-2009	Repeal	3-1-2009
413-070-0937	3-31-2009	Amend(T)	5-1-2009	413-200-0386	2-2-2009	Amend	3-1-2009
413-070-0940	3-31-2009	Amend(T)	5-1-2009	413-200-0388	2-2-2009	Amend	3-1-2009
413-070-0945	3-31-2009	Amend(T)	5-1-2009	413-200-0390	2-2-2009	Amend	3-1-2009
413-070-0950	3-31-2009	Suspend	5-1-2009	413-200-0393	2-2-2009	Amend	3-1-2009
413-070-0955	3-31-2009	Amend(T)	5-1-2009	413-200-0395	2-2-2009	Amend	3-1-2009
413-070-0960	3-31-2009	Amend(T)	5-1-2009	413-200-0396	2-2-2009	Amend	3-1-2009
413-070-0965	3-31-2009	Amend(T)	5-1-2009	416-340-0010	4-17-2009	Amend	5-1-2009
413-070-0970	3-31-2009	Amend(T)	5-1-2009	416-340-0020	4-17-2009	Amend	5-1-2009
413-070-0980	3-31-2009	Amend(T)	5-1-2009	416-340-0030	4-17-2009	Amend	5-1-2009
413-070-0981	3-31-2009	Suspend	5-1-2009	416-340-0040	4-17-2009	Amend	5-1-2009
413-120-0400	2-2-2009	Amend	3-1-2009	416-340-0060	4-17-2009	Amend	5-1-2009
413-120-0400(T)	2-2-2009	Repeal	3-1-2009	416-340-0070	4-17-2009	Amend	5-1-2009
413-120-0410	2-2-2009	Repeal	3-1-2009	416-530-0070	2-2-2009	Amend	3-1-2009
413-120-0420	2-2-2009	Amend	3-1-2009	423-001-0006	12-12-2008	Amend(T)	1-1-2009
413-120-0420(T)	2-2-2009	Repeal	3-1-2009	423-010-0023	12-12-2008	Amend	1-1-2009
413-120-0440	2-2-2009	Amend	3-1-2009	436-009-0005	1-1-2009	Amend	1-1-2009
413-120-0440(T)	2-2-2009	Repeal	3-1-2009	436-009-0008	1-1-2009	Amend	1-1-2009
413-120-0450	2-2-2009	Amend	3-1-2009	436-009-0018	1-1-2009	Adopt	1-1-2009
413-120-0450(T)	2-2-2009	Repeal	3-1-2009	436-009-0020	1-1-2009	Amend	1-1-2009
413-120-0455	2-2-2009	Amend	3-1-2009	436-009-0022	1-1-2009	Amend	1-1-2009
413-120-0455(T)	2-2-2009	Repeal	3-1-2009	436-009-0030	1-1-2009	Amend	1-1-2009
413-120-0460	2-2-2009	Amend	3-1-2009	436-009-0035	1-1-2009	Amend	1-1-2009
413-120-0460(T)	2-2-2009	Repeal	3-1-2009	436-009-0040	1-1-2009	Amend	1-1-2009
413-120-0470	2-2-2009	Amend	3-1-2009	436-009-0070	1-1-2009	Amend	1-1-2009
413-120-0470(T)	2-2-2009	Repeal	3-1-2009	436-009-0080	1-1-2009	Amend	1-1-2009
413-200-0270	2-2-2009	Amend	3-1-2009	436-009-0090	1-1-2009	Amend	1-1-2009
413-200-0272	2-2-2009	Amend	3-1-2009	436-009-0095	1-1-2009	Adopt	1-1-2009
413-200-0272(T)	2-2-2009	Repeal	3-1-2009	436-009-0100	1-1-2009	Amend	1-1-2009
413-200-0274	2-2-2009	Amend	3-1-2009	436-015-0007	1-1-2009	Adopt	1-1-2009
413-200-0274(T)	2-2-2009	Repeal	3-1-2009	436-015-0120	1-1-2009	Amend	1-1-2009
413-200-0276	2-2-2009	Amend	3-1-2009	436-060-0005	1-1-2009	Amend	1-1-2009
413-200-0278	2-2-2009	Amend	3-1-2009	436-060-0009	1-1-2009	Amend	1-1-2009

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436-060-0017	1-1-2009	Amend	1-1-2009	459-005-0545	11-26-2008	Amend	1-1-2009
436-060-0018	1-1-2009	Amend	1-1-2009	459-007-0001	4-6-2009	Amend	5-1-2009
436-060-0020	1-1-2009	Amend	1-1-2009	459-007-0005	4-6-2009	Amend	6-1-2009
436-060-0025	1-1-2009	Amend	1-1-2009	459-007-0015	4-6-2009	Amend	5-1-2009
436-060-0035	1-1-2009	Amend	1-1-2009	459-007-0020	4-6-2009	Amend	5-1-2009
436-060-0060	1-1-2009	Amend	1-1-2009	459-007-0025	4-6-2009	Amend	5-1-2009
436-060-0105	1-1-2009	Amend	1-1-2009	459-007-0050	4-6-2009	Amend	5-1-2009
436-060-0135	1-1-2009	Amend	1-1-2009	459-007-0060	4-6-2009	Amend	5-1-2009
436-060-0137	1-1-2009	Amend	1-1-2009	459-007-0080	4-6-2009	Amend	5-1-2009
436-060-0147	1-1-2009	Amend	1-1-2009	459-007-0110	4-6-2009	Amend	5-1-2009
436-060-0150	1-1-2009	Amend	1-1-2009	459-007-0230	4-6-2009	Amend	5-1-2009
436-060-0153	1-1-2009	Adopt	1-1-2009	459-007-0240	4-6-2009	Amend	5-1-2009
436-060-0155	1-1-2009	Amend	1-1-2009	459-007-0250	4-6-2009	Amend	5-1-2009
436-060-0500	1-1-2009	Amend	1-1-2009	459-007-0300	4-6-2009	Amend	5-1-2009
437-001-0015	2-3-2009	Amend	3-1-2009	459-007-0320	4-6-2009	Adopt	6-1-2009
437-001-0160	2-3-2009	Amend	3-1-2009	459-007-0330	4-6-2009	Adopt	6-1-2009
437-001-0205	2-3-2009	Amend	3-1-2009	459-007-0340	4-6-2009	Adopt	6-1-2009
437-001-0760	2-3-2009	Amend	3-1-2009	459-007-0400	4-6-2009	Adopt	6-1-2009
437-001-1015	2-3-2009	Amend	3-1-2009	459-007-0410	4-6-2009	Adopt	6-1-2009
437-001-1020	2-3-2009	Amend	3-1-2009	459-007-0420	4-6-2009	Adopt	6-1-2009
437-002-0067	4-17-2009	Repeal	5-1-2009	459-007-0900	4-6-2009	Amend	5-1-2009
437-002-0069	4-17-2009	Repeal	5-1-2009	459-010-0010	11-26-2008	Amend	1-1-2009
437-002-0071	4-17-2009	Repeal	5-1-2009	459-011-0100	2-12-2009	Amend	3-1-2009
437-002-0072	4-17-2009	Adopt	5-1-2009	459-011-0110	2-12-2009	Amend	3-1-2009
437-002-0073	4-17-2009	Repeal	5-1-2009	459-013-0260	11-26-2008	Amend	1-1-2009
437-002-0074	4-17-2009	Adopt	5-1-2009	459-015-0001	2-12-2009	Amend	3-1-2009
437-002-0075	4-17-2009	Repeal	5-1-2009	459-017-0060	4-6-2009	Amend	5-1-2009
437-002-0076	4-17-2009	Adopt	5-1-2009	459-030-0011	2-12-2009	Amend	3-1-2009
437-002-0187	12-31-2008	Amend	2-1-2009	459-030-0025	2-12-2009	Amend	3-1-2009
437-002-0320	4-17-2009	Amend	5-1-2009	459-030-0030	2-12-2009	Amend	3-1-2009
437-004-1120	1-26-2009	Amend	3-1-2009	459-050-0037	11-26-2008	Amend	1-1-2009
441-025-0060	2-3-2009	Adopt	3-1-2009	459-050-0075	2-12-2009	Amend	3-1-2009
441-500-0020	2-3-2009	Amend	3-1-2009	459-070-0001	2-12-2009	Amend	3-1-2009
441-730-0030	2-3-2009	Amend	3-1-2009	459-075-0175	11-26-2008	Adopt	1-1-2009
441-865-0025	12-10-2008	Adopt	1-1-2009	459-076-0001	2-12-2009	Amend	3-1-2009
442-001-0000	1-1-2009	Amend	2-1-2009	459-080-0100	2-12-2009	Amend	3-1-2009
442-001-0005	1-1-2009	Amend	2-1-2009	459-080-0200	4-6-2009	Amend	6-1-2009
442-001-0010	1-1-2009	Repeal	2-1-2009	459-080-0250	4-6-2009	Amend	6-1-2009
442-001-0015	1-1-2009	Repeal	2-1-2009	461-001-0000	1-1-2009	Amend	2-1-2009
442-001-0050	1-1-2009	Adopt	2-1-2009	461-001-0000	4-1-2009	Amend	5-1-2009
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442-001-0080	1-1-2009	Adopt	2-1-2009	461-110-0330	1-1-2009	Amend	2-1-2009
442-001-0090	1-1-2009	Adopt	2-1-2009	461-110-0330	5-1-2009	Amend(T)	6-1-2009
442-001-0100	1-1-2009	Adopt	2-1-2009	461-110-0350	1-1-2009	Amend	2-1-2009
442-001-0110	1-1-2009	Adopt	2-1-2009	461-110-0350	4-1-2009	Amend	5-1-2009
442-001-0120	1-1-2009	Adopt	2-1-2009	461-110-0370	4-1-2009	Amend	5-1-2009
442-001-0130	1-1-2009	Adopt	2-1-2009	461-110-0530	5-1-2009	Amend(T)	6-1-2009
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442-001-0150	1-1-2009	Adopt	2-1-2009	461-115-0530	1-1-2009	Amend	2-1-2009
442-001-0160	1-1-2009	Adopt	2-1-2009	461-115-0705	5-6-2009	Amend(T)	6-1-2009
443-002-0070	2-12-2009	Amend(T)	3-1-2009	461-120-0110	4-1-2009	Amend(T)	4-1-2009
443-002-0070	4-15-2009	Amend	5-1-2009	461-120-0110	4-1-2009	Amend(T)	5-1-2009
443-002-0070(T)	4-15-2009	Repeal	5-1-2009	461-120-0110(T)	4-1-2009	Suspend	5-1-2009
443-002-0180	4-15-2009	Amend	5-1-2009	461-120-0125	1-1-2009	Amend(T)	2-1-2009
459-005-0001	2-12-2009	Amend	3-1-2009	461-120-0125	4-1-2009	Amend	5-1-2009

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461-130-0335	1-1-2009	Amend	2-1-2009	461-155-0526	1-1-2009	Amend	2-1-2009
461-135-0010	1-1-2009	Amend	2-1-2009	461-155-0526(T)	1-1-2009	Repeal	2-1-2009
461-135-0010	4-1-2009	Amend(T)	5-1-2009	461-155-0600	1-1-2009	Amend	2-1-2009
461-135-0010	5-6-2009	Amend(T)	6-1-2009	461-155-0600(T)	1-1-2009	Repeal	2-1-2009
461-135-0010(T)	5-6-2009	Suspend	6-1-2009	461-155-0610	1-1-2009	Amend	2-1-2009
461-135-0070	5-1-2009	Amend(T)	6-1-2009	461-155-0610(T)	1-1-2009	Repeal	2-1-2009
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461-135-0082	5-1-2009	Amend(T)	6-1-2009	461-155-0710	1-1-2009	Adopt	2-1-2009
461-135-0085	1-1-2009	Amend	2-1-2009	461-155-0710(T)	1-1-2009	Repeal	2-1-2009
461-135-0089	1-1-2009	Amend	2-1-2009	461-160-0040	4-1-2009	Amend(T)	4-1-2009
461-135-0400	4-1-2009	Amend(T)	4-1-2009	461-160-0060	4-1-2009	Amend	5-1-2009
461-135-0400	4-1-2009	Amend(T)	5-1-2009	461-160-0100	1-1-2009	Amend	2-1-2009
461-135-0400(T)	4-1-2009	Suspend	5-1-2009	461-160-0410	1-1-2009	Amend	2-1-2009
461-135-0405	5-1-2009	Amend(T)	6-1-2009	461-160-0410	4-1-2009	Amend	5-1-2009
461-135-0475	4-1-2009	Amend(T)	5-1-2009	461-160-0550	1-1-2009	Amend(T)	2-1-2009
461-135-0730	1-1-2009	Amend	2-1-2009	461-160-0550	4-1-2009	Amend	5-1-2009
461-135-0745	1-1-2009	Amend	2-1-2009	461-160-0550(T)	4-1-2009	Repeal	5-1-2009
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461-135-0900	5-1-2009	Amend(T)	6-1-2009	461-160-0551(T)	4-1-2009	Repeal	5-1-2009
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461-135-1175	4-1-2009	Amend	5-1-2009	461-160-0620	1-1-2009	Amend	2-1-2009
461-135-1195	1-1-2009	Amend	2-1-2009	461-165-0030	1-1-2009	Amend	2-1-2009
461-135-1230	4-1-2009	Amend	5-1-2009	461-165-0060	4-1-2009	Amend	5-1-2009
461-135-1250	1-1-2009	Amend(T)	2-1-2009	461-165-0060	4-1-2009	Amend(T)	5-1-2009
461-135-1250	4-1-2009	Amend	5-1-2009	461-165-0060(T)	4-1-2009	Repeal	5-1-2009
461-135-1250(T)	4-1-2009	Repeal	5-1-2009	461-165-0180	4-1-2009	Amend	5-1-2009
461-140-0040	4-1-2009	Amend	5-1-2009	461-165-0410	4-1-2009	Amend	5-1-2009
461-145-0143	3-3-2009	Adopt(T)	4-1-2009	461-165-0420	4-1-2009	Amend	5-1-2009
461-145-0380	1-1-2009	Amend	2-1-2009	461-170-0010	1-1-2009	Amend	2-1-2009
461-145-0455	4-1-2009	Amend	5-1-2009	461-170-0011	4-1-2009	Amend	5-1-2009
461-145-0460	4-1-2009	Amend	5-1-2009	461-170-0015	1-1-2009	Am. & Ren.	2-1-2009
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461-150-0048	1-1-2009	Repeal	2-1-2009	461-170-0101	4-1-2009	Amend	5-1-2009
461-150-0049	1-1-2009	Amend	2-1-2009	461-170-0102	1-1-2009	Amend	2-1-2009
461-150-0050	1-1-2009	Amend	2-1-2009	461-170-0102	4-1-2009	Amend	5-1-2009
461-155-0030	5-1-2009	Amend(T)	6-1-2009	461-170-0103	4-1-2009	Amend	5-1-2009
461-155-0150	4-1-2009	Amend(T)	4-1-2009	461-170-0104	4-1-2009	Amend	5-1-2009
461-155-0180	1-27-2009	Amend	3-1-2009	461-170-0120	1-1-2009	Amend	2-1-2009
461-155-0190	4-1-2009	Amend(T)	5-1-2009	461-170-0150	1-1-2009	Amend	2-1-2009
461-155-0235	1-27-2009	Amend	3-1-2009	461-170-0150	4-1-2009	Amend	5-1-2009
461-155-0250	1-1-2009	Amend	2-1-2009	461-170-0160	1-1-2009	Amend	2-1-2009
461-155-0250	3-1-2009	Amend(T)	4-1-2009	461-170-0160	4-1-2009	Amend	5-1-2009
461-155-0270	1-1-2009	Amend	2-1-2009	461-170-0170	1-1-2009	Repeal	2-1-2009
461-155-0290	4-1-2009	Amend(T)	5-1-2009	461-170-0200	1-1-2009	Amend	2-1-2009
461-155-0291	4-1-2009	Amend(T)	5-1-2009	461-175-0220	1-1-2009	Amend	2-1-2009
461-155-0295	1-1-2009	Amend	2-1-2009	461-175-0240	1-1-2009	Amend	2-1-2009
461-155-0295	4-1-2009	Amend(T)	5-1-2009	461-175-0270	1-1-2009	Amend	2-1-2009
461-155-0300	1-1-2009	Amend	2-1-2009	461-175-0280	1-1-2009	Amend	2-1-2009
461-155-0320	1-1-2009	Amend	2-1-2009	461-175-0280	4-1-2009	Amend	5-1-2009

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461-180-0005	1-1-2009	Amend	2-1-2009	543-060-0030	3-2-2009	Amend	4-1-2009
461-180-0006	4-1-2009	Amend	5-1-2009	543-060-0040	3-2-2009	Amend	4-1-2009
461-180-0070	4-1-2009	Amend	5-1-2009	543-060-0060	3-2-2009	Amend	4-1-2009
461-180-0090	1-1-2009	Amend	2-1-2009	543-060-0070	3-2-2009	Adopt	4-1-2009
461-180-0125	1-1-2009	Amend	2-1-2009	571-060-0005	7-1-2009	Amend	6-1-2009
461-190-0360	5-1-2009	Amend(T)	6-1-2009	574-050-0005	2-13-2009	Amend	3-1-2009
461-193-0000	4-1-2009	Amend	5-1-2009	577-060-0020	5-14-2009	Amend(T)	6-1-2009
461-193-0001	4-1-2009	Repeal	5-1-2009	579-020-0006	3-12-2009	Amend	4-1-2009
461-193-0005	4-1-2009	Repeal	5-1-2009	580-021-0027	3-13-2009	Adopt(T)	4-1-2009
461-193-0007	4-1-2009	Repeal	5-1-2009	580-040-0035	1-22-2009	Amend	3-1-2009
461-193-0010	4-1-2009	Amend	5-1-2009	580-040-0040	2-20-2009	Amend(T)	4-1-2009
461-193-0016	4-1-2009	Repeal	5-1-2009	580-040-0040	3-13-2009	Amend(T)	4-1-2009
461-193-0026	4-1-2009	Repeal	5-1-2009	580-040-0040(T)	3-13-2009	Suspend	4-1-2009
461-193-0031	4-1-2009	Amend	5-1-2009	581-001-0100	12-19-2008	Amend	2-1-2009
461-193-0031	5-1-2009	Amend(T)	6-1-2009	581-011-0136	2-24-2009	Adopt(T)	4-1-2009
461-193-0040	4-1-2009	Repeal	5-1-2009	581-011-0142	2-24-2009	Adopt(T)	4-1-2009
461-193-0042	4-1-2009	Amend	5-1-2009	581-022-0610	12-19-2008	Amend	2-1-2009
461-193-0046	4-1-2009	Repeal	5-1-2009	581-022-0711	12-19-2008	Adopt	2-1-2009
461-193-0130	4-1-2009	Amend	5-1-2009	581-022-1131	4-23-2009	Amend	6-1-2009
461-193-0185	4-1-2009	Amend	5-1-2009	582-001-0003	12-19-2008	Amend(T)	2-1-2009
461-193-0190	4-1-2009	Amend	5-1-2009	582-001-0003	3-27-2009	Amend	5-1-2009
461-193-0221	4-1-2009	Amend	5-1-2009	582-001-0003(T)	3-27-2009	Repeal	5-1-2009
461-193-0240	4-1-2009	Amend	5-1-2009	582-001-0005	12-19-2008	Amend(T)	2-1-2009
461-193-0246	4-1-2009	Amend	5-1-2009	582-001-0005	3-27-2009	Amend	5-1-2009
461-193-0470	4-1-2009	Amend	5-1-2009	582-001-0005(T)	3-27-2009	Repeal	5-1-2009
461-193-0560	4-1-2009	Amend	5-1-2009	582-001-0010	12-19-2008	Amend(T)	2-1-2009
461-193-0610	4-1-2009	Repeal	5-1-2009	582-001-0010	3-27-2009	Amend	5-1-2009
461-193-0640	4-1-2009	Repeal	5-1-2009	582-001-0010(T)	3-27-2009	Repeal	5-1-2009
461-193-0650	4-1-2009	Amend	5-1-2009	582-010-0005	2-11-2009	Suspend	3-1-2009
461-193-0660	4-1-2009	Repeal	5-1-2009	582-010-0010	2-11-2009	Suspend	3-1-2009
461-193-0670	4-1-2009	Amend	5-1-2009	582-010-0015	2-11-2009	Suspend	3-1-2009
461-193-0690	4-1-2009	Amend	5-1-2009	582-010-0020	2-11-2009	Suspend	3-1-2009
461-193-0890	4-1-2009	Amend	5-1-2009	582-010-0021	2-11-2009	Suspend	3-1-2009
461-193-0940	4-1-2009	Amend	5-1-2009	582-010-0022	2-11-2009	Suspend	3-1-2009
461-193-0960	4-1-2009	Amend	5-1-2009	582-010-0025	2-11-2009	Suspend	3-1-2009
461-193-1200	4-1-2009	Amend	5-1-2009	582-010-0030	2-11-2009	Suspend	3-1-2009
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461-193-1610	4-1-2009	Repeal	5-1-2009	582-070-0010	2-11-2009	Amend(T)	3-1-2009
461-195-0521	4-1-2009	Amend(T)	5-1-2009	582-070-0020	2-11-2009	Amend(T)	3-1-2009
462-210-0030	7-1-2009	Amend	6-1-2009	582-080-0010	2-11-2009	Amend(T)	3-1-2009
462-220-0030	7-1-2009	Amend	6-1-2009	582-080-0020	2-11-2009	Amend(T)	3-1-2009
462-220-0070	7-1-2009	Amend	6-1-2009	582-080-0030	2-11-2009	Amend(T)	3-1-2009
471-010-0025	12-1-2008	Adopt	1-1-2009	582-080-0040	2-11-2009	Amend(T)	3-1-2009
471-010-0045	12-1-2008	Adopt	1-1-2009	582-080-0050	2-11-2009	Amend(T)	3-1-2009
471-031-0072	12-1-2008	Amend	1-1-2009	582-085-0004	2-11-2009	Suspend	3-1-2009
471-031-0151	12-1-2008	Amend	1-1-2009	582-100-0040	12-19-2008	Amend(T)	2-1-2009
471-031-0190	12-1-2008	Adopt	1-1-2009	582-100-0040	3-27-2009	Amend	5-1-2009
471-031-0195	12-1-2008	Adopt	1-1-2009	582-100-0040(T)	3-27-2009	Repeal	5-1-2009
471-031-0200	12-1-2008	Adopt	1-1-2009	584-005-0005	5-15-2009	Amend(T)	6-1-2009
471-031-0205	12-1-2008	Adopt	1-1-2009	584-021-0105	5-15-2009	Amend(T)	6-1-2009
471-031-0210	12-1-2008	Adopt	1-1-2009	584-021-0140	5-15-2009	Amend(T)	6-1-2009
471-031-0215	12-1-2008	Adopt	1-1-2009	584-021-0150	5-15-2009	Amend(T)	6-1-2009
471-031-0220	12-1-2008	Adopt	1-1-2009	584-021-0210	5-15-2009	Amend(T)	6-1-2009
471-031-0225	12-1-2008	Adopt	1-1-2009	584-036-0010	3-12-2009	Amend	4-1-2009
471-031-0230	12-1-2008	Adopt	1-1-2009	584-036-0015	3-12-2009	Amend	4-1-2009
543-060-0000	3-2-2009	Amend	4-1-2009	584-036-0055	2-27-2009	Amend(T)	4-1-2009
543-060-0010	3-2-2009	Amend	4-1-2009	584-036-0080	3-12-2009	Amend	4-1-2009

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584-040-0005	5-15-2009	Amend(T)	6-1-2009	585-020-0060	4-13-2009	Amend	5-1-2009
584-048-0006	5-15-2009	Amend(T)	6-1-2009	589-020-0225	12-29-2008	Amend	2-1-2009
584-048-0010	5-15-2009	Suspend	6-1-2009	603-052-0129	2-13-2009	Amend	3-1-2009
584-048-0015	5-15-2009	Suspend	6-1-2009	603-052-0153	2-13-2009	Amend	3-1-2009
584-048-0020	5-15-2009	Suspend	6-1-2009	603-052-0160	2-13-2009	Amend	3-1-2009
584-048-0025	5-15-2009	Amend(T)	6-1-2009	603-052-0201	2-13-2009	Amend	3-1-2009
584-048-0030	5-15-2009	Amend(T)	6-1-2009	603-052-0265	2-13-2009	Amend	3-1-2009
584-048-0035	5-15-2009	Amend(T)	6-1-2009	603-052-0360	2-13-2009	Amend	3-1-2009
584-048-0067	5-15-2009	Suspend	6-1-2009	603-052-1020	4-9-2009	Amend	5-1-2009
584-048-0070	5-15-2009	Amend(T)	6-1-2009	603-052-1230	4-9-2009	Amend	5-1-2009
584-048-0085	5-15-2009	Amend(T)	6-1-2009	603-052-1250	4-9-2009	Amend	5-1-2009
584-048-0090	5-15-2009	Suspend	6-1-2009	603-057-0500	1-23-2009	Amend(T)	3-1-2009
584-048-0095	5-15-2009	Amend(T)	6-1-2009	603-057-0500	5-7-2009	Amend	6-1-2009
584-048-0105	5-15-2009	Suspend	6-1-2009	603-057-0500(T)	5-7-2009	Repeal	6-1-2009
584-048-0110	5-15-2009	Amend(T)	6-1-2009	603-057-0502	1-23-2009	Adopt(T)	3-1-2009
584-048-0115	5-15-2009	Suspend	6-1-2009	603-057-0502	5-7-2009	Adopt	6-1-2009
584-050-0004	3-12-2009	Am. & Ren.	4-1-2009	603-057-0502(T)	5-7-2009	Repeal	6-1-2009
584-050-0040	3-12-2009	Amend	4-1-2009	603-057-0510	1-23-2009	Amend(T)	3-1-2009
584-050-0042	3-12-2009	Am. & Ren.	4-1-2009	603-057-0510	5-7-2009	Amend	6-1-2009
584-050-0043	3-12-2009	Am. & Ren.	4-1-2009	603-057-0510(T)	5-7-2009	Repeal	6-1-2009
584-050-0100	3-12-2009	Adopt	4-1-2009	603-057-0515	1-23-2009	Suspend	3-1-2009
584-052-0027	3-12-2009	Amend	4-1-2009	603-057-0515	5-7-2009	Repeal	6-1-2009
584-052-0030	3-12-2009	Amend	4-1-2009	603-057-0520	1-23-2009	Amend(T)	3-1-2009
584-052-0031	3-12-2009	Amend	4-1-2009	603-057-0520	5-7-2009	Amend	6-1-2009
584-052-0032	3-12-2009	Amend	4-1-2009	603-057-0520(T)	5-7-2009	Repeal	6-1-2009
584-052-0033	3-12-2009	Amend	4-1-2009	603-057-0525	1-23-2009	Amend(T)	3-1-2009
584-060-0002	5-15-2009	Amend(T)	6-1-2009	603-057-0525	5-7-2009	Amend	6-1-2009
584-060-0012	5-15-2009	Amend(T)	6-1-2009	603-057-0525(T)	5-7-2009	Repeal	6-1-2009
584-060-0013	5-15-2009	Amend(T)	6-1-2009	603-057-0530	1-23-2009	Amend(T)	3-1-2009
584-060-0014	5-15-2009	Amend(T)	6-1-2009	603-057-0530	5-7-2009	Amend	6-1-2009
584-060-0022	5-15-2009	Amend(T)	6-1-2009	603-057-0530(T)	5-7-2009	Repeal	6-1-2009
584-060-0040	3-12-2009	Repeal	4-1-2009	603-057-0532	1-23-2009	Adopt(T)	3-1-2009
584-060-0091	3-12-2009	Repeal	4-1-2009	603-057-0532	5-7-2009	Adopt	6-1-2009
584-060-0171	3-12-2009	Amend	4-1-2009	603-057-0532(T)	5-7-2009	Repeal	6-1-2009
584-060-0171	5-15-2009	Amend(T)	6-1-2009	603-074-0080	1-30-2009	Amend	3-1-2009
584-060-0181	3-12-2009	Amend	4-1-2009	619-005-0010	12-17-2008	Adopt	2-1-2009
584-060-0182	3-12-2009	Adopt	4-1-2009	619-005-0020	12-17-2008	Adopt	2-1-2009
584-060-0210	3-12-2009	Amend	4-1-2009	619-005-0030	12-17-2008	Adopt	2-1-2009
584-070-0012	5-15-2009	Amend(T)	6-1-2009	619-005-0040	12-17-2008	Adopt	2-1-2009
584-070-0014	5-15-2009	Amend(T)	6-1-2009	619-005-0050	12-17-2008	Adopt	2-1-2009
584-070-0022	5-15-2009	Amend(T)	6-1-2009	619-005-0060	12-17-2008	Adopt	2-1-2009
584-070-0211	5-15-2009	Amend(T)	6-1-2009	620-010-0020	3-1-2009	Amend	2-1-2009
584-070-0221	5-15-2009	Amend(T)	6-1-2009	620-010-0020(T)	3-1-2009	Repeal	2-1-2009
584-070-0310	5-15-2009	Amend(T)	6-1-2009	629-021-0700	5-11-2009	Amend	6-1-2009
584-080-0002	5-15-2009	Amend(T)	6-1-2009	629-022-0030	2-1-2009	Amend	2-1-2009
584-080-0012	5-15-2009	Amend(T)	6-1-2009	629-022-0035	2-1-2009	Adopt	2-1-2009
584-080-0022	5-15-2009	Amend(T)	6-1-2009	629-022-0040	2-1-2009	Amend	2-1-2009
584-080-0031	5-15-2009	Amend(T)	6-1-2009	629-022-0050	2-1-2009	Adopt	2-1-2009
584-080-0161	5-15-2009	Amend(T)	6-1-2009	629-022-0060	2-1-2009	Adopt	2-1-2009
584-100-0006	3-12-2009	Amend	4-1-2009	629-022-0070	2-1-2009	Adopt	2-1-2009
585-010-0310	4-13-2009	Amend	5-1-2009	629-022-0080	2-1-2009	Adopt	2-1-2009
585-020-0005	4-13-2009	Amend	5-1-2009	629-022-0100	2-1-2009	Repeal	2-1-2009
585-020-0020	4-13-2009	Amend	5-1-2009	629-022-0110	2-1-2009	Amend	2-1-2009
585-020-0025	4-13-2009	Amend	5-1-2009	629-022-0120	2-1-2009	Amend	2-1-2009
585-020-0030	4-13-2009	Amend	5-1-2009	629-022-0130	2-1-2009	Amend	2-1-2009
585-020-0040	4-13-2009	Amend	5-1-2009	629-022-0140	2-1-2009	Amend	2-1-2009
585-020-0045	4-13-2009	Amend	5-1-2009	629-022-0150	2-1-2009	Amend	2-1-2009

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629-022-0210	2-1-2009	Amend	2-1-2009	635-004-0019	12-4-2008	Amend(T)	1-1-2009
629-022-0220	2-1-2009	Amend	2-1-2009	635-004-0019	1-5-2009	Amend(T)	2-1-2009
629-022-0230	2-1-2009	Amend	2-1-2009	635-004-0019	3-18-2009	Amend(T)	5-1-2009
629-022-0250	2-1-2009	Amend	2-1-2009	635-004-0019	4-27-2009	Amend	6-1-2009
629-022-0300	2-1-2009	Amend	2-1-2009	635-004-0019	5-1-2009	Amend(T)	6-1-2009
629-022-0320	2-1-2009	Amend	2-1-2009	635-004-0019(T)	12-4-2008	Suspend	1-1-2009
629-022-0380	2-1-2009	Amend	2-1-2009	635-004-0019(T)	3-18-2009	Suspend	5-1-2009
629-022-0390	2-1-2009	Amend	2-1-2009	635-004-0019(T)	4-27-2009	Repeal	6-1-2009
629-022-0400	2-1-2009	Amend	2-1-2009	635-004-0020	11-21-2008	Amend	1-1-2009
629-022-0410	2-1-2009	Amend	2-1-2009	635-004-0027	1-1-2009	Amend(T)	2-1-2009
629-022-0500	2-1-2009	Repeal	2-1-2009	635-004-0033	1-1-2009	Amend(T)	2-1-2009
629-022-0600	2-1-2009	Repeal	2-1-2009	635-004-0033	3-1-2009	Amend(T)	4-1-2009
629-022-0700	2-1-2009	Repeal	2-1-2009	635-004-0033	4-27-2009	Amend	6-1-2009
629-022-0800	2-1-2009	Adopt	2-1-2009	635-004-0033(T)	3-1-2009	Suspend	4-1-2009
629-022-0810	2-1-2009	Adopt	2-1-2009	635-004-0033(T)	4-27-2009	Repeal	6-1-2009
629-022-0820	2-1-2009	Adopt	2-1-2009	635-004-0035	11-21-2008	Amend	1-1-2009
629-022-0830	2-1-2009	Adopt	2-1-2009	635-004-0042	6-1-2009	Adopt(T)	6-1-2009
629-022-0840	2-1-2009	Adopt	2-1-2009	635-004-0048	11-21-2008	Amend	1-1-2009
629-022-0850	2-1-2009	Adopt	2-1-2009	635-004-0050	11-21-2008	Amend	1-1-2009
629-041-0100	3-25-2009	Amend(T)	5-1-2009	635-004-0060	11-21-2008	Amend	1-1-2009
632-030-0005	5-15-2009	Amend	6-1-2009	635-004-0090	1-1-2009	Amend(T)	2-1-2009
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632-030-0015	5-15-2009	Amend	6-1-2009	635-004-0090(T)	4-27-2009	Repeal	6-1-2009
632-030-0016	5-15-2009	Amend	6-1-2009	635-004-0135	11-21-2008	Amend	1-1-2009
632-030-0017	5-15-2009	Amend	6-1-2009	635-004-0170	11-21-2008	Amend	1-1-2009
632-030-0018	5-15-2009	Amend	6-1-2009	635-005-0001	11-21-2008	Amend	1-1-2009
632-030-0019	5-15-2009	Amend	6-1-2009	635-005-0005	11-21-2008	Amend	1-1-2009
632-030-0020	5-15-2009	Amend	6-1-2009	635-005-0005	12-17-2008	Amend	2-1-2009
632-030-0021	5-15-2009	Amend	6-1-2009	635-005-0016	11-21-2008	Amend	1-1-2009
632-030-0022	5-15-2009	Amend	6-1-2009	635-005-0045	11-21-2008	Amend	1-1-2009
632-030-0024	5-15-2009	Amend	6-1-2009	635-005-0047	11-21-2008	Amend	1-1-2009
632-030-0025	5-15-2009	Amend	6-1-2009	635-005-0048	11-21-2008	Amend	1-1-2009
632-030-0026	5-15-2009	Adopt	6-1-2009	635-005-0055	11-21-2008	Amend	1-1-2009
632-030-0027	5-15-2009	Amend	6-1-2009	635-005-0055	12-1-2008	Amend(T)	1-1-2009
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632-030-0033	5-15-2009	Amend	6-1-2009	635-005-0065	11-21-2008	Amend	1-1-2009
632-030-0035	5-15-2009	Amend	6-1-2009	635-005-0065	12-17-2008	Amend	2-1-2009
632-030-0040	5-15-2009	Amend	6-1-2009	635-005-0067	12-17-2008	Amend	2-1-2009
632-030-0041	5-15-2009	Adopt	6-1-2009	635-005-0068	12-17-2008	Adopt	2-1-2009
632-030-0042	5-15-2009	Amend	6-1-2009	635-005-0069	12-17-2008	Adopt	2-1-2009
632-030-0045	5-15-2009	Amend	6-1-2009	635-005-0084	11-21-2008	Amend	1-1-2009
632-030-0049	5-15-2009	Adopt	6-1-2009	635-005-0090	11-21-2008	Amend	1-1-2009
632-030-0052	5-15-2009	Adopt	6-1-2009	635-005-0095	11-21-2008	Amend	1-1-2009
632-030-0056	5-15-2009	Amend	6-1-2009	635-005-0100	11-21-2008	Amend	1-1-2009
632-030-0070	5-15-2009	Amend	6-1-2009	635-005-0135	11-21-2008	Amend	1-1-2009
635-001-0050	1-14-2009	Amend(T)	2-1-2009	635-005-0140	11-21-2008	Amend	1-1-2009
635-003-0004	3-15-2009	Amend(T)	4-1-2009	635-005-0145	11-21-2008	Amend	1-1-2009
635-004-0005	4-27-2009	Amend	6-1-2009	635-005-0180	11-21-2008	Amend	1-1-2009
635-004-0009	4-27-2009	Amend	6-1-2009	635-006-0001	11-21-2008	Amend	1-1-2009
635-004-0012	4-22-2009	Adopt	6-1-2009	635-006-0132	11-21-2008	Amend	1-1-2009
635-004-0014	11-21-2008	Amend	1-1-2009	635-006-0133	11-21-2008	Amend	1-1-2009
635-004-0016	1-1-2009	Amend(T)	2-1-2009	635-006-0145	11-21-2008	Amend	1-1-2009
635-004-0016	2-23-2009	Amend(T)	4-1-2009	635-006-0150	11-21-2008	Amend	1-1-2009
635-004-0016	4-22-2009	Amend	6-1-2009	635-006-0165	11-21-2008	Amend	1-1-2009
635-004-0016(T)	2-23-2009	Suspend	4-1-2009	635-006-0200	11-21-2008	Amend	1-1-2009
635-004-0016(T)	4-22-2009	Repeal	6-1-2009	635-006-0205	11-21-2008	Amend	1-1-2009

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635-006-0210	11-21-2008	Amend	1-1-2009	635-023-0090	1-1-2009	Amend	2-1-2009
635-006-0211	11-21-2008	Amend	1-1-2009	635-023-0095	1-1-2009	Amend	2-1-2009
635-006-0213	11-21-2008	Amend	1-1-2009	635-023-0095	1-1-2009	Amend(T)	2-1-2009
635-006-0215	11-21-2008	Amend	1-1-2009	635-023-0095	2-26-2009	Amend	4-1-2009
635-006-0225	11-21-2008	Amend	1-1-2009	635-023-0095	4-13-2009	Amend(T)	5-1-2009
635-006-0230	11-21-2008	Amend	1-1-2009	635-023-0095(T)	2-26-2009	Repeal	4-1-2009
635-006-0232	1-13-2009	Amend	2-1-2009	635-023-0125	1-1-2009	Amend	2-1-2009
635-006-0235	11-21-2008	Amend	1-1-2009	635-023-0125	2-26-2009	Amend	4-1-2009
635-006-0412	11-21-2008	Amend	1-1-2009	635-023-0125	3-1-2009	Amend(T)	3-1-2009
635-006-0425	11-21-2008	Amend	1-1-2009	635-023-0125	5-15-2009	Amend(T)	6-1-2009
635-006-0810	11-21-2008	Amend	1-1-2009	635-023-0125(T)	2-26-2009	Repeal	4-1-2009
635-006-0850	12-17-2008	Amend	2-1-2009	635-023-0128	1-1-2009	Amend	2-1-2009
635-006-0910	12-17-2008	Amend	2-1-2009	635-023-0130	1-1-2009	Amend	2-1-2009
635-006-1015	4-22-2009	Amend	6-1-2009	635-023-0134	1-1-2009	Amend	2-1-2009
635-006-1035	11-21-2008	Amend	1-1-2009	635-039-0080	1-1-2009	Amend	2-1-2009
635-006-1035	12-17-2008	Amend	2-1-2009	635-039-0080	4-27-2009	Amend	6-1-2009
635-006-1035	4-22-2009	Amend	6-1-2009	635-039-0085	1-1-2009	Amend	2-1-2009
635-006-1075	11-21-2008	Amend	1-1-2009	635-039-0085	4-27-2009	Amend	6-1-2009
635-006-1075	4-22-2009	Amend	6-1-2009	635-039-0090	1-1-2009	Amend	2-1-2009
635-006-1085	12-17-2008	Amend	2-1-2009	635-039-0090	2-2-2009	Amend(T)	3-1-2009
635-006-1085	2-26-2009	Amend(T)	4-1-2009	635-039-0090	4-27-2009	Amend	6-1-2009
635-006-1085	4-22-2009	Amend	6-1-2009	635-039-0090(T)	4-27-2009	Repeal	6-1-2009
635-006-1085(T)	4-22-2009	Repeal	6-1-2009	635-041-0005	11-21-2008	Amend	1-1-2009
635-008-0055	4-27-2009	Amend	6-1-2009	635-041-0010	11-21-2008	Amend	1-1-2009
635-008-0123	4-27-2009	Amend	6-1-2009	635-041-0030	11-21-2008	Amend	1-1-2009
635-008-0140	4-27-2009	Amend	6-1-2009	635-041-0030	2-26-2009	Amend	4-1-2009
635-008-0145	1-15-2009	Amend	2-1-2009	635-041-0040	11-21-2008	Amend	1-1-2009
635-008-0147	3-11-2009	Amend(T)	4-1-2009	635-041-0045	11-21-2008	Amend	1-1-2009
635-008-0147	3-30-2009	Amend(T)	5-1-2009	635-041-0060	11-21-2008	Amend	1-1-2009
635-010-0170	12-9-2008	Amend(T)	1-1-2009	635-041-0061	11-21-2008	Amend	1-1-2009
635-010-0170	5-14-2009	Amend(T)	6-1-2009	635-041-0061	2-26-2009	Amend	4-1-2009
635-010-0170(T)	5-14-2009	Suspend	6-1-2009	635-041-0063	11-21-2008	Amend	1-1-2009
635-011-0100	1-1-2009	Amend	2-1-2009	635-041-0063	2-26-2009	Amend	4-1-2009
635-013-0003	1-1-2009	Amend	2-1-2009	635-041-0065	11-21-2008	Amend	1-1-2009
635-013-0004	1-1-2009	Amend	2-1-2009	635-041-0065	2-2-2009	Amend(T)	3-1-2009
635-013-0009	3-15-2009	Amend(T)	4-1-2009	635-041-0065	2-16-2009	Amend(T)	3-1-2009
635-014-0080	1-1-2009	Amend	2-1-2009	635-041-0065	3-6-2009	Amend(T)	4-1-2009
635-014-0090	1-1-2009	Amend	2-1-2009	635-041-0065(T)	2-16-2009	Suspend	3-1-2009
635-014-0090	5-22-2009	Amend(T)	6-1-2009	635-041-0065(T)	3-6-2009	Suspend	4-1-2009
635-016-0080	1-1-2009	Amend	2-1-2009	635-041-0076	5-16-2009	Amend(T)	6-1-2009
635-016-0090	1-1-2009	Amend	2-1-2009	635-041-0510	11-21-2008	Amend	1-1-2009
635-017-0080	1-1-2009	Amend	2-1-2009	635-041-0520	11-21-2008	Amend	1-1-2009
635-017-0090	1-1-2009	Amend	2-1-2009	635-041-0600	11-21-2008	Amend	1-1-2009
635-017-0090	2-25-2009	Amend	4-1-2009	635-042-0001	11-21-2008	Amend	1-1-2009
635-017-0090	3-1-2009	Amend(T)	3-1-2009	635-042-0007	11-21-2008	Amend	1-1-2009
635-017-0090(T)	2-25-2009	Repeal	4-1-2009	635-042-0022	11-21-2008	Amend	1-1-2009
635-017-0095	1-1-2009	Amend	2-1-2009	635-042-0022	3-27-2009	Amend(T)	5-1-2009
635-017-0095	1-1-2009	Amend(T)	2-1-2009	635-042-0022	4-7-2009	Amend(T)	5-1-2009
635-017-0095	2-25-2009	Amend	4-1-2009	635-042-0022	4-14-2009	Amend(T)	5-1-2009
635-017-0095(T)	2-25-2009	Repeal	4-1-2009	635-042-0022(T)	4-7-2009	Suspend	5-1-2009
635-018-0080	1-1-2009	Amend	2-1-2009	635-042-0022(T)	4-14-2009	Suspend	5-1-2009
635-018-0090	1-1-2009	Amend	2-1-2009	635-042-0110	11-21-2008	Amend	1-1-2009
635-018-0090	4-15-2009	Amend(T)	4-1-2009	635-042-0130	1-1-2009	Amend(T)	2-1-2009
635-019-0080	1-1-2009	Amend	2-1-2009	635-042-0130	2-26-2009	Amend	4-1-2009
635-019-0090	1-1-2009	Amend	2-1-2009	635-042-0130(T)	2-26-2009	Repeal	4-1-2009
635-021-0080	1-1-2009	Amend	2-1-2009	635-042-0133	2-26-2009	Amend	4-1-2009
635-021-0090	1-1-2009	Amend	2-1-2009	635-042-0135	1-1-2009	Amend(T)	2-1-2009

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635-042-0135(T)	2-2-2009	Suspend	3-1-2009	635-195-0000	11-24-2008	Adopt	1-1-2009
635-042-0145	2-15-2009	Amend(T)	3-1-2009	635-195-0010	11-24-2008	Adopt	1-1-2009
635-042-0145	3-11-2009	Amend(T)	4-1-2009	647-010-0010	7-1-2009	Amend	6-1-2009
635-042-0145	5-17-2009	Amend(T)	6-1-2009	660-024-0000	4-16-2009	Amend	5-1-2009
635-042-0145(T)	3-11-2009	Suspend	4-1-2009	660-024-0010	4-16-2009	Amend	5-1-2009
635-042-0145(T)	5-17-2009	Suspend	6-1-2009	660-024-0020	4-16-2009	Amend	5-1-2009
635-042-0160	2-15-2009	Amend(T)	3-1-2009	660-024-0030	4-16-2009	Amend	5-1-2009
635-042-0160	5-17-2009	Amend(T)	6-1-2009	660-024-0040	4-16-2009	Amend	5-1-2009
635-042-0160(T)	5-17-2009	Suspend	6-1-2009	660-024-0050	4-16-2009	Amend	5-1-2009
635-042-0170	2-15-2009	Amend(T)	3-1-2009	660-024-0060	4-16-2009	Amend	5-1-2009
635-042-0180	2-15-2009	Amend(T)	3-1-2009	660-024-0070	4-16-2009	Amend	5-1-2009
635-042-0180	3-6-2009	Amend(T)	4-1-2009	660-024-0080	4-16-2009	Adopt	5-1-2009
635-042-0180	4-7-2009	Amend(T)	5-1-2009	660-033-0120	1-2-2009	Amend	2-1-2009
635-042-0180	5-17-2009	Amend(T)	6-1-2009	660-033-0130	1-2-2009	Amend	2-1-2009
635-042-0180(T)	3-6-2009	Suspend	4-1-2009	660-041-0010	4-2-2009	Amend	5-1-2009
635-042-0180(T)	4-7-2009	Suspend	5-1-2009	660-041-0110	4-2-2009	Amend	5-1-2009
635-042-0180(T)	5-17-2009	Suspend	6-1-2009	660-041-0170	4-2-2009	Adopt	5-1-2009
635-043-0105	4-13-2009	Amend(T)	5-1-2009	690-200-0050	1-2-2009	Amend	2-1-2009
635-045-0000	1-1-2009	Amend	2-1-2009	690-205-0200	1-2-2009	Amend	2-1-2009
635-045-0002	1-1-2009	Amend	2-1-2009	690-205-0205	1-2-2009	Adopt	2-1-2009
635-048-0080	5-7-2009	Amend(T)	6-1-2009	690-215-0005	1-2-2009	Amend	2-1-2009
635-049-0200	5-6-2009	Repeal	6-1-2009	690-215-0006	1-2-2009	Adopt	2-1-2009
635-049-0205	11-24-2008	Amend	1-1-2009	690-215-0025	1-2-2009	Adopt	2-1-2009
635-049-0210	1-1-2009	Repeal	2-1-2009	690-215-0030	1-2-2009	Amend	2-1-2009
635-049-0235	1-1-2009	Adopt	2-1-2009	690-215-0035	1-2-2009	Adopt	2-1-2009
635-049-0255	5-6-2009	Adopt	6-1-2009	690-215-0040	1-2-2009	Amend	2-1-2009
635-055-0035	1-1-2009	Amend	2-1-2009	690-220-0030	1-2-2009	Amend	2-1-2009
635-055-0035	5-15-2009	Amend(T)	4-1-2009	690-220-0040	1-2-2009	Amend	2-1-2009
635-055-0037	1-1-2009	Adopt	2-1-2009	690-220-0050	1-2-2009	Amend	2-1-2009
635-060-0000	1-1-2009	Amend	2-1-2009	690-220-0060	1-2-2009	Repeal	2-1-2009
635-060-0008	5-12-2009	Amend(T)	6-1-2009	690-220-0070	1-2-2009	Amend	2-1-2009
635-060-0008	5-14-2009	Amend(T)	6-1-2009	690-220-0080	1-2-2009	Amend	2-1-2009
635-060-0009	1-1-2009	Amend	2-1-2009	690-220-0115	1-2-2009	Adopt	2-1-2009
635-060-0055	1-1-2009	Amend	2-1-2009	690-240-0010	1-2-2009	Amend	2-1-2009
635-065-0001	1-1-2009	Amend	2-1-2009	690-240-0035	1-2-2009	Amend	2-1-2009
635-065-0401	1-1-2009	Amend	2-1-2009	690-240-0375	1-2-2009	Amend	2-1-2009
635-065-0625	1-1-2009	Amend	2-1-2009	690-240-0385	1-2-2009	Adopt	2-1-2009
635-065-0740	1-1-2009	Amend	2-1-2009	733-030-0006	4-3-2009	Amend	5-1-2009
635-065-0760	1-1-2009	Amend	2-1-2009	733-030-0011	4-3-2009	Amend	5-1-2009
635-065-0765	1-9-2009	Amend	2-1-2009	733-030-0016	4-3-2009	Amend	5-1-2009
635-066-0000	1-1-2009	Amend	2-1-2009	733-030-0021	4-3-2009	Amend	5-1-2009
635-066-0010	1-1-2009	Amend	2-1-2009	733-030-0026	4-3-2009	Amend	5-1-2009
635-066-0020	1-1-2009	Amend	2-1-2009	733-030-0036	4-3-2009	Amend	5-1-2009
635-067-0000	1-1-2009	Amend	2-1-2009	733-030-0045	4-3-2009	Amend	5-1-2009
635-067-0004	1-1-2009	Amend	2-1-2009	733-030-0050	4-3-2009	Amend	5-1-2009
635-068-0000	3-1-2009	Amend	4-1-2009	733-030-0055	4-3-2009	Amend	5-1-2009
635-069-0000	2-3-2009	Amend	3-1-2009	733-030-0060	4-3-2009	Amend	5-1-2009
635-070-0000	4-1-2009	Amend	5-1-2009	733-030-0065	4-3-2009	Amend	5-1-2009
635-071-0000	4-1-2009	Amend	5-1-2009	733-030-0080	4-3-2009	Amend	5-1-2009
635-072-0000	1-1-2009	Amend	2-1-2009	733-030-0085	4-3-2009	Amend	5-1-2009
635-073-0000	2-3-2009	Amend	3-1-2009	733-030-0090	4-3-2009	Amend	5-1-2009
635-073-0065	2-3-2009	Amend	3-1-2009	733-030-0095	4-3-2009	Amend	5-1-2009
635-073-0070	2-3-2009	Amend	3-1-2009	733-030-0100	4-3-2009	Amend	5-1-2009
635-075-0005	5-5-2009	Amend(T)	6-1-2009	733-030-0105	4-3-2009	Amend	5-1-2009
635-080-0050	1-1-2009	Amend	2-1-2009	733-030-0110	4-3-2009	Amend	5-1-2009
635-080-0051	1-1-2009	Amend	2-1-2009	733-030-0115	4-3-2009	Amend	5-1-2009
635-080-0062	1-1-2009	Amend	2-1-2009	733-030-0120	4-3-2009	Amend	5-1-2009

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733-030-0130	4-3-2009	Amend	5-1-2009	735-063-0000	2-20-2009	Adopt	4-1-2009
733-030-0135	4-3-2009	Amend	5-1-2009	735-063-0050	2-20-2009	Amend	4-1-2009
733-030-0140	4-3-2009	Repeal	5-1-2009	735-063-0055	2-20-2009	Repeal	4-1-2009
733-030-0150	4-3-2009	Amend	5-1-2009	735-063-0060	2-20-2009	Amend	4-1-2009
733-030-0155	4-3-2009	Amend	5-1-2009	735-063-0065	2-20-2009	Amend	4-1-2009
733-030-0160	4-3-2009	Amend	5-1-2009	735-063-0070	2-20-2009	Amend	4-1-2009
733-030-0180	4-3-2009	Amend	5-1-2009	735-063-0075	2-20-2009	Amend	4-1-2009
733-030-0190	4-3-2009	Amend	5-1-2009	735-064-0110	12-15-2008	Amend	1-1-2009
733-030-0250	4-3-2009	Amend	5-1-2009	735-070-0043	1-26-2009	Adopt	3-1-2009
733-030-0260	4-3-2009	Amend	5-1-2009	735-070-0043(T)	1-26-2009	Repeal	3-1-2009
733-030-0270	4-3-2009	Amend	5-1-2009	735-150-0005	3-20-2009	Amend	5-1-2009
733-030-0280	4-3-2009	Amend	5-1-2009	735-158-0000	3-20-2009	Amend	5-1-2009
733-030-0290	4-3-2009	Amend	5-1-2009	735-158-0005	3-20-2009	Adopt	5-1-2009
733-030-0300	4-3-2009	Amend	5-1-2009	735-158-0010	3-20-2009	Adopt	5-1-2009
733-030-0320	4-3-2009	Amend	5-1-2009	735-160-0010	2-20-2009	Amend	4-1-2009
733-030-0330	4-3-2009	Amend	5-1-2009	735-160-0011	2-20-2009	Amend	4-1-2009
733-030-0340	4-3-2009	Amend	5-1-2009	735-160-0012	2-20-2009	Repeal	4-1-2009
733-030-0350	4-3-2009	Amend	5-1-2009	735-160-0013	2-20-2009	Repeal	4-1-2009
734-059-0015	2-20-2009	Amend	4-1-2009	735-160-0075	2-20-2009	Amend	4-1-2009
734-060-0000	3-23-2009	Adopt	5-1-2009	735-160-0080	2-20-2009	Amend	4-1-2009
734-060-0010	2-20-2009	Amend	4-1-2009	735-160-0085	2-20-2009	Repeal	4-1-2009
734-060-0105	2-20-2009	Amend	4-1-2009	735-160-0093	2-20-2009	Repeal	4-1-2009
734-060-0175	2-20-2009	Amend	4-1-2009	735-160-0125	2-20-2009	Amend	4-1-2009
734-060-0185	2-20-2009	Amend	4-1-2009	736-004-0062	12-15-2008	Amend	1-1-2009
734-062-0100	3-23-2009	Adopt	5-1-2009	736-010-0040	12-15-2008	Amend	1-1-2009
734-062-0105	3-23-2009	Adopt	5-1-2009	736-010-0055	12-15-2008	Amend	1-1-2009
734-062-0110	3-23-2009	Adopt	5-1-2009	736-015-0020	2-10-2009	Amend	3-1-2009
734-062-0115	3-23-2009	Adopt	5-1-2009	736-015-0040	2-10-2009	Amend	3-1-2009
734-062-0120	3-23-2009	Adopt	5-1-2009	736-018-0045	2-1-2009	Amend	2-1-2009
734-062-0125	3-23-2009	Adopt	5-1-2009	736-018-0045	4-1-2009	Amend	4-1-2009
734-071-0010	12-15-2008	Amend	1-1-2009	736-018-0045	5-1-2009	Amend	5-1-2009
734-072-0010	3-20-2009	Amend	5-1-2009	736-018-0045	5-1-2009	Amend	5-1-2009
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734-073-0120	12-15-2008	Repeal	1-1-2009	736-146-0020	12-15-2008	Amend	1-1-2009
734-075-0010	3-20-2009	Amend	5-1-2009	736-146-0025	12-15-2008	Repeal	1-1-2009
734-078-0015	4-17-2009	Amend	6-1-2009	736-146-0030	12-15-2008	Repeal	1-1-2009
734-078-0017	4-17-2009	Adopt	6-1-2009	736-146-0040	12-15-2008	Repeal	1-1-2009
734-082-0015	3-20-2009	Amend	5-1-2009	736-146-0050	12-15-2008	Amend	1-1-2009
734-082-0025	3-20-2009	Amend	5-1-2009	736-146-0060	12-15-2008	Amend	1-1-2009
734-082-0040	3-20-2009	Amend	5-1-2009	736-146-0070	12-15-2008	Amend	1-1-2009
735-010-0130	1-1-2009	Amend	1-1-2009	736-146-0080	12-15-2008	Amend	1-1-2009
735-010-0130(T)	1-1-2009	Repeal	1-1-2009	736-146-0090	12-15-2008	Amend	1-1-2009
735-032-0036	2-20-2009	Adopt	4-1-2009	736-146-0100	12-15-2008	Amend	1-1-2009
735-062-0005	1-1-2009	Amend	1-1-2009	736-146-0110	12-15-2008	Amend	1-1-2009
735-062-0014	1-1-2009	Adopt	1-1-2009	736-146-0120	12-15-2008	Amend	1-1-2009
735-062-0014(T)	1-1-2009	Repeal	1-1-2009	736-146-0130	12-15-2008	Amend	1-1-2009
735-062-0015	1-1-2009	Amend	1-1-2009	736-146-0140	12-15-2008	Amend	1-1-2009
735-062-0015(T)	1-1-2009	Repeal	1-1-2009	736-147-0010	12-15-2008	Amend	1-1-2009
735-062-0020	1-1-2009	Amend	1-1-2009	736-147-0020	12-15-2008	Repeal	1-1-2009
735-062-0020(T)	1-1-2009	Repeal	1-1-2009	736-147-0030	12-15-2008	Amend	1-1-2009
735-062-0040	2-20-2009	Amend	4-1-2009	736-147-0040	12-15-2008	Adopt	1-1-2009
735-062-0078	2-20-2009	Adopt	4-1-2009	736-147-0050	12-15-2008	Amend	1-1-2009
735-062-0080	2-20-2009	Amend	4-1-2009	736-147-0060	12-15-2008	Amend	1-1-2009
735-062-0096	3-20-2009	Adopt	5-1-2009	736-147-0070	12-15-2008	Adopt	1-1-2009

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736-149-0010	12-15-2008	Amend	1-1-2009	800-025-0030	2-5-2009	Amend	3-1-2009
740-015-0020	12-15-2008	Amend	1-1-2009	800-025-0040	2-5-2009	Amend	3-1-2009
740-015-0040	12-15-2008	Amend	1-1-2009	800-025-0050	2-5-2009	Amend	3-1-2009
740-100-0010	4-1-2009	Amend	5-1-2009	800-025-0060	2-5-2009	Amend	3-1-2009
740-100-0060	4-1-2009	Amend	5-1-2009	800-025-0070	2-5-2009	Amend	3-1-2009
740-100-0065	4-1-2009	Adopt	5-1-2009	800-030-0025	2-5-2009	Amend	3-1-2009
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	806-001-0003	5-14-2009	Amend	6-1-2009
741-100-0040	2-20-2009	Adopt	4-1-2009	806-010-0095	2-5-2009	Amend	3-1-2009
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741-105-0020	2-20-2009	Repeal	4-1-2009	808-040-0020	5-13-2009	Amend(T)	6-1-2009
741-105-0030	2-20-2009	Repeal	4-1-2009	808-040-0050	5-13-2009	Amend(T)	6-1-2009
741-110-0020	2-20-2009	Amend	4-1-2009	808-040-0080	5-13-2009	Amend(T)	6-1-2009
741-110-0030	2-20-2009	Amend	4-1-2009	811-015-0025	12-23-2008	Amend	2-1-2009
741-110-0040	2-20-2009	Amend	4-1-2009	811-015-0030	1-29-2009	Amend	3-1-2009
741-110-0050	2-20-2009	Amend	4-1-2009	812-001-0200	2-23-2009	Amend(T)	4-1-2009
741-110-0060	2-20-2009	Amend	4-1-2009	812-001-0200	6-1-2009	Amend	6-1-2009
741-110-0070	2-20-2009	Amend	4-1-2009	812-001-0200(T)	6-1-2009	Repeal	6-1-2009
741-110-0080	2-20-2009	Amend	4-1-2009	812-001-0220	6-1-2009	Adopt	6-1-2009
741-110-0090	2-20-2009	Amend	4-1-2009	812-002-0060	11-20-2008	Amend	1-1-2009
741-115-0030	2-20-2009	Amend	4-1-2009	812-002-0262	2-1-2009	Adopt	3-1-2009
741-115-0040	2-20-2009	Amend	4-1-2009	812-002-0420	11-20-2008	Amend	1-1-2009
741-115-0060	2-20-2009	Amend	4-1-2009	812-002-0420	6-1-2009	Amend	6-1-2009
741-115-0070	2-20-2009	Amend	4-1-2009	812-003-0120	6-1-2009	Amend	6-1-2009
741-120-0020	2-20-2009	Amend	4-1-2009	812-003-0140	2-1-2009	Amend	3-1-2009
741-120-0040	2-20-2009	Amend	4-1-2009	812-003-0141	2-1-2009	Adopt	3-1-2009
741-125-0020	2-20-2009	Repeal	4-1-2009	812-003-0200	6-1-2009	Amend	6-1-2009
741-200-0010	2-20-2009	Amend	4-1-2009	812-003-0320	6-1-2009	Amend	6-1-2009
741-200-0040	2-20-2009	Amend	4-1-2009	812-003-0330	6-1-2009	Amend	6-1-2009
741-200-0065	2-20-2009	Adopt	4-1-2009	812-003-0450	11-20-2008	Repeal	1-1-2009
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800-010-0041	2-5-2009	Amend	3-1-2009	812-005-0800	6-1-2009	Amend	6-1-2009
800-010-0042	2-5-2009	Amend	3-1-2009	812-006-0100	11-20-2008	Amend	1-1-2009
800-015-0005	2-5-2009	Amend	3-1-2009	812-006-0200	11-20-2008	Amend	1-1-2009
800-015-0010	2-5-2009	Amend	3-1-2009	812-006-0300	6-1-2009	Amend	6-1-2009
800-015-0015	2-5-2009	Amend	3-1-2009	812-006-0400	6-1-2009	Amend	6-1-2009
800-015-0020	2-5-2009	Amend	3-1-2009	812-012-0170	6-1-2009	Adopt	6-1-2009
800-015-0030	2-5-2009	Amend	3-1-2009	812-020-0050	11-20-2008	Adopt	1-1-2009
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800-020-0020	2-5-2009	Amend	3-1-2009	812-020-0060	11-20-2008	Adopt	1-1-2009
800-020-0025	2-5-2009	Amend	3-1-2009	812-020-0062	11-20-2008	Adopt	1-1-2009
800-020-0030	2-5-2009	Amend	3-1-2009	812-020-0065	11-20-2008	Adopt	1-1-2009
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812-020-0085	11-20-2008	Adopt	1-1-2009	836-043-0087	1-1-2009	Adopt	1-1-2009
812-020-0087	11-20-2008	Adopt	1-1-2009	836-043-0089	1-1-2009	Amend	1-1-2009
812-020-0090	11-20-2008	Adopt	1-1-2009	836-051-0106	12-9-2008	Amend	1-1-2009
813-110-0010	2-9-2009	Amend(T)	3-1-2009	836-051-0750	12-9-2008	Adopt	1-1-2009
817-030-0005	12-1-2008	Amend(T)	1-1-2009	836-051-0755	12-9-2008	Adopt	1-1-2009
817-030-0015	12-1-2008	Amend(T)	1-1-2009	836-051-0760	12-9-2008	Adopt	1-1-2009
817-030-0020	12-1-2008	Amend(T)	1-1-2009	836-051-0765	12-9-2008	Adopt	1-1-2009
817-030-0040	12-1-2008	Amend(T)	1-1-2009	836-051-0770	12-9-2008	Adopt	1-1-2009
817-030-0045	12-1-2008	Amend(T)	1-1-2009	836-051-0775	12-9-2008	Adopt	1-1-2009
817-030-0065	12-1-2008	Amend(T)	1-1-2009	836-053-0850	4-28-2009	Adopt(T)	6-1-2009
817-030-0100	12-1-2008	Suspend	1-1-2009	836-053-0855	4-28-2009	Adopt(T)	6-1-2009
817-035-0030	12-1-2008	Amend(T)	1-1-2009	836-053-0860	4-28-2009	Adopt(T)	6-1-2009
820-010-0215	12-12-2008	Amend	1-1-2009	836-053-0865	4-28-2009	Adopt(T)	6-1-2009
820-010-0325	5-15-2009	Amend	6-1-2009	836-072-0001	12-10-2008	Adopt	1-1-2009
820-010-0635	5-15-2009	Amend	6-1-2009	836-072-0005	12-10-2008	Adopt	1-1-2009
820-030-0060	5-15-2009	Amend	6-1-2009	836-072-0010	12-10-2008	Adopt	1-1-2009
820-040-0005	5-15-2009	Amend	6-1-2009	836-072-0015	12-10-2008	Adopt	1-1-2009
833-020-0050	12-26-2008	Amend	2-1-2009	836-072-0020	12-10-2008	Adopt	1-1-2009
833-020-0164	12-26-2008	Amend	2-1-2009	836-072-0025	12-10-2008	Adopt	1-1-2009
833-025-0050	12-26-2008	Amend	2-1-2009	836-072-0030	12-10-2008	Adopt	1-1-2009
833-030-0001	12-26-2008	Amend	2-1-2009	836-072-0035	12-10-2008	Adopt	1-1-2009
833-030-0010	12-26-2008	Amend	2-1-2009	836-072-0040	12-10-2008	Adopt	1-1-2009
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833-060-0001	12-26-2008	Am. & Ren.	2-1-2009	837-012-0625	4-10-2009	Amend	5-1-2009
833-060-0001	12-26-2008	Am. & Ren.	2-1-2009	837-012-0750	4-10-2009	Amend	5-1-2009
833-060-0001	12-26-2008	Am. & Ren.	2-1-2009	837-040-0001	12-31-2008	Amend	2-1-2009
833-060-0001	12-26-2008	Am. & Ren.	2-1-2009	837-040-0015	12-31-2008	Adopt	2-1-2009
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836-011-0000	1-29-2009	Amend	3-1-2009	839-003-0005	12-5-2008	Amend	1-1-2009
836-042-0045	1-1-2009	Amend	2-1-2009	839-003-0010	12-5-2008	Amend	1-1-2009
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836-043-0028	1-1-2009	Amend	1-1-2009	839-003-0055	12-5-2008	Amend	1-1-2009
836-043-0032	1-1-2009	Amend	1-1-2009	839-003-0060	12-5-2008	Amend	1-1-2009
836-043-0034	1-1-2009	Adopt	1-1-2009	839-003-0065	12-5-2008	Amend	1-1-2009
836-043-0036	1-1-2009	Repeal	1-1-2009	839-003-0070	12-5-2008	Amend	1-1-2009
836-043-0037	1-1-2009	Repeal	1-1-2009	839-003-0080	12-5-2008	Amend	1-1-2009
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836-043-0044	1-1-2009	Amend	1-1-2009	839-003-0090	12-5-2008	Amend	1-1-2009
836-043-0046	1-1-2009	Amend	1-1-2009	839-003-0095	12-5-2008	Amend	1-1-2009
836-043-0048	1-1-2009	Amend	1-1-2009	839-003-0100	12-5-2008	Amend	1-1-2009
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836-043-0053	1-1-2009	Amend	1-1-2009	839-003-0205	12-5-2008	Amend	1-1-2009
836-043-0060	1-1-2009	Amend	1-1-2009	839-003-0210	12-5-2008	Amend	1-1-2009
836-043-0062	1-1-2009	Amend	1-1-2009	839-003-0215	12-5-2008	Amend	1-1-2009
836-043-0064	1-1-2009	Amend	1-1-2009	839-003-0220	12-5-2008	Amend	1-1-2009
836-043-0066	1-1-2009	Amend	1-1-2009	839-003-0225	12-5-2008	Amend	1-1-2009
836-043-0068	1-1-2009	Amend	1-1-2009	839-003-0230	12-5-2008	Amend	1-1-2009
836-043-0070	1-1-2009	Repeal	1-1-2009	839-003-0235	12-5-2008	Amend	1-1-2009
836-043-0071	1-1-2009	Adopt	1-1-2009	839-003-0240	12-5-2008	Amend	1-1-2009
836-043-0076	1-1-2009	Amend	1-1-2009	839-003-0245	12-5-2008	Amend	1-1-2009
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839-005-0016	12-5-2008	Amend	1-1-2009	848-035-0035	1-2-2009	Adopt	2-1-2009
839-005-0026	12-5-2008	Amend	1-1-2009	848-035-0040	1-2-2009	Amend	2-1-2009
839-005-0195	12-5-2008	Amend	1-1-2009	848-040-0100	1-2-2009	Amend	2-1-2009
839-005-0200	12-5-2008	Amend	1-1-2009	848-040-0117	1-2-2009	Amend	2-1-2009
839-005-0205	12-5-2008	Amend	1-1-2009	848-040-0145	1-2-2009	Amend	2-1-2009
839-005-0220	12-5-2008	Amend	1-1-2009	848-040-0160	1-2-2009	Amend	2-1-2009
839-020-0050	1-12-2009	Amend	2-1-2009	848-040-0175	1-2-2009	Adopt	2-1-2009
839-025-0700	12-1-2008	Amend	1-1-2009	848-045-0020	1-2-2009	Amend	2-1-2009
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839-025-0700	1-1-2009	Amend	2-1-2009	850-060-0225	12-8-2008	Amend	1-1-2009
839-025-0700	1-6-2009	Amend	2-1-2009	850-060-0226	12-8-2008	Amend	1-1-2009
839-025-0700	1-12-2009	Amend	2-1-2009	851-050-0138	11-26-2008	Amend	1-1-2009
839-025-0700	2-11-2009	Amend	3-1-2009	851-056-0006	11-26-2008	Amend	1-1-2009
839-025-0700	3-17-2009	Amend	5-1-2009	851-056-0022	11-26-2008	Amend	1-1-2009
839-025-0700	3-24-2009	Amend	5-1-2009	851-061-0090	5-15-2009	Amend	6-1-2009
839-025-0700	4-1-2009	Amend	5-1-2009	851-062-0020	11-26-2008	Amend	1-1-2009
839-025-0750	3-1-2009	Amend	4-1-2009	851-063-0035	5-15-2009	Amend	6-1-2009
839-025-0750	4-16-2009	Amend	5-1-2009	855-007-0010	1-5-2009	Adopt(T)	2-1-2009
845-005-0405	4-1-2009	Amend	5-1-2009	855-007-0020	1-5-2009	Adopt(T)	2-1-2009
845-005-0410	4-1-2009	Amend	5-1-2009	855-007-0030	1-5-2009	Adopt(T)	2-1-2009
845-005-0415	4-1-2009	Amend	5-1-2009	855-007-0040	1-5-2009	Adopt(T)	2-1-2009
845-006-0335	4-1-2009	Amend	5-1-2009	855-007-0050	1-5-2009	Adopt(T)	2-1-2009
845-006-0345	5-1-2009	Amend	6-1-2009	855-007-0060	1-5-2009	Adopt(T)	2-1-2009
845-006-0500	5-1-2009	Amend	6-1-2009	855-007-0080	1-5-2009	Adopt(T)	2-1-2009
845-010-0154	12-20-2008	Adopt	2-1-2009	855-007-0090	1-5-2009	Adopt(T)	2-1-2009
845-013-0050	5-1-2009	Amend	6-1-2009	855-007-0100	1-5-2009	Adopt(T)	2-1-2009
845-013-0060	5-1-2009	Amend	6-1-2009	855-007-0110	1-5-2009	Adopt(T)	2-1-2009
845-020-0025	1-1-2009	Amend	2-1-2009	855-007-0120	1-5-2009	Adopt(T)	2-1-2009
845-020-0035	1-1-2009	Amend	2-1-2009	856-010-0015	2-10-2009	Amend(T)	3-1-2009
847-001-0030	5-1-2009	Amend	6-1-2009	859-040-0010	12-17-2008	Amend(T)	2-1-2009
847-005-0005	1-22-2009	Amend	3-1-2009	859-040-0010	5-5-2009	Amend	6-1-2009
847-008-0020	1-22-2009	Amend	3-1-2009	859-040-0010(T)	5-5-2009	Repeal	6-1-2009
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847-008-0070	1-22-2009	Adopt	3-1-2009	859-040-0015(T)	5-5-2009	Repeal	6-1-2009
847-010-0054	1-22-2009	Repeal	3-1-2009	860-022-0041	4-15-2009	Amend(T)	5-1-2009
847-010-0055	1-22-2009	Repeal	3-1-2009	860-022-0070	3-25-2009	Amend	5-1-2009
847-010-0073	5-1-2009	Amend	6-1-2009	860-024-0010	12-29-2008	Amend	2-1-2009
847-010-0100	1-22-2009	Amend	3-1-2009	860-024-0020	5-5-2009	Amend	6-1-2009
847-020-0130	1-22-2009	Amend	3-1-2009	860-024-0021	5-5-2009	Amend	6-1-2009
847-020-0170	4-9-2009	Amend(T)	5-1-2009	860-027-0400	2-5-2009	Adopt	3-1-2009
847-035-0030	5-1-2009	Amend	6-1-2009	860-032-0620	4-14-2009	Amend	5-1-2009
847-065-0000	5-1-2009	Amend	6-1-2009	860-034-0010	5-5-2009	Amend	6-1-2009
847-070-0019	1-22-2009	Amend	3-1-2009	860-034-0120	5-5-2009	Amend	6-1-2009
847-070-0020	1-22-2009	Amend	3-1-2009	860-034-0310	5-5-2009	Amend	6-1-2009
847-070-0045	1-22-2009	Amend	3-1-2009	863-014-0000	1-1-2009	Adopt	1-1-2009
848-005-0010	5-14-2009	Amend	6-1-2009	863-014-0003	1-1-2009	Adopt	1-1-2009
848-005-0010	7-1-2009	Amend	6-1-2009	863-014-0038	1-1-2009	Adopt	1-1-2009
848-010-0015	1-2-2009	Amend	2-1-2009	863-014-0042	1-1-2009	Adopt	1-1-2009
848-010-0020	1-2-2009	Amend	2-1-2009	863-015-0000	1-1-2009	Adopt	1-1-2009
848-010-0022	1-2-2009	Adopt	2-1-2009	863-015-0005	1-1-2009	Am. & Ren.	1-1-2009
848-010-0026	1-2-2009	Amend	2-1-2009	863-015-0010	1-1-2009	Am. & Ren.	1-1-2009
848-010-0044	1-2-2009	Amend	2-1-2009	863-015-0015	1-1-2009	Am. & Ren.	1-1-2009
848-015-0030	1-2-2009	Amend	2-1-2009	863-015-0020	1-1-2009	Am. & Ren.	1-1-2009
848-020-0030	1-2-2009	Amend	2-1-2009	863-015-0025	1-1-2009	Repeal	1-1-2009
848-020-0060	1-2-2009	Amend	2-1-2009	863-015-0030	1-1-2009	Am. & Ren.	1-1-2009

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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
863-015-0060	1-1-2009	Am. & Ren.	1-1-2009	863-024-0095	1-1-2009	Adopt	1-1-2009
863-015-0061	1-1-2009	Am. & Ren.	1-1-2009	863-024-0100	1-1-2009	Adopt	1-1-2009
863-015-0062	1-1-2009	Am. & Ren.	1-1-2009	863-025-0005	1-1-2009	Amend	1-1-2009
863-015-0063	1-1-2009	Am. & Ren.	1-1-2009	863-025-0010	1-1-2009	Amend	1-1-2009
863-015-0065	1-1-2009	Am. & Ren.	1-1-2009	863-025-0015	1-1-2009	Amend	1-1-2009
863-015-0070	1-1-2009	Am. & Ren.	1-1-2009	863-025-0020	1-1-2009	Amend	1-1-2009
863-015-0075	1-1-2009	Am. & Ren.	1-1-2009	863-025-0025	1-1-2009	Amend	1-1-2009
863-015-0076	1-1-2009	Am. & Ren.	1-1-2009	863-025-0030	1-1-2009	Amend	1-1-2009
863-015-0080	1-1-2009	Am. & Ren.	1-1-2009	863-025-0035	1-1-2009	Amend	1-1-2009
863-015-0085	1-1-2009	Am. & Ren.	1-1-2009	863-025-0040	1-1-2009	Amend	1-1-2009
863-015-0095	1-1-2009	Am. & Ren.	1-1-2009	863-025-0045	1-1-2009	Amend	1-1-2009
863-015-0100	1-1-2009	Am. & Ren.	1-1-2009	863-025-0050	1-1-2009	Amend	1-1-2009
863-015-0120	1-1-2009	Am. & Ren.	1-1-2009	863-025-0055	1-1-2009	Amend	1-1-2009
863-015-0130	1-1-2009	Amend	1-1-2009	863-025-0060	1-1-2009	Amend	1-1-2009
863-015-0135	1-1-2009	Amend	1-1-2009	863-025-0065	1-1-2009	Amend	1-1-2009
863-015-0140	1-1-2009	Amend	1-1-2009	863-025-0070	1-1-2009	Amend	1-1-2009
863-015-0145	1-1-2009	Amend	1-1-2009	863-025-0080	1-1-2009	Amend	1-1-2009
863-015-0150	1-1-2009	Amend	1-1-2009	863-027-0000	1-1-2009	Adopt	1-1-2009
863-015-0155	1-1-2009	Amend	1-1-2009	863-027-0005	1-1-2009	Adopt	1-1-2009
863-015-0160	1-1-2009	Am. & Ren.	1-1-2009	863-050-0000	1-1-2009	Amend	1-1-2009
863-015-0165	1-1-2009	Repeal	1-1-2009	863-050-0015	1-1-2009	Amend	1-1-2009
863-015-0175	1-1-2009	Amend	1-1-2009	863-050-0020	1-1-2009	Amend	1-1-2009
863-015-0180	1-1-2009	Repeal	1-1-2009	863-050-0025	1-1-2009	Amend	1-1-2009
863-015-0185	1-1-2009	Repeal	1-1-2009	863-050-0030	1-1-2009	Amend	1-1-2009
863-015-0186	1-1-2009	Amend	1-1-2009	863-050-0033	1-1-2009	Amend	1-1-2009
863-015-0188	1-1-2009	Adopt	1-1-2009	863-050-0035	1-1-2009	Amend	1-1-2009
863-015-0190	1-1-2009	Amend	1-1-2009	863-050-0040	1-1-2009	Repeal	1-1-2009
863-015-0195	1-1-2009	Repeal	1-1-2009	863-050-0050	1-1-2009	Amend	1-1-2009
863-015-0200	1-1-2009	Amend	1-1-2009	863-050-0052	1-1-2009	Adopt	1-1-2009
863-015-0205	1-1-2009	Amend	1-1-2009	863-050-0055	1-1-2009	Amend	1-1-2009
863-015-0210	1-1-2009	Amend	1-1-2009	863-050-0060	1-1-2009	Amend	1-1-2009
863-015-0215	1-1-2009	Amend	1-1-2009	863-050-0065	1-1-2009	Amend	1-1-2009
863-015-0220	1-1-2009	Repeal	1-1-2009	863-050-0066	1-1-2009	Amend	1-1-2009
863-015-0225	1-1-2009	Am. & Ren.	1-1-2009	863-050-0100	1-1-2009	Amend	1-1-2009
863-015-0230	1-1-2009	Am. & Ren.	1-1-2009	863-050-0105	1-1-2009	Amend	1-1-2009
863-015-0250	1-1-2009	Amend	1-1-2009	863-050-0115	1-1-2009	Amend	1-1-2009
863-015-0255	1-1-2009	Amend	1-1-2009	863-050-0150	1-1-2009	Amend	1-1-2009
863-015-0260	1-1-2009	Amend	1-1-2009	863-050-0151	1-1-2009	Repeal	1-1-2009
863-015-0265	1-1-2009	Amend	1-1-2009	863-050-0205	1-1-2009	Repeal	1-1-2009
863-015-0275	1-1-2009	Amend	1-1-2009	863-050-0210	1-1-2009	Repeal	1-1-2009
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863-024-0003	1-1-2009	Adopt	1-1-2009	863-050-0220	1-1-2009	Repeal	1-1-2009
863-024-0005	1-1-2009	Adopt	1-1-2009	863-050-0225	1-1-2009	Repeal	1-1-2009
863-024-0010	1-1-2009	Adopt	1-1-2009	863-050-0230	1-1-2009	Repeal	1-1-2009
863-024-0015	1-1-2009	Adopt	1-1-2009	863-050-0235	1-1-2009	Repeal	1-1-2009
863-024-0020	1-1-2009	Adopt	1-1-2009	863-050-0240	1-1-2009	Amend	1-1-2009
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863-024-0050	1-1-2009	Adopt	1-1-2009	875-010-0090	4-20-2009	Amend	6-1-2009
863-024-0055	1-1-2009	Adopt	1-1-2009	875-020-0005	12-15-2008	Amend	1-1-2009
863-024-0060	1-1-2009	Adopt	1-1-2009	875-030-0010	12-15-2008	Amend	1-1-2009
863-024-0061	1-1-2009	Adopt	1-1-2009	875-030-0050	12-15-2008	Amend	1-1-2009
863-024-0062	1-1-2009	Adopt	1-1-2009	918-008-0075	1-1-2009	Amend	2-1-2009
863-024-0063	1-1-2009	Adopt	1-1-2009	918-008-0080	1-1-2009	Amend	2-1-2009

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918-008-0095	1-1-2009	Amend	2-1-2009	918-225-0435	1-1-2009	Amend	2-1-2009
918-008-0110	1-1-2009	Amend	2-1-2009	918-225-0445	1-1-2009	Adopt	2-1-2009
918-008-0115	1-1-2009	Amend	2-1-2009	918-225-0450	1-1-2009	Amend	2-1-2009
918-020-0370	1-1-2009	Adopt	2-1-2009	918-225-0570	1-1-2009	Amend	2-1-2009
918-050-0000	1-1-2009	Amend	1-1-2009	918-261-0015	1-1-2009	Adopt	2-1-2009
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918-050-0020	1-1-2009	Amend	1-1-2009	918-305-0280	4-1-2009	Amend	5-1-2009
918-050-0030	1-1-2009	Amend	1-1-2009	918-311-0065	1-1-2009	Adopt	2-1-2009
918-050-0100	1-1-2009	Amend	1-1-2009	918-311-0065(T)	1-1-2009	Repeal	2-1-2009
918-050-0110	1-1-2009	Amend	1-1-2009	918-400-0455	1-1-2009	Amend	2-1-2009
918-050-0120	1-1-2009	Amend	1-1-2009	918-400-0458	1-1-2009	Amend	2-1-2009
918-050-0130	1-1-2009	Amend	1-1-2009	918-480-0010	2-1-2009	Amend	3-1-2009
918-050-0140	1-1-2009	Amend	1-1-2009	918-480-0010(T)	2-1-2009	Repeal	3-1-2009
918-050-0150	1-1-2009	Amend	1-1-2009	918-480-0150	1-1-2009	Adopt	2-1-2009
918-050-0160	1-1-2009	Amend	1-1-2009	918-480-0150(T)	1-1-2009	Repeal	2-1-2009