

OREGON BULLETIN

Supplements the 2009 *Oregon Administrative Rules Compilation*

Volume 48, No. 5
May 1, 2009

For March 16, 2009–April 15, 2009



Published by
KATE BROWN
Secretary of State
Copyright 2009 Oregon Secretary of State

INFORMATION AND PUBLICATION SCHEDULE

General Information

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

Background on Oregon Administrative Rules

ORS 183.310(9) defines “rule” as “any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency.” Agencies may adopt, amend, repeal or renumber rules, permanently or temporarily (up to 180 days), using the procedures outlined in the *Oregon Attorney General’s Administrative Law Manual*. The Administrative Rules Unit 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.

© January 1, 2009 Oregon Secretary of State. All rights reserved. Reproduction in whole or in part without written permission is prohibited.

TABLE OF CONTENTS

	Page
Information and Publication Schedule	2
Table of Contents	3
Executive Orders	4–6
Other Notices	7–10
Notices of Proposed Rulemaking Hearings/Notices	
The citations and statements required by ORS 183.335(2)(b)(A)–(D) have been filed with and are available from the Secretary of State.	
Board of Architect Examiners, Chapter 806	11
Board of Examiners for Speech-Language Pathology and Audiology, Chapter 335	11
Board of Geologist Examiners, Chapter 809	11
Board of Nursing, Chapter 851	11, 12
Board of Optometry, Chapter 852	12
Department of Administrative Services, Chapter 125	12
Department of Consumer and Business Services, Building Codes Division, Chapter 918.....	12, 13
Division of Finance and Corporate Securities, Chapter 441	13
Oregon Occupational Safety and Health Division, Chapter 437	13
Department of Corrections, Chapter 291	13, 14
Department of Fish and Wildlife, Chapter 635	14
Department of Forestry, Chapter 629	14
Department of Human Services, Children, Adults and Families Division: Self-Sufficiency Programs, Chapter 461	14–17
Division of Medical Assistance Programs, Chapter 410	17–20
Seniors and People with Disabilities Division, Chapter 411	20
Department of Justice, Chapter 137	20, 21
Department of Revenue, Chapter 150	21
Department of Transportation, Driver and Motor Vehicle Services Division, Chapter 735	21, 22
Highway Division, Chapter 734	22
Landscape Architect Board, Chapter 804.....	22
Landscape Contractors Board, Chapter 808.....	22
Mortuary and Cemetery Board, Chapter 830	22
Oregon Department of Education, Chapter 581	23
Oregon Liquor Control Commission, Chapter 845	23
Oregon Public Employees Retirement System, Chapter 459.....	23, 24
Oregon State Marine Board, Chapter 250.....	24, 25
Oregon University System, Chapter 580.....	25
Oregon University System, Oregon Institute of Technology, Chapter 578	25
Oregon State University, Chapter 576	25, 26
Southern Oregon University, Chapter 573	26
Public Utility Commission, Chapter 860	26
Public Utility Commission, Board of Maritime Pilots, Chapter 856	26
Secretary of State, Elections Division, Chapter 165	27
Travel Information Council, Chapter 733	27
Administrative Rules	
The citations and statements required by ORS 183.335(2)(b)(A)–(D) have been filed with and are available from the Secretary of State.	
Board of Parole and Post-Prison Supervision, Chapter 255	28
Bureau of Labor and Industries, Chapter 839	28–30
Columbia River Gorge Commission, Chapter 350	30, 31
Commission for the Blind, Chapter 585	31–33
Department of Administrative Services, Oregon Educators Benefit Board, Chapter 111	33
Department of Agriculture, Chapter 603	33–35
Department of Consumer and Business Services, Building Codes Division, Chapter 918.....	35, 36
Oregon Medical Insurance Pool Board, Chapter 443	36
Oregon Occupational Safety and Health Division, Chapter 437	36, 37
Department of Corrections, Chapter 291	37–40
Department of Fish and Wildlife, Chapter 635	40–46
Department of Forestry, Chapter 629	46, 47
Department of Human Services, Addictions and Mental Health Division: Mental Health Services, Chapter 309	47
Administrative Services Division and Director’s Office, Chapter 407	47–58
Children, Adults and Families Division: Child Welfare Programs, Chapter 413	58–63
Self-Sufficiency Programs, Chapter 461	64–89
Vocational Rehabilitation Services, Chapter 582	89–94
Division of Medical Assistance Programs, Chapter 410	94–96
Department of Justice, Chapter 137	96–100
Department of Oregon State Police, Office of State Fire Marshal, Chapter 837	100
Department of Public Safety Standards and Training, Chapter 259.....	100–105
Department of Transportation, Driver and Motor Vehicle Services Division, Chapter 735	105–107
Highway Division, Chapter 734	107–113
Motor Carrier Transportation Division, Chapter 740	113–115
Land Conservation and Development Department, Chapter 660.....	116–121
Oregon Criminal Justice Commission, Chapter 213	121–125
Oregon Health Licensing Agency, Board of Licensed Direct Entry Midwifery, Chapter 332	125, 126
Oregon Liquor Control Commission, Chapter 845	126–130
Oregon Medical Board, Chapter 847	130, 131
Oregon Public Employees Retirement System, Chapter 459	131–138
Oregon State Marine Board, Chapter 250.....	139
Oregon State Treasury, Chapter 170	139
Oregon Youth Authority, Chapter 416	139, 140
Parks and Recreation Department, Chapter 736	140–142
Public Utility Commission, Chapter 860	142–146
Secretary of State, Elections Division, Chapter 165	146
Travel Information Council, Chapter 733	147–157
OAR Revision Cumulative Index	158–177

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 09 - 07

ESTABLISHING OREGON COMMISSION ON AUTISM SPECTRUM DISORDER

Oregon, like many states across the nation, has experienced a rapid increase in the number of individuals diagnosed with Autism Spectrum Disorder (“ASD”). Across Oregon, families, communities, schools, and social service agencies are struggling to address the diverse and complex needs of individuals diagnosed with ASD. Services to individuals with ASD are fragmented and inconsistent around the State and there is no coordinated effort for increasing the capacity of agencies and communities to support individuals with ASD.

Successful ASD treatment and support requires a more thoughtful, coordinated approach to funding, service development and delivery. To move Oregon forward, we must develop a means to provide accurate, current information to families and professionals regarding ASD interventions, services, supports, and expected outcomes. We must ensure that Oregon takes full advantage of the wealth of knowledge available about ASD and best practices for treating and supporting individuals with ASD. We must work to obtain the maximum benefit from the limited federal, state, and local resources available for individuals with ASD and their families.

This Order creates the Oregon Commission on Autism Spectrum Disorder to engage stakeholders, to identify priorities, to promote the efficient use of limited resources, and to create and facilitate the implementation of a long term strategic plan.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Oregon Commission on Autism Spectrum Disorder (“Commission”) is established.
2. The purpose of the Commission shall be to:
 - a. Develop and monitor implementation of a ten-year strategic plan, incorporating biennial benchmarks for the state of Oregon to address the growing number of individuals with autism who require services from one or more programs or agencies;
 - b. Provide leadership and serve as a forum to establish priorities, create performance measures, facilitate collaboration, ensure support, and monitor outcomes;
 - c. Engage key stakeholders to develop, promote, and implement state plan goals and outcomes;
 - d. Advise the Governor and Agency directors on plan implementations that require executive or agency approval and do not require legislative action;
 - e. Provide regular updates to the status of plan goals and outcomes to the Governor’s Office; and
 - f. If legislative action is needed, develop legislative concepts in anticipation of the next legislative session.
3. The Commission shall submit its ten-year strategic plan to the Governor no later than May 1, 2010. The strategic plan shall:
 - a. Propose implementation and outcomes to respond to the issues described in the September 2008 ASD Preliminary Findings and Recommendations, authored by the Legislative Assembly’s Autism Spectrum Disorder Workgroup;
 - b. Clarify the array and structure of necessary services and supports that enable persons with ASD to function to their individual potentials across their lifespan;

- c. Make recommendations to increase coordination and collaboration of supports to individuals experiencing ASD and identify policies, capacity, and strategies including interagency agreements and braiding of funding;
 - d. Define strategies for accessing and promoting ASD best practice standards and research based information to the professional community and the public;
 - e. Estimate and make recommendations regarding the long-term funding and the sources of funding needed to provide the necessary services and supports and to accomplish the coordination of services as described in the strategic plan;
 - f. Incorporate biennial benchmarks for improving service and support to individuals with ASD; and
 - g. Propose legislation needed to implement the strategic plan.
4. The Commission shall consist of thirteen members who are knowledgeable about ASD or about systems that serve people with ASD. All members shall serve at the pleasure of their appointing authority. The Commission shall include:
- a. One member who is an individual diagnosed with autism and shall serve as a self-advocate, appointed by the Governor;
 - b. One member who is a parent of a child with autism, appointed by the Governor;
 - c. One member who is a parent of an adult child with autism, appointed by the Governor;
 - d. One member who represents autism or disability advocacy organizations, appointed by the Governor;
 - e. One member who represents the medical community in Oregon, appointed by the Governor;
 - f. One member who represents the Department of Education, appointed by the Governor;
 - g. One member who represents the Department of Human Services, appointed by the Governor;
 - h. One member who represents Higher Education, appointed by the Governor;
 - i. One member of the Oregon Senate, appointed by the Senate President;
 - j. One member of the Oregon House of Representatives, appointed by the Speaker of the House;
 - k. One member representing a local education organization, appointed by the Governor;
 - l. One member representing insurance carriers, appointed by the Governor; and
 - m. One public member, appointed by the Governor.
5. The Governor will appoint a Chair and Vice-Chair of the Commission from the members of the Commission. The Chair shall establish an agenda for the Commission and provide leadership and direction. The Commission shall meet at least quarterly at the direction of the Chair or the Governor.
6. The Chair may appoint and approve the creation of subcommittees of the Commission. The Chair may, on behalf of the Governor, request participation of other persons with specialized expertise in ASD or serving ASD populations to further the

EXECUTIVE ORDERS

Commission's work. During the first three months of operation, the Commission shall create subcommittees to address the following topics: Autism Diagnosis and Assessment, Educational Endorsement and Competency Based Assessment for Certification of Educational ASD Specialists, Reorganization of ASD Educational Services, and Interagency Transition Services. Each subcommittee shall submit initial reports to the Commission within four months of the initial meeting of the subcommittee.

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

8. The members of the Commission shall receive no compensation for their activities as members of the Commission. To facilitate meaningful participation by parents of individuals with ASD and the designated self-advocate, those members may be reimbursed for expenses incurred in attending Commission business, pursuant to ORS 292.495(2), and subject to availability of funds. No other members shall be eligible for reimbursement of expenses.

9. Staff support to the Commission shall be divided evenly between the Department of Human Services and the Oregon Department of Education. If the Commission requires assistance of any other state agency, then such agency shall provide assistance to the Commission upon request.

10. This Order expires on July 1, 2011.

Done at Salem, Oregon, this 25th day of March, 2009.

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

ATTEST

/s/ Kate Brown
Kate Brown
SECRETARY OF STATE

EXECUTIVE ORDER NO. 09 - 08

DETERMINATION OF A STATE OF EMERGENCY IN TILLAMOOK, LINCOLN, COOS, CLATSOP AND CURRY COUNTIES AND COASTAL PORTIONS OF LANE AND DOUGLAS COUNTIES DUE TO LIMITATIONS ON OCEAN COMMERCIAL AND SPORT SALMON FISHING

Pursuant to ORS 401.055, I find that the dramatic and persistent decline in Sacramento River fall Chinook salmon available for harvest by the ocean fishing industry will result in the elimination of a viable commercial salmon fishing season along the Oregon coast. These conditions have created an imminent emergency.

These fishing closures will have profound consequences on many communities including significant increases in unemployment, human suffering, financial losses, and other stark economic impacts along the Oregon coast.

The affected areas are Tillamook, Lincoln, Coos, Clatsop and Curry Counties and the coastal portions of Douglas and Lane Counties that are west of Range 8 West, Willamette Meridian. I therefore declare a State of Emergency in the abovementioned counties and portions of counties.

NOW THEREFORE, IT IS HEREBY ORDERED AND DIRECTED:

1. All state agencies shall work in a cooperative and coordinated manner in order to mitigate the impacts of this emergency; provide expedited service and resources to persons and businesses adversely affected by the emergency; and focus state efforts in a manner most likely to relieve the unemployment, human suffering, financial loss and other economic impacts of this emergency. In addition to the specific measures discussed in this Order, all state agencies are encouraged to think broadly and creatively about actions that agencies can take to address this emergency. Agencies shall communicate such ideas to the Office of the Governor. Response to the emergency shall be directed and coordinated by the Office of the Governor, in coordination with the Office of Emergency Management (OEM).

2. OEM shall coordinate with affected counties to provide assistance to prevent reasonable threats to life or property, including the pursuit of available federal funding or resources to assist in mitigating the effects of this emergency. OEM shall also facilitate a partnership with federal agencies to help relieve the current salmon emergency and assist affected counties with their ongoing emergency preparedness efforts.

3. The Oregon Department of Fish and Wildlife, which operates under the direction of the State Fish and Wildlife Commission, is strongly encouraged to develop recreational and commercial fishing seasons, consistent with state conservation plans and the federal framework in order to help mitigate the effects of this emergency on coastal economies.

4. The Oregon Department of Agriculture (ODA) will continue to liaison with the seafood commodity commissions, particularly the Salmon Commission, to provide a communication link between state government and the commercial fishing fleet. The ODA will explore opportunities to maintain a Salmon Commission structure during the salmon fishing shutdown.

5. Consistent with the collective bargaining agreements, statutes and administrative rules, all state agencies shall seek to hire qualified individuals impacted by the emergency declared in this Order when filling vacancies or making temporary appointments, for a period of one year from the date of this Order.

6. Department of Community Colleges and Workforce Development shall pursue all available retraining opportunities for ocean fishing industry workers wishing to pursue alternative employment and shall coordinate the timely delivery of state workforce services and other human and community services to affected workers and families.

7. Oregon Employment Department shall offer re-employment assistance programs to affected ocean fishing industry workers.

8. As in 2006 and 2008, Oregon Parks and Recreation Department shall conduct outreach to displaced employees of the commercial and recreational fishing industries and make them aware of any seasonal positions available this summer at state parks along the coast.

9. Oregon Watershed Enhancement Board shall provide opportunities to apply for grant funds to support fish habitat enhancement along critical salmon streams in Oregon for the purpose of accelerating the rebuilding of fish populations and creating new and meaningful work opportunities for displaced workers.

10. Oregon Housing and Community Services (OHCS) shall work with the Oregon Food Bank to provide additional food and nutritional support for affected Oregonians. Where possible, OHCS is

EXECUTIVE ORDERS

directed to work with housing partners to provide additional assistance for emergency shelter, rental housing, and permanent housing for affected households in need. OHCS is further directed to work with local community based organizations to provide additional energy assistance and weatherization services to affected Oregonians as appropriate.

11. Oregon Economic and Community Development Department shall provide technical assistance to local governments, public ports, and businesses that experience adverse effects on their operations or revenues due to this emergency.

12. The Oregon Department of Revenue shall investigate and pursue options for affected Oregonians to obtain income tax credits and refunds and other financial assistance.

13. The Oregon Tourism Commission is directed to actively inform the public of continued recreational fishing opportunities and other tourism activities along the Oregon Coast and to highlight travel to the Oregon Coast, as appropriate within their overall marketing strategies.

14. The Department of Human Services shall continue to provide mental health and treatment services, alcohol and drug treatment services, nutrition programs, domestic violence assistance, and medical assistance to Oregonians in coastal communities, with

particular attention to the increased needs in coastal communities caused by this emergency.

15. All other state agencies are directed to provide appropriate state resources and to seek any available private and federal dollars to provide emergency assistance to affected individuals, families, businesses, and communities, and to deliver such assistance in the most expeditious manner.

16. All state agencies specifically referenced in this Order shall report to the Office of the Governor sixty days of the date of this Order about progress made and every sixty days thereafter, until conclusion of the emergency.

17. This Order expires May 1, 2010, unless otherwise amended.

Done at Salem, Oregon this 17th day of April, 2009.

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

ATTEST

/s/ Kate Brown
Kate Brown
SECRETARY OF STATE

OTHER NOTICES

REQUEST FOR COMMENTS PROPOSED AMENDMENT TO CLEANUP APPROACH AND SETTLEMENT FOR JOHNSON LAKE

COMMENTS DUE: 5 p.m., May 30, 2009

PROJECT LOCATION: 5850 NE 92nd Drive, Portland, OR

PROPOSAL: The Department of Environmental Quality (DEQ) invites public comment on the proposed amended cleanup approach for contamination at the Owens Brockway Glass Container Inc. property and adjacent Johnson Lake and the associated proposed consent judgment with Owens. The consent judgment will also include settlement of Owens' potential liability for contribution to sediment contamination in the Columbia Slough beyond Johnson Lake (the "Slough"), as well as associated natural resource damages for the site and the slough. In October 2007, DEQ issued a record of decision for remedial action at the site consisting of excavation of contaminated soil and sediment, confinement in an upland portion of the Owens property, and long-term management. Based on data collected during design activities for this action, the sediment remedy was re-evaluated. Rather than excavating a portion of Johnson Lake sediment, DEQ is now proposing to cap the entire lake with clean sand. **HIGHLIGHTS:** Johnson Lake extends over 18 acres and is directly connected to Whitaker Slough, which flows into the Columbia Slough. The Owens facility is a glass manufacturing plant located on the south shore of Johnson Lake. Potential sources of contamination to the Lake included historical overflows of Owens' former settling ponds, and stormwater runoff and stormwater outfall discharges from the Owens property and from neighboring properties located east and west of Johnson Lake.

To implement the site remedy, and address off-site contamination in the Slough, DEQ is proposing to enter a settlement with Owens for implementation of the amended Record of Decision. The settlement, in the form of a consent judgment, would require Owens to satisfactorily complete cleanup and source control measures as identified in the amended record of decision and pay DEQ specified amounts to be used by DEQ for off-site remediation work in the slough. In addition, DEQ and Owens propose to settle natural resource damage claims for the site and the slough through payment to DEQ of a specified amount to be dedicated to habitat restoration at and around the lake. In return, Owens would receive a covenant not to sue from the State of Oregon and contribution protection as to third parties regarding the matters addressed by the settlements.

Investigations completed at the site, beginning in 1994 as part of the general Columbia Slough project, have detected polychlorinated biphenyls (PCBs), metals, polycyclic aromatic hydrocarbons, pesticides, and petroleum hydrocarbons at elevated levels in Johnson Lake sediment. Elevated levels of PCBs were also detected in soil adjacent to the Johnson Lake downgradient of an electrical substation. Fish tissue samples contained PCBs at concentrations that may make fish caught in the Lake unsafe to eat. Sediment testing suggested that portions of the Lake may contain contaminants at levels toxic to sediment dwelling organisms.

The previously selected remedial action included excavation of surface sediments over approximately one fourth of Johnson Lake and capping the excavated sediment in an upland portion of the Site away from the Lake. Sediment sampling conducted as part of remedial design activities indicated that the thickness of sediment to be removed was more than twice the original estimate and the average concentration of PCBs in those areas was lower than the original estimate. This new data indicates that, in order to achieve the remedial action objectives associated with reduction of average PCB concentration in Lake sediment, five to six times as much sediment as originally estimated would need to be excavated. The feasibility and costs associated with removing and managing this large volume of sediment warranted re-evaluation of the sediment remedy. Based on this re-evaluation, an amended remedial action consisting of placing a thin-layer cap over all of the sediment in Johnson Lake is proposed. Various enhancements will be evaluated during the remedial design for capping the higher PCB concentrations within sediments in the southern portion of the Johnson Lake. Fish tissue samples would be collected and analyzed 5 years following remedial action.

The proposed remedy is considered to be consistent with Oregon rule and statute and, if properly implemented, protective to humans, fish and wildlife.

HOW TO COMMENT: A DEQ staff report outlining the proposed amended cleanup approach and draft consent judgment will be available for public review at the downtown Portland Public Library and Park Rose High School library, and the DEQ Northwest Region Office in Portland beginning May 1, 2009. The staff report and draft consent Judgment will also be available at www.deq.state.or.us/lq/cu/nwr/johnsonlake/index.htm.

To schedule an appointment to review files in the DEQ Northwest Region office, call (503) 229-6729. Send written comments by 5 p.m., May 30, 2009 to DEQ Project Manager Jennifer Sutter, DEQ Northwest Region, 2020 SW 4th Ave., Suite 400, Portland, OR 97201 or sutter.jennifer@deq.state.or.us. For more information contact Sutter at (503) 229-6148.

THE NEXT STEP: DEQ will consider all public comments and the Regional Administrator will make and publish the final decision after consideration of these 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) 229-6993.

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION DETERMINATION, FORMER NATRON PLYWOOD MILL, SPRINGFIELD, OREGON

COMMENTS DUE: 5 pm, June 1st, 2009

PROJECT LOCATION: 34617 Brand S Road, Springfield, Oregon

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) requests public comment on its recommendation that no further action is required for investigation or cleanup of contaminated soil and groundwater at the former Natron Plywood Mill located at 34617 Brand S Road, Springfield, Oregon.

HIGHLIGHTS: The former Natron Plywood Mill Site (NPM) came to the attention of DEQ as a result of an anonymous complaint made to the DEQ on July 28, 1997. The complaint alleged that there were numerous drums of hazardous waste present at the mill site that were leaking.

A DEQ hazardous waste inspector visited the site on July 29, 1997, and verified that there were drums on site containing unknown substances that could potentially be hazardous. It was further determined that there may have been a release from some of the drums, or that at a minimum, a potential release situation existed at the site. The owner of the property had already retained a consultant to assess the environmental situation at the site in preparation for sale of the property. They moved forward immediately with a response to the situation that included determining the drums contents and the level of hazard presented by them, assessing whether any releases from any drums had occurred to the environment, stabilization of all drums that appeared to have potential to leak, and arranging for disposal of the drums and their contents based on the waste characterizations.

The environmental assessment indicated soil and groundwater contamination was present in numerous locations around the site. The sites with contamination that exceeded DEQ's risk based cleanup levels were determined to be located beneath the drum storage area, beneath a 12,000 gallon Bunker C fuel oil above-ground storage tank, beneath a diesel fuel above-ground storage tank, and in the plywood adhesive glue gun cleanout area. These sites were the focus of the subsequent cleanup efforts which consisted of the removal and disposal of contaminated soil and groundwater. The cleanup actions resulted in the removal and disposal of 118 tons of petroleum contaminated soil, 1,210 gallons of oil and water mix, and 4,100 gallons

OTHER NOTICES

of unused fuel oil. The 12,000 gallon above-ground tank that had stored the Bunker C fuel oil was cleaned, removed and recycled.

Sampling results from beneath the soil excavations and from the groundwater beneath the site indicated that the cleanup activities removed all soil and groundwater with contamination that exceeded DEQ's relevant cleanup levels for this site. DEQ is proposing no further action for this cleanup.

HOW TO COMMENT: A DEQ Staff Report presenting details about the site and cleanup activities supports the decision to approve the No-Further-Action determination. The document supporting this proposal can be viewed in DEQ's Environmental Site. The staff report is available for review, electronically (<http://www.deq.state.or.us/lq/ECSI/ecsdetail.asp?seqnbr=4806>), by contacting the DEQ project manager, Ian Balcom at 541-687-7347 or at balcom.ian@deq.state.or.us, or the report can be viewed in person at the DEQ Eugene office by appointment at the Western Region Cleanup Division, 1102 Lincoln St, Ste 210, Eugene, OR 97401. Comments on the proposed determination need to be received by the Eugene Office, attn: Ian Balcom, by 5 pm on June 1st, 2009. Fax or email comments are acceptable. The Fax number is 541-686-7551. **THE NEXT STEP:** Upon completion of the comment period, the comments will be addressed. Once the comments have been adequately addressed, the DEQ may approve, modify, or deny the no-further-action determination for assessment and/or cleanup of the Fomer Natron Plywood Mill.

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, 541-687-5603.

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION DECISION FOR SPRING STREET AND 6TH STREET GASOLINE TANKER SPILL, KLAMATH FALLS, OREGON

COMMENTS DUE: June 1, 2009, 5:00 pm PST.

PROJECT LOCATION: Highway Median at Spring and Market Streets, Klamath Falls, Oregon

PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to issue a "No Further Action" determination based on results of site investigation and remedial activities performed at the above referenced site. DEQ has determined that no further action is justified because the site does not pose a risk that exceeds the acceptable risk level defined in ORS 465.315.

HIGHLIGHTS: On July 28, 2007 a truck and trailer carrying gasoline fuel rolled over at the southbound on-ramp to the South 6th Street overpass in Klamath Falls, Oregon. The spill occurred on a triangular-shaped median immediately adjacent and north of the on-ramp, south of intersecting 6th and Market Streets. The truck spilled approximately 900 gallons of unleaded gasoline onto an undeveloped grassy median, owned by the City of Klamath Falls. Approximately 355 tons of gasoline-contaminated soil were excavated on July 30 and 31, 2007, and temporarily stockpiled on city property approximately one mile away. Soil sampling and groundwater monitoring indicate low levels of residual gasoline contamination, below DEQ's applicable risk-based concentrations.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Bend Office, 475 NE Bellevue Drive, Suite 110, Bend, Oregon 97701. To schedule an appointment to review the file or to ask questions, please contact Marcy Kirk at (541) 633-2009. To access site summary information and the staff report in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet, go to <http://www.deq.state.or.us/lq/ECSI/ecsquery.asp>, then enter 4861 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 4861 in the Site ID/Info column. Written comments must be sent to Marcy Kirk, Project Manager at

the above address or to kirk.marcy@deq.state.or.us. Comments must be received by 5:00 PM on the due date in order to be considered in DEQ's decision.

THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above, before making a final decision regarding the "no further action" determination.

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, (800) 375-2900.

A CHANCE TO COMMENT ON PROPOSED CONSENT JUDGMENT FOR A PROSPECTIVE PURCHASER AGREEMENT GOVERNING A PORTION OF THE REYNOLDS METALS SUPERFUND SITE, MULTNOMAH COUNTY, OREGON

COMMENTS DUE: May 31, 2009

PROJECT LOCATION: 5100 NE Sundial Road, Troutdale, Oregon.

PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to enter into a Consent Judgment for a Prospective Purchaser Agreement (PPA) with the City of Troutdale for the Public Improvements including public right-of-way, infrastructure and utilities located at and adjacent to 5100 NE Sundial Road, Troutdale, Oregon (Reynolds Property).

HIGHLIGHTS: The Reynolds Property was formerly operated as an aluminum smelter and is being remediated under the supervision of the United States Environmental Protection Agency (USEPA) and DEQ under the Superfund Program. Plant operations, including past waste disposal, spills, leaks and other releases, have caused hazardous substance soil and groundwater contamination.

The Prospective Purchaser Agreement will allow the City of Troutdale to accept Public Improvements and dedication of public right-of-way consistent with agreements between EPA and Reynolds and the Port of Portland and DEQ concerning selected remedial actions at the Reynolds Property and to implement certain agreed-upon remedial action activities to address certain of the contamination at the Reynolds Property, including operation and maintenance of a groundwater remedial action selected by the USEPA and constructed made operational by Reynolds and maintenance of selected institutional controls.

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 beneficial reuse of contaminated property and its cleanup and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing contaminated property. DEQ has approved many Prospective Purchaser Agreements throughout the State since the program began.

The proposed Consent Judgment will provide the City of Troutdale with a release from liability for claims by the State of Oregon under ORS Chapter 465 relating to historical releases of hazardous substances at or from the Reynolds Property. The proposed Consent Judgment will also provide the City of Troutdale with a covenant not to sue and release of potential natural resource damage liability and protection from potential contribution actions by third parties relating to the releases at or from the property. DEQ retains all existing rights it may have as to all other parties potentially liable for the releases.

HOW TO COMMENT: Written comments concerning the proposed Consent Judgment should be sent to Charlie Landman at DEQ Headquarters, 811 SW 6th Avenue, Portland, Oregon 97204. Comments must be received by DEQ by 5:00 pm May 31, 2009. Questions may be directed to Mr. Landman at that address or by calling (503) 229-6461. The proposed Consent Judgment and DEQ file on the Reynolds Property may be reviewed at DEQ's Northwest Region

OTHER NOTICES

office in Portland by contacting Mavis Kent at (503) 667-8414 ext 55008.

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 Consent Judgment.

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

A CHANCE TO COMMENT ON A PROPOSED CONSENT JUDGMENT FOR A PROSPECTIVE PURCHASER AGREEMENT AT THE FORMER REXEL/TAYLOR PROPERTY IN PORTLAND, OREGON

COMMENTS DUE: May 31, 2009

PROJECT LOCATION: 240 SE Clay Street, Portland, Oregon 97214

PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to enter into a Consent Judgment for a Prospective Purchaser Agreement (PPA) with the Eastside Properties Redevelopment, LLC ("Eastside") for the property located at 240 SE Clay Street, Portland, Oregon (the "Property").

HIGHLIGHTS: In May of 2006 the Property was involved in a fire that destroyed the structures located on it. The Property has been vacant since that time. Eastside is acquiring the Property to redevelop the site and construct industrial and industrial office space together with related parking. This will permit remediation and rehabilitation of the Property, provide beneficial redevelopment of the vacant Property, and increase employment and tax base.

The Property was used historically for a variety of industrial operations including asphalt paving manufacturer; office space; an automotive garage; an industrial supplier; and a heavy machinery sales, storage, and repair business. Most recently the Property was used as an electrical supply warehouse until the May 2006 fire. During historic operations at the site, there was a release or threat of a release of hazardous substances, from or near the Property. In particular, PGE transformers containing poly chlorinated biphenyls (PCBs) located immediately adjacent to the Property were also damaged in the 2006 fire. Although unconfirmed, it appears that at the time of the fire, PCBs were released to the storm sewer system that connects to the Willamette River at Outfall 33, located near the Hawthorne Bridge. The City of Portland cleaned portions of the storm sewer lines and disposed of PCB-containing sediment from the system. DEQ and others are continuing to investigate the fire and the potential release of PCBs.

The Consent Judgment will require Eastside to conduct investigations at the Property, to assess and clean out adjacent sewer lines that serviced the Property, and to coordinate site demolition and development activities with DEQ to assess environmental conditions at the Property. Eastside will agree to implement any institutional or engineering controls needed at the Property to protect human health and the environment.

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. DEQ has approved more than 100 Prospective Purchaser Agreements throughout the State since the program began.

The proposed Consent Judgment will provide Eastside with a release from liability for claims by the State of Oregon under ORS 465. 200-.545 relating to historical releases of hazardous substances at or from the Property, including a release of any natural resource damage claims. The proposed Consent Judgment will also provide the Eastside with protection from potential contribution actions by third parties for recovery of remedial action costs associated with historical releases at or from the Property. DEQ retains all existing rights it may have as to all other parties potentially liable for remedial

action costs or natural resource damages associated with or attributable to releases of hazardous substances at or from the Property.

HOW TO COMMENT: Written comments concerning the proposed Consent Judgment should be sent to Charlie Landman at DEQ Headquarters, 811 SW 6th Avenue, Portland, Oregon 97204. Email comments will be accepted at landman.charlie@deq.state.or.us. Comments must be received by DEQ by 5:00 pm May 31, 2009. Questions may be directed to Mr. Landman at that address, by email, or by calling (503) 229-6461. The proposed Consent Judgment and DEQ file on the Property may be reviewed at DEQ's Northwest Region office in Portland by contacting Mike Greenburg at (503) 229-5153.

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 Consent Judgment.

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

A CHANCE TO COMMENT ON PROPOSED NO FURTHER ACTION DETERMINATION AT THE LINNTON PLYWOOD ASSOCIATION SITE, NOTICE OF PUBLIC MEETING

COMMENTS DUE: June 1, 2009

PUBLIC MEETING: 7 p.m., Wednesday, May 20, 2009, at the Linnton Community Center, 10614 NW St. Helens Road, Portland, Oregon.

PROJECT LOCATION: 10504 NW St. Helens Road, Portland, Oregon.

PROPOSAL: Oregon Department of Environmental Quality (DEQ) invites public comment on acceptance of completed removal actions and a proposed no further action determination (NFA) at the Linnton Plywood Association property at 10504 NW St. Helens Road in Portland, Oregon.

HIGHLIGHTS: The Linnton Plywood Association (LPA) property consists of 24.74 acres on three parcels fronting the Willamette River. A sawmill operated there from 1894 to 1947. LPA began operating a plywood mill at the site in 1951 and shut down operations in December 2001. The southern 10.9 acres of the site are leased for a sand distribution operation.

LPA agreed to enter the DEQ Voluntary Cleanup Program in 2000 based primarily on contamination found in sediments of the Willamette River. Investigations of possible sources of contamination led to two small soil removal actions. Based on these investigations and removals, DEQ issued a Source Control Decision for the site in 2004 that determined that the site was not a current source of contamination to the Portland Harbor, and that no additional source control actions were required.

In 2007, LPA expanded the scope of review and investigation at the site to facilitate its request for an NFA for all upland concerns. The site data identified some minor exceedances of environmental screening values, but they do not pose an unacceptable risk to human health or the environment based on the current site conditions. Any redevelopment of the property is to be conducted in accordance with applicable DEQ environmental regulations and policies.

Based on the environmental assessment and soil removal work performed by LPA, DEQ is planning to accept the completed removal actions and issue an NFA to LPA for this upland site. All concerns related to the Willamette River itself or sediments of the river are outside the scope of this proposed NFA but remain part of the ongoing investigation of Portland Harbor under the oversight of the U.S. Environmental Protection Agency Superfund Program.

HOW TO COMMENT: Site summary information and environmental reports are available on the DEQ Environmental Cleanup Site Information (ECSI) database at <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, enter ECSI #2373 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI #2373 in the Site ID/Info column. To schedule an appointment to review the project file contact Dawn Weinberger at 503-229-6729. The DEQ contact for this project is Loren Garner, 503-229-6900.

OTHER NOTICES

Send written comments by 5 p.m., Monday June 1, 2009 to DEQ Project Manager Loren Garner, DEQ Northwest Region, 2020 SW Fourth Avenue, Suite 400, Portland, OR 97201; e-mail to garner.loren@deq.state.or.us; or fax to (503) 229-6945.

DEQ will hold a public meeting 7 p.m., Wednesday, May 20, 2009, at the Linnton Community Center, 10614 NW St. Helens Road, Portland, Oregon, to discuss this proposal and receive verbal or written comments. If you need copies of written materials in an alternative format (e.g., Braille, large print, etc.), contact DEQ Office of Communication and Outreach at 503-229-5317. Additional information is also available at: <http://www.deq.state.or.us/news/publicnotices/pn.asp>

THE NEXT STEP: DEQ will consider all public comments before making the final decision.

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION FOR BEND MILLWORKS MANUFACTURING/JELD-WEN

COMMENTS DUE: May 30, 2009

PROJECT LOCATION: 62845 Boyd Acres Road, Bend, Oregon
PROPOSAL: Pursuant to Oregon Revised Statute (ORS) 465.320 and Oregon Administrative Rules (OAR) 340-122-100, the Department of Environmental Quality (DEQ) is proposing approval of a cleanup conducted at the Bend Millworks Manufacturing/JELD-WEN site. The site has manufactured building materials such as windows and doors since 1964 and beginning in 1977 treated wood products to control sap stain and mildew. Contamination, primarily from wood treatment activities at the site, had been identified as the principal concern.

HIGHLIGHTS: Products were treated in a dip tank using wood treatment solution. Bulk solution was stored in an aboveground storage tank (AST) and transferred to the dip tank through an underground pipeline. Spills and leaks had contaminated soil and groundwater at the site. In 1991, the property entered into DEQ's Voluntary Cleanup Program to address areas of potential environmental concern primarily from the wood treatment activities at the site. In 1998, DEQ issued a cleanup decision for the soil and implemented subsequent remedial design and remedial actions to address the soil contamination.

From 2002 until 2008, free phase petroleum product and limited quantities of groundwater were removed from the site while the site was monitored and further characterized.

The proposed cleanup decision for the groundwater at the site consists of the following elements:

- Maintenance and possible modification of the soil remedial actions which consist of an engineered cap, stormwater management and a maintenance plan that insures the integrity of the cap thereby providing reduced infiltration and migration of impacted groundwater;
- End of free-product removal using groundwater and manual extraction;
- Periodic groundwater monitoring;
- Periodic land and water use review; and
- An institutional control in the form of a deed notice or deed restriction that will be placed on the Site property and adjacent impacted property to provide potential future owners or lessees with knowledge of site conditions. The deed notice or deed restriction will specify the property will be maintained as industrial land use, and that groundwater wells will not be drilled without prior approval from the DEQ.

When combined, DEQ has determined that the cleanup decision for the groundwater to be protective of human health and the environment and consistent with ORS 465.315 and OAR 340-122-090.

HOW TO COMMENT: The full file, including the project documents, are available for review at DEQ's Bend office, 475 NE Bellevue Drive, Suite 110, Bend, OR 97701, (541) 388-6146. Office hours are 8 a.m. to noon and 1 to 5 p.m., Monday through Friday. Questions or concerns regarding DEQ's proposed decision should be sent to the project manager at the Department of Environmental Quality, Eastern Region, 475 NE Bellevue Drive, Suite 110, Bend, OR 97701, or via e-mail to anderson.david@deq.state.or.us.

THE NEXT STEP: Following the public comment period and consideration of any comments received, DEQ expects to issue a No Further Action determination for the 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) 229-5696 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, 503-229-6993.

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.

.....
Board of Architect Examiners
Chapter 806

Rule Caption: Title for Architectural Interns.

Date: 5-21-09 **Time:** 9 a.m. **Location:** OBAE Conf. Rm.
205 Liberty St. NE #A
Salem, OR 97301

Hearing Officer: Kim Arbuckle

Stat. Auth.: ORS 671.125

Stats. Implemented: ORS 671.050, 671.060, 671.065, 671.080 & 671.085

Proposed Amendments: 806-010-0020, 806-010-0037

Last Date for Comment: 5-21-09, Close of Hearing

Summary: The purpose of this rule amendment is to allow the use of the title of "Architectural Intern" by those interns who qualify. This amendment also includes some grammatical corrections.

Rules Coordinator: Carol Moeller

Address: Oregon Board of Architect Examiners, 205 Liberty St. NE, Suite A, Salem, OR 97301

Telephone: (503) 763-0662

.....
Rule Caption: Board's Biennial Budget.

Date: 5-14-09 **Time:** 9 a.m. **Location:** OBAE Conf. Rm.
205 Liberty St. NE, #A
Salem, OR 97301

Hearing Officer: William K. Wilson

Stat. Auth.: ORS 671.120, 671.125 & 182.462

Stats. Implemented: ORS 182.462 & 671.125

Proposed Amendments: 806-001-0003

Last Date for Comment: 5-14-09, Close of Hearing

Summary: To amend the Board's 2007-2009 biennial budget, with a maximum expenditure limit of \$710,000. A copy of the proposed budget and/or rule amendment is available on the Board's website of www.orbae.com or by contacting the agency rules coordinator.

Rules Coordinator: Carol Moeller

Address: Oregon Board of Architect Examiners, 205 Liberty St. NE, Suite A, Salem, OR 97301

Telephone: (503) 763-0662

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

Rule Caption: Increases fees; amends unprofessional conduct, professional development, SPA supervision requirements, and licensing procedures.

Date: 5-20-09 **Time:** 10 a.m. **Location:** 800 NE Oregon St., Rm. 445
Portland, OR 97232

Hearing Officer: Sandy Leybold

Stat. Auth.: ORS 681

Stats. Implemented: ORS 681

Proposed Amendments: 335-005-0020, 335-060-0010, 335-060-0020, 335-070-0055, 335-070-0075, 335-070-0080, 335-070-0085, 335-095-0010, 335-095-0030, 335-095-0050, 335-095-0060

Last Date for Comment: 5-21-09

Summary: Adds and clarifies definitions of unprofessional conduct.

Clarifies need for timely reporting of home and business address- and SLPA supervision changes.

Increases licensing fees.

Changes professional; development house required for renewal and reactivation.

Adds professional development hours required for renewal and reactivation.

Clarifies SPLA supervision requirements. Allows Board to exempt school districts in critical shortage areas from certain SLPA supervision requirements based upon an application and approval process.

Changes miscellaneous text for charity.

Rules Coordinator: Sandy Leybold

Address: Board of Examiners for Speech-Language Pathology and Audiology, 800 NE Oregon St., Suite 407, Portland, OR 97232

Telephone: (971) 673-0220

.....
Board of Geologist Examiners
Chapter 809

Rule Caption: Adoption of the biennial budget for 2009-11 with a spending limitation of \$483,975.

Date: 6-5-09 **Time:** 9 a.m. **Location:** 1193 Royvonne Ave. SE,
Conference Rm.
Salem, OR

Hearing Officer: S. Knight

Stat. Auth.: ORS 182.462, 182.466, 670.310 & 672.705

Stats. Implemented: ORS 672.705 & 182.462

Proposed Amendments: 809-010-0025

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

Summary: The Administrative Rule revision will adopt the 2009-11 biennial budget of the Board with a spending limit of \$483,975. The April 2009 Board newsletter contains an article about the Board deliberations on this budget. Individuals may view a copy of the draft budget on the Board's web page or request a copy of the budget by contacting Board staff.

Rules Coordinator: Susanna Knight

Address: Board of Geologist Examiners, 1193 Royvonne Ave. SE, #19, Salem, OR 97302

Telephone: (503) 566-2837

.....
Board of Nursing
Chapter 851

Rule Caption: Rules Established that Mandate Employer reporting for all Licensed RNs and LPNs.

NOTICES OF PROPOSED RULEMAKING

Date: 6-18-09
Time: 9 a.m.
Location: 17938 SW Upper Boones Ferry Rd. Portland, OR

Hearing Officer: James McDonald, Board President

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.150

Proposed Amendments: 851-031-0090

Last Date for Comment: 6-16-09, 5 p.m.

Summary: These rules cover standards for licensure of registered nurses and licensed practical nurses. This rule amendment would mandate that licenses shall keep their current employer on file with the Oregon State Board of Nursing at all times.

Rules Coordinator: KC Cotton

Address: Board of Nursing, 17938 SW Upper Bones Ferry Rd., Portland, OR 97224

Telephone: (971) 673-0638

Rule Caption: Rules Established that Mandate Employer Reporting for All Oregon Certified Nursing Assistants and Medication Aides.

Date: 6-18-09
Time: 9 a.m.
Location: 17938 SW Upper Boones Ferry Rd. Portland, OR

Hearing Officer: James McDonald, Board President

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.150, 678.440 & 678.442

Proposed Amendments: 851-062-0120

Last Date for Comment: 6-16-09, 5 p.m.

Summary: These rules establish the standards for certification of nursing assistants and medication aides. The rule amendment will mandate employer reporting for all Oregon certified nursing assistants and medication aides.

Rules Coordinator: KC Cotton

Address: Board of Nursing, 17938 SW Upper Bones Ferry Rd., Portland, OR 97224

Telephone: (971) 673-0638

Board of Optometry Chapter 852

Rule Caption: Proposes budget for 2009–2011 biennium; Revises Continuing Education definition and COPE and COE approval conditions.

Date: 6-5-09
Time: 1:30 p.m.
Location: 1900 Hines St. SE 2nd Flr. Salem, OR

Hearing Officer: Michelle Monkman, OD, Board President

Stat. Auth.: ORS 683 & 182

Stats. Implemented: ORS 683.140, 683.210, 182.462(1) & (2) & 182.466

Proposed Amendments: Rules in 852-005, 852-070

Last Date for Comment: 6-5-09

Summary: 852-005 — Proposes the Board's 2009–2011 biennium budget.

852-070 — Changes the definition of continuing optometric education. Specifies which of the COPE approved categories of continuing education are accepted by the Board. Changes the time increments allowed for COE course approval.

Rules Coordinator: David W. Plunkett

Address: Board of Optometry, PO Box 13967, Salem, OR 97309

Telephone: (503) 399-0662, ext. 23

Department of Administrative Services Chapter 125

Rule Caption: Parking and commuting rules for state owned buildings in Salem, Portland, and Eugene.

Date: 5-15-09
Time: 4 p.m.
Location: 1225 Ferry St., U100 Mt. Mazama Conf. Rm. Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 276.004, 276.053, 276.073, 276.591–276.601, 276.990 & 283.100

Other Auth.: ORS 153.022 & 811.602–811.637

Stats. Implemented: ORS 276.004, 276.591, 276.594, 276.601 & 276.990

Proposed Adoptions: 125-090-0002, 125-090-0135, 125-090-0150, 125-090-0160

Proposed Amendments: 125-090-0000, 125-090-0005, 125-090-0010, 125-090-0020, 125-090-0030, 125-090-0060, 125-090-0070, 125-090-0080, 125-090-0090, 125-090-0100, 125-090-0110, 125-090-0120, 125-090-0130, 125-090-0140

Proposed Repeals: 125-090-0040, 125-090-0050

Last Date for Comment: 5-15-09, 5 p.m.

Summary: The proposed amendments incorporate legislative changes made since DAS last adopted these rules. The changes include housekeeping edits that incorporate plain language, eliminate uncertainty, and make consistent the use of terms. Some changes result from innovations in the Department of Administrative Services practices.

Rules Coordinator: Yvonne Hanna

Address: 155 Cottage St. NE., Salem, OR 97301

Telephone: (503) 378-2349, ext. 325

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

Rule Caption: Clarifies that general supervising electricians may be penalized for failure to perform their responsibilities.

Date: 5-19-09
Time: 9:30 a.m.
Location: 1535 Edgewater St. NW Salem, OR 97304

Hearing Officer: Aeron Teverbaugh

Stat. Auth.: ORS 455.117 & 479.730

Stats. Implemented: ORS 479.620 & 479.730

Proposed Amendments: 918-282-0140

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

Summary: The proposed amendment does not create new responsibilities for signing supervisors. The proposed rule clarifies that signing supervising electricians may not allow, either actively or by failure to prevent, an electrician to perform work for which they are not properly licensed. The proposed amendment also clarifies that a signing supervisor may be subject to penalties including fines, license conditioning, suspension, and revocation, where they fail to meet their responsibilities under the rule.

Rules Coordinator: Shauna Parker

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

Telephone: (503) 373-7438

Rule Caption: Clarifies code language and performance expectations for ORSC Section R703.1

Date: 5-19-09
Time: 10 a.m.
Location: 1535 Edgewater St. NW Salem, OR 97304

Hearing Officer: Richard Rogers

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

Stats. Implemented: ORS 455.610

Proposed Amendments: 918-480-0010

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

Summary: The proposed rule clarifies the performance expectation of a new code requirement in the 2008 Oregon Residential Specialty Code (ORSC), Section R703.1, which requires a means of draining water that enters the wall assembly to the exterior. The proposed

NOTICES OF PROPOSED RULEMAKING

rule lays out the minimum requirements for providing the means of draining, including but not limited to: integration of flashings, an exterior veneer, a water resistive barrier, and either a space between the barrier and the veneer or the application of one of the exceptions.

Rules Coordinator: Shauna Parker

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

Telephone: (503) 373-7438

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

Rule Caption: Adopts federal and state standards for aggregating loans to multiple borrowers.

Date:	Time:	Location:
6-5-09	9 a.m.	Rm. 260, L& I Bldg. 350 Winter St. NE Salem, OR

Hearing Officer: Richard Y. Blackwell

Stat. Auth.: ORS 706.790

Stats. Implemented: ORS 708A.295

Proposed Adoptions: 441-505-3070, 441-505-3075, 441-505-3080

Last Date for Comment: 6-12-09, 5 p.m.

Summary: These proposed rules would adopt the approaches taken by several contiguous states and federal government for determining when loans to more than one borrower should be aggregated against a bank's legal lending limit. Currently, loans to more than one borrower are aggregated together when the obligation of one person "benefits" another person. This standard may prove difficult for financial institutions to apply, because it is subject to multiple interpretations. Instead of this vague standard, the division is proposing to adopt both the "direct benefit" and "common enterprise" tests developed by the Office of the Comptroller of the Currency (OCC) of the U.S. Treasury and adopted by several Western states.

Rules Coordinator: Shelley Greiner

Address: Department of Consumer and Business Services, Finance and Corporate Securities, 350 Winter St. NE, Rm. 410, Salem, OR 97301

Telephone: (503) 947-7484

Department of Consumer and Business Services, Oregon Occupational Safety and Health Division Chapter 437

Rule Caption: Proposed changes to Division 2/L, Fire Protection/Oregon Rules for Fire Fighters.

Date:	Time:	Location:
6-3-09	2:30 p.m.	Labor and Industries Bldg. Basement — Conf. Rm. F 350 Winter Street NE Salem, OR 97301

Hearing Officer: Sue Joye

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.001-654.295

Proposed Amendments: 437-002-0182

Last Date for Comment: 6-8-09

Summary: Oregon OSHA proposes to amend OAR 437-002-0182, Oregon Rules for Fire Fighters related to confined space rescue. The rule change focuses on fire departments that respond to calls prompted by the public, typically 911 calls, for rescue from confined spaces. The proposed language was drawn heavily from the 2000 edition of the National Fire Protection Agency (NFPA) Standard for Rescue Technician Professional Qualifications (NFPA 1006), and the 1999 edition of the NFPA Standard on Operations and Training for Technical Rescue Incidents (NFPA 1670). This rule was initiated in part based on the need to standardize methods for all fire fighters and first responders in the state for the rescue of victims from confined spaces.

We also are adding definitions specific to the proposed confined space rule to include confined space, immediately dangerous to life or health (IDLH), pressure demand respirator, and air purifying and positive pressure respirators. Some rules in 437-002-0182 such as paragraph (9) (a), (13) (e), (15) (b), (25) (a), (28) (a) and (29) (b) have specific reference dates and rule numbers removed that are no longer relevant.

Please visit our web site www.orosha.org

Click 'Rules/Compliance' in the left vertical column and view our proposed, adopted, and final rules.

Rules Coordinator: Sue C. Joye

Address: Department of Consumer and Business Services, Oregon Occupational Safety and Health Division, 350 Winter St. NE, Salem, OR 97301-3882

Telephone: (503) 947-7449

Rule Caption: Propose to adopt new federal amendments to the practice of vertical tandem lift in Longshoring and Maritime Terminals.

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.001-654.295

Proposed Amendments: 437-005-0002, 437-005-0003

Last Date for Comment: 5-27-09

Summary: This rulemaking is to keep Oregon OSHA in harmony with recent changes to Federal OSHA's standards.

In this rulemaking, Oregon OSHA is issuing revisions and additions to the Marine Terminals and Longshoring Standards (29 CFR Parts 1917 and 1918) that reflect Federal OSHA's new requirements for the practice of lifting two intermodal containers together, one on top of the other, connected by semiautomatic twist locks (SATLs). This practice is known as a Vertical Tandem Lift (VTL). The final standard permits VTLs of no more than two, empty containers provided that certain safeguards are followed. These revisions and additions focus on the reduction of employee death and injury achieved by providing safe work practices for employers who choose to perform VTLs.

OR-OSHA proposes to adopt the changes in division 5, Maritime Activities as published in the December 10, 2008 Federal Register.

Please visit our web site www.orosha.org

Click 'Rules/Compliance' in the left vertical column and view our proposed, adopted, and final rules.

Rules Coordinator: Sue C. Joye

Address: Department of Consumer and Business Services, Oregon Occupational Safety and Health Division, 350 Winter St. NE, Salem, OR 97301-3882

Telephone: (503) 947-7449

Department of Corrections Chapter 291

Rule Caption: Alternative Incarceration Programs for Inmates.

Stat. Auth.: ORS 179.040, 421.500-421.512, 423.020, 423.030 & 423.075

Other Auth.: 2008 OL Ch. 35

Stats. Implemented: ORS 179.040, 421.500-421.512, 423.020, 423.030 & 423.075

Proposed Adoptions: 291-062-0170

Proposed Amendments: 291-062-0100 - 291-062-0160

Last Date for Comment: 5-29-09

Summary: 2008 OR Laws, Ch. 35 (HB 3638) modifies the process for release of an inmate on post-prison supervision following successful completion of alternative incarceration program. These rule amendments are necessary to update the Department's policy and procedures for releasing an inmate on post-prison supervision after successful completion of an alternative incarceration program to the provisions of the new legislation. These amendments modify the eligibility criteria for inmate participation in an alternative incarceration program. Other amendments are necessary to reflect the

NOTICES OF PROPOSED RULEMAKING

operational and organizational changes that have occurred in the Department since the last rule revision.

Rules Coordinator: Janet R. Worley

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

Telephone: (503) 945-0933

Department of Fish and Wildlife Chapter 635

Rule Caption: 2010 annual changes to game mammal hunting regulations, plus 2009 controlled tag numbers.

Date:	Time:	Location:
6-5-09	8 a.m.	3406 Cherry Ave NE Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.012, 496.138, 496.0146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.0146 & 496.162

Proposed Amendments: Rules in 635-002, 635-045, 635-060, 635-065, 635-066, 635-067, 635-068, 635-069, 635-070, 635-071, 635-072, 635-073, 635-075, 635-078, 635-080

Last Date for Comment: 6-5-09

Summary: Establish 2009 controlled hunt tag numbers and/or season regulations for the hunting of pronghorn antelope, bighorn sheep, Ricky Mountain goat, deer and elk.

Propose 2010 hunting regulations for game mammals, including season dates, bag limits, open areas, location of cooperative travel management areas, and controlled hunting regulations. Propose quotes for 2010 cougar seasons and spring bear limited, first-come, first-serve and controlled hunt tag numbers for 2010. These proposals will be presented in principle to the Oregon Fish and Wildlife Commission in June 2009 and again for adoption in October 2009. Rules will be amended regarding the definition of "take".

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

Department of Forestry Chapter 629

Rule Caption: Procedures for Contracts, Agreements and Renewals.

Date:	Time:	Location:
5-26-09	9 a.m.	2600 State St., Bldg. D Salem, OR 97310

Hearing Officer: Robert Young

Stat. Auth.: ORS 477.406(2), 526.016(4) & 526.041(1)

Stats. Implemented: ORS 477.406 & 526.041

Proposed Amendments: 629-041-0100

Last Date for Comment: 5-26-09

Summary: The Oregon State Board of Forestry needs to amend OAR 629-041-0100, the Board's rule that governs the formation of contracts and agreements by the State Forester under ORS 477.406. The amendment will establish procedural rules for the competitive solicitation of agreements for the prevention and suppression of fire on forestland and other lands by adopting by reference two divisions of the Attorney General's Model Public Contract Rules, OAR chapter 137, divisions 046 and 047 (2008).

Previously, the State Board of Forestry regarded these agreements as falling under the contracting authority of the Oregon Department of Administrative Services (DAS) under ORS 279A.140(1). In that case, the DAS contracting rules, OAR chapter 125, divisions 246 and 247, applied to competitive solicitations of the agreements. The board recently discovered, however, that the board and the State Forester have independent contracting authority under ORS 477.406 and ORS 279A.050(6)(L). Consequently, the board no longer automatically can use the DAS contracting rules, and now must adopt its own rules to specify procedures for competitive contracting for fire prevention and suppression services.

Rules Coordinator: Mary Schmelz

Address: Department of Forestry, 2600 State St., Salem, OR 97310

Telephone: (503) 945-7202

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

Rule Caption:

Date:	Time:	Location:
5-21-09	10 a.m.	500 Summer St. NE, Rm. 255 Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.105, 411.660, 411.816, 412.001, 412.006, 412.009, 412.014, 412.049, 412.079 & 414.042

Other Auth.: 7 USC 2015, 7 USC 2020 (Food and Nutrition Act of 2008), 42 USC 608(a), 42 USC 1315, 42 USC 1396d(p), 42 USC 1396r-5(d), 42 USC 1396r-5(d)(3) American Recovery and Reinvestment Act of 2009, 7 CFR 273.10(f), 7 CFR 273.23(c), 20 CFR 416.414, 40 CFR 264.1, 42 CFR 435.622, 42 CFR 435.1005, 42 CFR 435.1009 & 45 CFR Part 400

Stats. Implemented: ORS 411.060, 411.070, 411.105, 411.117, 411.122, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.700, 411.816, 411.825, 411.892, 412.001, 412.006, 412.014, 412.049, 412.151, 412.079, 414.025 & 414.042

Proposed Amendments: 461-001-0000, 461-001-0030, 461-110-0530, 461-110-0630, 461-115-0050, 461-115-0450, 461-135-0075, 461-135-0415, 461-135-1110, 461-145-0380, 461-150-0020, 461-150-0030, 461-150-0042, 461-150-0050, 461-150-0055, 461-150-0060, 461-150-0070, 461-150-0080, 461-150-0090, 461-150-0100, 461-155-0190, 461-155-0250, 461-155-0290, 461-155-0291, 461-155-0295, 461-155-0660, 461-160-0300, 461-160-0550, 461-160-0551, 461-160-0620, 461-165-0010, 461-165-0060, 461-165-0130, 461-165-0140, 461-170-0102, 461-170-0150, 461-195-0501, 461-195-0521, 461-195-0621

Proposed Repeals: 461-150-0047, 461-150-0049, 461-155-0190(T), 461-155-0250(T), 461-155-0290(T), 461-155-0291(T), 461-155-0295(T), 461-193-0650, 461-195-0521(T)

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

Summary: OAR 461-001-0000 about the definitions for Chapter 461 is being amended to state the definition of an electronic application and clarify when an individual in a nursing facility is considered to be in a non-standard living arrangement.

OAR 461-001-0030 about the definitions used in the Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM) programs for long-term care and waived clients is being amended to restate the definition of "eligible dependent".

OAR 461-110-0530 about financial group composition in all of the Department's programs, OAR 461-160-0550 about deductions taken from a client's income when determining adjusted income for clients not receiving Supplemental Security Income (SSI) benefits and living in the community with no children present in the household group (the individuals who live together with or without benefit of a dwelling) in the Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM) programs, and OAR 461-160-0551 about deductions taken from a client's income when determining adjusted income for clients not receiving Supplemental Security Income (SSI) benefits and living in the community with children present in the household group in the OSIP and OSIPM programs are being amended to state correctly which filing group (the individuals from the household group whose circumstances are considered in the eligibility determination process) members are included in the financial group (filing group members whose income and resources count in determining eligibility and benefits) in the OSIP program for clients in standard and nonstandard living arrangements and in the OSIPM program for clients in a standard

NOTICES OF PROPOSED RULEMAKING

living arrangement when there is an ineligible spouse included in the filing group. OAR 461-110-0530 also is being amended to state, for clients in the OSIPM program in a standard living arrangement, that the spouse of the client is considered to be in the financial group for resource determination even if not included in the financial group for income determination. OAR 461-160-0550 also is being amended to remove an unnecessary definition of the term “ineligible”.

OAR 461-110-0630 about need group (the individuals whose basic and special needs are used in determining eligibility and benefit level) composition in the Department’s programs is being amended to remove references regarding an ineligible spouse’s income and clarify need group composition in the Oregon Supplemental Income Program (OSIP) and the Oregon Supplemental Income Program Medical (OSIPM) programs.

OAR 461-115-0050 about when an application to the Department is complete and when a new application is needed is being amended to state when an electronic application is complete and that in the Oregon Supplemental Income Program Medical (OSIPM) program a new application is not required when the client’s case closed in the previous month due to failure to pay the cost of care for long term care services or the participant fee for the Employed Persons with Disabilities subprogram unless the Department determines that an application is required.

OAR 461-115-0450 about the length of certification periods and scheduling of eligibility redetermination dates in the Food Stamp (FS) program is being amended to allow extended certification periods and state when a client contact is required for households in which all adult members are elderly or individuals with disabilities. This rule is also being amended to allow FS certification periods to be shortened to align the new FS certification period with the eligibility period of other programs when the Department has received an application for benefits in multiple programs.

OAR 461-135-0075 about exceptions to the eligibility limitation period of 60 months in the Temporary Assistance for Needy Families (TANF) program is being amended to add an exemption for months beginning July 1, 2008 in which the individual receiving the grant is experiencing an economic hardship.

OAR 461-135-0415 about the requirement for a client to make a copayment to the day care provider or other satisfactory arrangements with the day care provider in the Employment Related Day Care (ERDC) program is being amended to state clearly who the Department considers as the primary provider.

OAR 461-135-1110 about the eligibility of students enrolled in higher education for the OHP-OPU (Oregon Health Plan coverage for adults who qualify under the 100 percent income standard) program is being amended to add the expected family contribution level, at which some students enrolled in higher education become ineligible for OHP-OPU, for the 2009-2010 school year while removing the information about the 2007-2008 school year.

OAR 461-145-0380 about the treatment of a client’s pension and retirement plans is being amended to specify requirements regarding the election of monthly or periodic payments from the plans for clients in the Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM), and Qualified Medicare Beneficiary (QMB) programs to comply with federal law. This rule also is being amended to exclude certain annuities purchased by clients with funds from a pension or retirement plan from the definition of pension and retirement plans for clients in the OSIP, OSIPM, and QMB programs.

OAR 461-150-0020 about the use of prospective eligibility and budgeting (the process of calculating the benefit level) for all Department administered Chapter 461 programs is being amended to state that in all programs except the Oregon Health Plan (OHP) program, prospective budgeting is used for annualized income and prorated educational income, remove language about how overpayments are calculated when actual income exceeds anticipated income, clarify the rule language, and add cross references to other rules where terms are defined.

OAR 461-150-0030 about the use of retrospective eligibility (the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits) and budgeting (the process of calculating the benefit level) is being amended to state that retrospective eligibility and budgeting is used in all programs except Employer Related Day Care and the Oregon Health Plan.

OAR 461-150-0042 about the eligibility (the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits) and budgeting (the process of calculating the benefit level) methods utilized in the Emergency Assistance program is being amended to include cross-references to other rules for defined terms and to follow Department grammar conventions.

OAR 461-150-0047 about the treatment of income for cases assigned to the simplified reporting system (SRS) is being repealed. The rule’s relevant provisions are being relocated to OAR 461-150-0060 and amended to state how different types of income are budgeted.

OAR 461-150-0049 about the use of prospective eligibility (the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits) and budgeting (the process of calculating the benefit level) in the Employment Related Day Care (ERDC) program is being repealed. The rule’s relevant provisions are being relocated to OAR 461-150-0060 and amended to restate how varying types of income are classified and how future income is anticipated.

OAR 461-150-0050 about when the Department uses prospective or retrospective eligibility (the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits) and budgeting (the process of calculating the benefit level) in the General Assistance (GA), General Assistance Medical (GAM), Oregon Supplemental Income Program (OSIP), Oregon Supplemental Income Program Medical (OSIPM), and Qualified Medicare Beneficiaries (QMB) programs is being amended to state that in ongoing benefit months prospective eligibility and budgeting are used when certain types of income can be anticipated and that in all programs, except the OSIP-EPD and OSIPM-EPD programs, retrospective eligibility and budgeting are used for ongoing months for cases with varying income, non-standard living arrangements, a retrospective liability determination, and the anticipated income varies in a manner making the client periodically ineligible for benefits. This rule also is being amended to clarify language and add cross references to other rules for defined terms.

OAR 461-150-0055 about the budget month (the calendar month from which nonfinancial and financial information is used to determine eligibility and benefit level for the payment month) and countable income in the Oregon Health Plan (OHP) program is being amended to state the budget month for a client reapplying for an OHP program and no longer eligible for his or her current OHP program is the last month of his or her current eligibility period. This rule is also being amended to restate that for an individual joining an OHP program filing group (the individuals from the household group whose circumstances are considered in the eligibility determination process), the budget month is the month in which the individual requests medical benefits. This rule also is being amended to clarify language and add cross references to other rules for defined terms.

OAR 461-150-0060 about the use of prospective or retrospective eligibility (the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits) and budgeting (the process of calculating the benefit level) in the Employment Related Day Care (ERDC), Food Stamp (FS), Medical Assistance Assumed (MAA), Medical Assistance Family (MAF), Refugee Assistance (REF), Refugee Assistance Medical (REFM), and Temporary Assistance for Needy Families (TANF) programs is being amended to state how and when the Department determines use of prospective or retrospective eligibility and budgeting in those programs and to incorporate the relevant provisions from OAR 461-

NOTICES OF PROPOSED RULEMAKING

150-0047 and 461-150-0049 into this rule. This rule is also being amended to state how the Department handles income in the initial month in the FS program for cases assigned to various reporting systems. This rule is also being amended to state that the initial month is included when budgeting income for the ERDC program and in the ERDC program income for the fifth month of the FS certification period is used to determine the income for the seventh and following months in the certification period.

OAR 461-150-0070 about the prospective budgeting of a client's stable income is being amended to state that the rule's provisions do not apply to the Oregon Health Plan (OHP) program, restate how the anticipated future monthly income for a financial group (the filing group members whose income and resources count in determining eligibility and benefits) is calculated based on how frequently the client is paid, and restate that in the Food Stamp (FS) program stable income received less often than monthly is treated as periodic income (income received on a regular basis less often than monthly). This rule also is being amended to clarify language and add cross references to other rules for defined terms.

OAR 461-150-0080 about the prospective budgeting (the process of calculating the benefit level) of variable earned or unearned income for all clients, except those in the Oregon Health Plan program and those assigned to the monthly reporting system, is being amended to restate how variable income is treated in the prospective eligibility (the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits) and budgeting processes. This rule is also being amended to clarify language and add cross references to other rules for defined terms.

OAR 461-150-0090 about converting contracted and self-employment income to an annualized amount in the prospective budgeting (the process of calculating the benefit level) process is being amended to state that this rule does not apply to the Oregon Health Plan (OHP) and Refugee Assistance Medical (REFM) programs, what constitutes self-employment income, how contract income is treated, and how contract income is converted into an annualized amount.

OAR 461-150-0100 about the use of prospective budgeting (the process of calculating the benefit level) for the initial month of benefits for a destitute filing group in the Food Stamp (FS) program is being amended to clarify language and add cross references to other rules for defined terms.

OAR 461-155-0190 about the income and payment (benefit amount) standards in the Food Stamp (FS) program is being amended to reflect increases in the Food Stamp Payment Standards (Thrifty Food Plan). The increases were made effective April 1, 2009 via temporary rule to comply with the passage of the federal American Recovery and Reinvestment Act of 2009. These changes were made in the temporary rule filed effective April 1, 2009 and this rule is also being amended to make the temporary rule changes filed April 1, 2009 permanent.

OAR 461-155-0250 about the income and payment standards in the Oregon Supplemental Income Program (OSIP) and Oregon Supplemental Income Program Medical (OSIPM) programs is being amended to make permanent a temporary rule change adopted on March 1, 2009, reflecting the annual change in the adjusted income standard based on the federal poverty level for the OSIP-Employed Persons with Disabilities (OSIP-EPD) and OSIPM-Employed Persons with Disabilities (OSIPM-EPD) programs. This rule is also being amended to remove current rule language related to annual standards so that that language will not need to be amended each year when the program standards change.

OAR 461-155-0290 about the income standards in the Qualified Medicare Beneficiaries - Basic (QMB-BAS) program, OAR 461-155-0291 about the income standards in the Qualified Medicare Beneficiaries - Disabled Worker (QMB-DW) program, and OAR 461-155-0295 about the income standards in the Qualified Medicare Beneficiaries - Specified Limited Medicare Beneficiary (QMB-SMB) and Qualified Medicare Beneficiaries - Qualified Individuals

(QMB-SMF) programs are being amended to reflect the annual changes in the income standards based on changes to the federal poverty level. These amended rules will make permanent the temporary rule changes adopted effective April 1, 2009.

OAR 461-155-0660 about how an accommodation allowance for a special need is determined for clients in the Oregon Supplemental Income Program (OSIP), assistance to seniors and people with disabilities) and Oregon Supplemental Income Program Medical (OSIPM) programs receiving in-home long-term care services is being amended to replace the term "original purchase money mortgage" with the term "property agreement", define the term "property agreement", and clarify how to calculate the special need allowance amount.

OAR 461-160-0300 about use of income to determine eligibility and benefits and OAR 461-170-0150 about the anticipating with periodic review reporting system for clients in the Employment Related Day Care (ERDC) program are being amended to make technical and grammatical changes only and correctly cross-reference the relevant administrative rule. OAR 461-160-0300 is also being amended to replace the term "Division" with "Department".

OAR 461-160-0620 about the standards used to calculate how much of the client's income can be diverted to a community spouse for clients in the Oregon Supplemental Income Program Medical (OSIPM) receiving long-term care or waived services is being amended to reflect the annual federal increase in the minimum maintenance need and shelter standards.

OAR 461-165-0010 about the legal status under Oregon law of benefit payments made in programs covered by Chapter 461 administrative rules, OAR 461-165-0130 about when the Department may send benefit payments out of state, OAR 461-165-0140 about the endorsement of benefit checks and the survivorship of benefits when the recipient passes away, OAR 461-195-0501 about definitions for overpayments and intentional program violations, and OAR 461-195-0621 about intentional program violations and the penalties and liabilities for overpayments are being amended to remove language about and references to Food Stamp (FS) program coupons. OAR 461-165-0010 also is being amended to state how long FS program benefits issued by Electronic Benefit Transfer (EBT) card remain available for client use and when unused benefits on an EBT card are expunged (made no longer available for client use). OAR 461-165-0130 also is being amended to state that the Department does not send FS program benefits to a client outside the state of Oregon.

OAR 461-165-0060 about the minimum benefit amount provided to eligible clients in the Food Stamp (FS) program is being amended to indicate that when the FS benefit allotment for a benefit group (the individuals who receive benefits) would be less than ten dollars a month the benefit group is not eligible to receive benefits in the initial month of benefits. This rule also is being amended to make the temporary changes effective April 1, 2009 permanent.

OAR 461-170-0102 about the report a Food Stamp (program) client assigned to the simplified reporting system must submit is being amended to state the reporting and contact requirements for a client certified for more than 12 months.

OAR 461-193-0650 about countable income for the Refugee Case Services Project is being repealed the topic is now covered in another administrative rule in this division of rules.

OAR 461-195-0521 about methods for calculating overpayments (benefits paid to a client in error which the client needs to repay to the Department) is being amended to state that the difference in the Food Stamp program between the Thrifty Food Plan benefit amount put into place as of April 1, 2009 in response to passage of the federal American Recovery and Reinvestment Act of 2009 and the Thrifty Food Plan benefit amount in effect on March 31, 2009 is not included when calculating overpayment amounts. These changes were made in the temporary rule filed effective April 1, 2009 and this rule is also being amended to make the temporary rule changes filed April 1, 2009 permanent. This rule is also being amended to state when a Post-TANF program grant credit is allowed against an over-

NOTICES OF PROPOSED RULEMAKING

payment caused by reported earned income in the Temporary Assistance to Needy Families (TANF) program. This rule is also being amended to state when an overpayment in the prospective budgeting (the process of calculating the benefit level) process is a client error overpayment. This rule is also being amended to state that when an overpayment in the General Assistance (GA), Oregon Supplemental Income Program (OSIP), Refugee Assistance (REF), State Family Pre-SSI/SSDI (SFPSS), or TANF programs is due to Department error there is no corresponding medical program overpayment if the client had been eligible for medical benefits under certain other programs.

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

Rules Coordinator: Annette Tesch

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

Telephone: (503) 945-6067

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

Rule Caption: July revisions for: Semi-annual Practitioner Managed Prescription Drug Plan list update, Prior Authorization (PA) changes, and billing requirement updates.

Date:	Time:	Location:
5-20-09	10:30 a.m.	HSB Bldg., Rm. 137A 500 Summer St. NE Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010, 409.050, 409.110 & 414.065

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-121-0000, 410-121-0032, 410-121-0040, 410-121-0150, 410-121-0155

Last Date for Comment: 5-27-09

Summary: The Pharmaceutical Services program rules (division 121) govern the Division of Medical Assistance Programs' (DMAP) payments for services provided to certain clients. DMAP will amend the administrative rules listed above to clarify current policies and procedures for pharmacy providers to ensure DMAP OARs are not open to interpretation by the provider or outside parties and to help eliminate confusion possible resulting in non-compliance. DMAP will amend as follows:

410-121-0000: Clarify language related to the CMS and Supplemental Rebates;

410-121-0032: Clarify language to reflect the net cost of drugs and placement on the Preferred Drug List (PDL);

410-121-0040: Changes to PA list based on DUR Board recommendations;

410-121-0150: Clarify billing requirements related to the National Prescriber Identifier (NPI);

410-121-0155: To reflect new reimbursement rates for drugs provided by the DMAP contracted mail order pharmacy provider.

Text may be revised to improve readability and to take care of necessary "housekeeping" corrections.

Rules Coordinator: Darlene Nelson

Address: Department of Human Services, Division of Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301

Telephone: (503) 945-6927

Rule Caption: July '09 — Change text and requirements for code 92070 and keratoconus treatment.

Date:	Time:	Location:
5-20-09	10:30 a.m.	HSB Bldg., Rm. 137A 500 Summer St. NE Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.050 & 414.065

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-140-0140, 410-140-0160

Last Date for Comment: 5-27-09

Summary: The Visual Services program administrative rules govern Division of Medical Assistance Programs' (DMAP) payment for services to certain clients. DMAP will amend the rules listed above to remove the requirements that providers must use code 92070 for treatment of the disease keratoconus. The use of this code for keratoconus does not allow the provider to cover their costs. Provider costs are covered by billing their usual and customary fees. Other text may be revised to improve readability and to take care of any necessary "housekeeping" corrections.

Rules Coordinator: Darlene Nelson

Address: Department of Human Services, Division of Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301

Telephone: (503) 945-6927

Rule Caption: Non-substantive: update to ensure dental and other references are consistent with other program OARs and documents.

Date:	Time:	Location:
5-20-09	10:30 a.m.	HSB Bldg., Rm. 137A 500 Summer St. NE Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010, 409.050, 409.110 & 414.065

Other Auth.: Title 19 of the Social Security Act, Title 42 Public Health CFR, OAR 410-120, 42 USC 1396a(bb) & 1396d (U.S. Code 42, Ch. 7, Sub 19). Public Law 93-638, Sec. 1603 of Title 25.

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-146-0085, 410-0146-0380

Last Date for Comment: 5-27-09

Summary: The American Indian/Alaska Native (AI/AN) program administrative rules govern Division of Medical Assistance Programs' (DMAP) payment for services to certain clients. DMAP will amend the rules listed above to make cited references consistent for locating information in other program rules and documents. Other text may be revised to improve readability and to take care of necessary "housekeeping" corrections.

Rules Coordinator: Darlene Nelson

Address: Department of Human Services, Division of Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301

Telephone: (503) 945-6927

Rule Caption: Non-substantive: update dental and other references and remove references to the obsolete table 147-0120-1.

Date:	Time:	Location:
5-20-09	10:30 a.m.	HSB Bldg., Rm. 137A 500 Summer St. NE Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.050 & 414.065

Other Auth.: 42 USC 1396a(bb) & Title 42 Public Health Code CFR

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-147-0120, 410-147-0125, 410-147-0140

Last Date for Comment: 5-27-09

Summary: The Federally Qualified Health centers and Rural Health Clinics (FQHC/RHC) program administrative rules govern Division of Medical Assistance Programs' (DMAP) payment for services to certain clients. DMAP will amend the above listed rules to make cited references consistent for locating information in other program rules and documents. Other text may be revised to improve readability and to take care of necessary "housekeeping" corrections.

Rules Coordinator: Darlene Nelson

Address: Department of Human Services, Division of Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301

Telephone: (503) 945-6927

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Clarify provider appeals process including claim re-determination in coordination with Department wide rules chapter 407.

Date: 5-20-09
Time: 10:30 a.m.
Location: HSB Bldg. Rm. 137
500 Summer St. NE
Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.040, 409.050, 409.065, 409.110 & 409.120

Stats. Implemented: ORS 414.065 & 409.010

Proposed Amendments: 410-120-0000, 410-120-1560, 410-120-1570, 410-120-1580, 410-120-1600

Proposed Repeals: 410-120-1680, 410-120-1700

Last Date for Comment: 5-27-09

Summary: The General Rules program administrative rules govern Department of Medical Assistance Programs' (DMAP) payment for services to certain clients. DMAP will amend 410-120-0000 to insert the revised definition for "Emergency Ambulance Transportation." DMAP will amend or repeal the remainder of rules listed above as a coordination effort in provider appeals rules related to administrative reviews and contested case hearings. Text will be condensed and clarified. Rule 410-120-1570 — claims re-determinations, will include more detailed process steps regarding reviews. There is no change to existing policy, just a clarification of the type of claims eligible for re-determination. Other text may be revised to improve readability and to take care of necessary "housekeeping" corrections.

Rules Coordinator: Darlene Nelson

Address: Department of Human Services, Division of Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301

Telephone: (503) 945-6927

Rule Caption: January 1, 2009 Rule Revisions — rules omitted from standard filing.

Date: 5-20-09
Time: 10:30 a.m.
Location: HSB Bldg. Rm. 137A
500 Summer St. NE
Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010, 409.025, 409.050, 409.110 & 414.065

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-122-0202

Last Date for Comment: 5-27-09

Summary: The Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) program administrative rules govern Division of Medical Assistance Programs' (DMAP) payments for services to certain clients. Having temporarily amended this rule, DMAP will permanently amend rule 410-122-0202 to change the title of the rule to "Positive Airway Pressure Devices for Adults," require downloadable report of PAP device compliance & therapy and add new inclusion criteria for coverage. A temporary filing was necessary because the new criteria needed to be in effect January 1 and there was not adequate time for a standard filing. DMAP will file this rule permanently on or before June 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: July 1, 2009 Rule revisions.

Date: 5-20-09
Time: 10:30 a.m.
Location: HSB Bldg. Rm. 137A
500 Summer St. NE
Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010, 409.050, 409.110 & 414.065

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-122-0080, 410-122-0180, 410-122-0186, 410-122-0205, 410-122-0208, 410-122-0320, 410-122-0325, 410-122-0340, 410-122-0375, 410-122-0400, 410-122-0420, 410-

122-0500, 410-122-0520, 410-122-0580, 141-122-0590, 410-122-0600, 410-122-0620, 410-122-0700, 410-122-0720

Last Date for Comment: 5-27-09

Summary: The Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) program administrative rules govern Division of Medical Assistance Programs' (DMAP) payments for services provided to certain clients. DMAP needs to amend:

410-122-0080, Conditions of Coverage, Limitations, Restrictions and Exclusions: Removes cough stimulating devices as an exclusion of coverage. Updates reference to Medicare's Pricing, Data Analysis and Coding (PDAC) Contractor.

410-122-0180, Healthcare Common Procedure Coding System (HCPCS) Level II Coding: Updates reference to Medicare's Pricing, Data Analysis and Coding (PDAC) Contractor.

410-122-0186, Payment Methodology: Updates reference to Medicare's Pricing, Data Analysis and Coding (PDAC) Contractor. Clarifies some prior authorization requirements and miscellaneous code requirements.

Clarifies verification requirements for items billed with codes A4649 (surgical supply; miscellaneous), E1399 (durable medical equipment, miscellaneous) and K0108 (wheelchair component or accessory, not otherwise specified) when no specific HCPCS code is available and an item category is not specified in Division 122 rules.

410-122-0205, Respiratory Assist Devices: Allows one unit of A7030 (full face mask used with positive airway pressure device) every three months instead of one unit every six months.

410-122-0208, Suction Pumps: Updates reference to Medicare's Pricing, Data Analysis and Coding (PDAC) Contractor.

410-122-0320, Manual Wheelchair Base: Updates reference to Medicare's Pricing, Data Analysis and Coding (PDAC) Contractor.

410-122-0325, Motorized/Power Wheelchair Base: Changes Assistive Technology Practitioner (ATP) and Assistive Technology Supplier (ATS) to Assistive Technology Professional (ATP), the new designation as directed from Rehabilitation Engineering and Assistive Technology Society of North America (RESNA). Clarifies that K0040 (adjustable angle footplate) may be billed with K0848 through K0864 (Group 3 power wheelchairs). Updates reference to Medicare's Pricing, Data Analysis and Coding (PDAC) Contractor.

410-122-0340, Wheelchair Options/Accessories: Adds E2313 (power wheelchair accessory, harness for upgrade for expandable controller, including all fasteners). Clarifies which wheelchair options/accessories codes may be billed separately. Replaces E2618 (wheelchair accessory, solid seat support base (replaces sling seat), for use with manual wheelchair or power wheelchair) with E2231 (manual wheelchair accessory, solid seat support base (replaces sling seat), includes any type mounting hardware).

410-122-0375, Walkers: Updates reference to Medicare's Pricing, Data Analysis and Coding (PDAC) Contractor.

410-122-0400, Pressure Reducing Support Surfaces: Updates reference to Medicare's Pricing, Data Analysis and Coding (PDAC) Contractor.

410-122-0420, Hospital Bed Accessories. Updates reference to Medicare's Pricing, Data Analysis and Coding (PDAC) Contractor.

410-122-0500, Transcutaneous Electrical Nerve Stimulator (TENS): Updates reference to Medicare's Pricing, Data Analysis and Coding (PDAC) Contractor.

410-122-0520, Glucose Monitors and Diabetic Supplies: Updates reference to Medicare's Pricing, Data Analysis and Coding (PDAC) Contractor.

410-122-0580, Bath Supplies: Changes Assistive Technology Practitioner (ATP) to Assistive Technology Professional (ATP), the new designation as directed from Rehabilitation Engineering and Assistive Technology Society of North America (RESNA).

410-122-0590, Patient Lifts: Adds: "The areas within the client's residence where the lift will be utilized must be able to accommodate and allow for the effective use of the lift. DMAP does not reimburse for adapting the living quarters."

NOTICES OF PROPOSED RULEMAKING

410-122-0600, Toilet Supplies: Updates reference to Medicare's Pricing, Data Analysis and Coding (PDAC) Contractor.

410-122-0620, Surgical Dressing: Deletes A4250 (urine test or reagent strips or tablets).

410-122-0700, Negative Pressure Wound Therapy Pumps: Updates reference to Medicare's Pricing, Data Analysis and Coding (PDAC) Contractor.

410-122-0720, Pediatric Wheelchairs: Updates reference to Medicare's Pricing, Data Analysis and Coding (PDAC) Contractor. Changes Assistive Technology Practitioner (ATP) and Assistive Technology Supplier (ATS) to Assistive Technology Professional (ATP), the new designation as directed from Rehabilitation Engineering and Assistive Technology Society of North America (RESNA).

Other text may be revised to improve readability and to take care of necessary "housekeeping" corrections.

Rules Coordinator: Darlene Nelson

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

.....

Rule Caption: July 2009 rule amendments for clarification only.

Date:	Time:	Location:
5-20-09	10:30 a.m.	HSB Bldg. Rm. 137A 500 Summer St. NE Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.050, 414.051, 414.065, 414.725

Stats. Implemented: ORS 414.065 & 414.725

Proposed Amendments: 410-123-1060, 410-123-1100, 410-123-1160, 410-123-1220, 410-123-1260, 410-123-1490, 410-123-1600, 410-123-1620, 410-123-1670

Last Date for Comment: 5-27-09

Summary: The Dental Services program administrative rules govern Division of Medical Assistance Programs' (DMAP) payment for services to certain clients. DMAP will amend rules to clarify current policies and procedures to ensure these rules are not open to interpretation by providers or outside parties and to help eliminate confusion possibly resulting in non-compliance. DMAP will also clarify current OARs to help facilitate provider compliance with eligibility, service coverage and limitations, prior authorizations, and billing requirements. 410-123-1670 is amended to reference the corrected document, *Covered and Non-Covered Services*, dated July 1, 2009. Text in all rules listed will be revised to improve readability, allow for more user-friendly format, and reduce duplication of language already addressed in other rules.

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: July 2009 rule revisions — Remove table 125-0080-1.

Date:	Time:	Location:
5-20-09	10:30 a.m.	HSB Bldg. Rm. 137A 500 Summer St. NE Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010, 409.050 & 414.065

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-125-0080

Last Date for Comment: 5-27-09

Summary: The Hospital Services program administrative rules govern Division of Medical Assistance Programs' (DMAP) payment for services to certain clients. DMAP will amend OAR 410-125-0080 to remove the table and any reference to table 125-0080-1. DMAP will transfer the information from this table to the Medical Surgical rule 410-130-0200, table 130-0200-1. Other text may be revised to

improve readability and to take care of necessary "housekeeping" corrections.

Rules Coordinator: Darlene Nelson

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

.....

Rule Caption: July '09 — Current licensing board rules; documentation and care coordination; covered/non-covered services.

Date:	Time:	Location:
5-20-09	10:30 a.m.	HSB Bldg. Rm. 137A 500 Summer St. NE Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 184.750, 184.770, 409.010, 409.110, 409.040 & 409.050

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-133-0000, 410-133-0040, 410-133-0060, 410-133-0080, 410-133-0090, 410-133-0100, 410-133-0120, 410-133-0140, 410-133-0160, 410-133-0180, 410-133-0200, 410-133-0220, 410-133-0245, 410-133-0280, 410-133-0300, 410-133-0320, 410-133-0340

Last Date for Comment: 5-27-09

Summary: The School-Based Health Services program administrative rules govern Division of Medical Assistance Programs' (DMAP) payment for services to certain clients. DMAP needs to revise the rules listed above to update signature requirements to mitigate risk documenting therapy provided in education settings; and to clarify care coordination of covered and not covered services. Other text may be revised to improve readability and to take care of necessary "housekeeping" corrections.

Rules Coordinator: Darlene Nelson

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

.....

Rule Caption: July '09, non-substantive revisions for various language and code updates.

Date:	Time:	Location:
5-20-09	10:30 a.m.	HSB Bldg. Rm. 137A 500 Summer St. NE Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.050 & 414.065

Other Auth.: 42 USC 1396a(bb), Title 42 Public Health of the Code of Federal Regulations

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-130-0163, 410-130-0180, 410-130-0200, 410-130-0220, 410-130-0240, 410-130-0255, 410-130-0365, 410-130-0595

Proposed Repeals: 410-137-0080

Last Date for Comment: 5-27-09

Summary: The Medical-Surgical Services program administrative rules govern Division of Medical Assistance Programs' (DMAP) payment for services to certain clients. DMAP will amend OARs as follows:

410-130-0163: To remove language for Standard Benefits that is already addressed in DMAP General Rules (chapter 410, division 120);

410-130-0180: To remove codes that don't require submission of documentation and update the "not covered" services and supplies;

410-130-0200: To clarify that the treating practitioner is responsible for obtaining prior authorization, and update codes for bariatric surgeries, hysterectomies, hip resurfacing and dentistry performed in hospital or ASC settings;

410-130-0220: To add "excluded" codes;

410-130-0240: To add that practitioners can apply topical fluoride to children under age 7;

NOTICES OF PROPOSED RULEMAKING

410-130-0255: To update immunization codes covered under VFC;

410-130-0365: To address prior authorization requirements and Medicare designated payment allowed for ancillary services and to distinguish between ASCs and Birthing Centers; and

410-130-0595: To appropriately describe MCM services, update mandatory topics.

All rules listed above may be revised to improve readability and to take care of necessary “housekeeping” corrections.

DMAP will repeal 410-137-0080, thus making the Ambulatory Surgical Services program obsolete. Text from this rule is found in 410-130-0595.

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: July 2009 rule revisions to update claim form for oral nutritional supplements.

Date:	Time:	Location:
5-20-09	10:30 a.m.–12 p.m.	DHS Bldg., Rm. 137A 500 Summer St. NE Salem, OR 97301

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 409.010, 409.050, 409.110 & 414.065

Stats. Implemented: ORS 410.25 & 414.065

Proposed Amendments: 410-145-0100, 410-148-0140, 410-148-0260

Last Date for Comment: 5-27-09

Summary: The Enteral/Parenteral nutrition and IV services program rules govern the Division of Medical Assistance Programs’ (DMAP) payments for services provided to certain clients. DMAP will amend the rules listed above to update the claim form used to bill oral nutritional supplements. Other text may be revised to improve readability and to take care of necessary “housekeeping” corrections.

Rules Coordinator: Darlene Nelson

Address: Department of Human Services, Division of Medical Assistance Programs, 500 Summer St. NE, E-35, Salem, OR 97301

Telephone: (503) 945-6927

.....

Rule Caption: April 1, 2009 interim modifications and technical changes to the January 1, 2009–December 31, 2010 Health Services Commission’s Prioritized List of Health Services.

Stat. Auth.: ORS 414.050, 409.010, 409.110 & 414.065

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-141-0520

Last Date for Comment: 5-27-09

Summary: The Oregon Health Plan (OHP — division 141) administrative rules govern payment for the Division of Medical Assistance Programs’ payments for services provided to clients. Having temporarily amended 410-141-0520 on January 1, 2009 to reference the biennial January 1, 2009–December 31, 2010 Oregon Health Services Commission’s Prioritized List of Health Services, and having temporarily amended the rule on April 1, 2009 to reference the additional interim modifications and technical changes effective April 1, 2009 to the biennial January 1, 2009–December 31, 2010 Prioritized List of Health Services, DMAP will permanently amend the rule with this Notice of Rulemaking.

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

.....

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

Rule Caption: Family Support Services for Children with Developmental Disabilities.

Date:	Time:	Location:
5-18-09	10 a.m.	Human Services Bldg. 500 Summer St. NE, Rms. 137BC 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: 411-305-0010, 411-305-0020, 411-305-0030, 411-305-0050, 411-305-0080, 411-305-0090, 411-305-0110, 411-305-0120, 411-305-0140, 411-305-0160, 411-305-0170, 411-305-0180

Proposed Repeals: 411-305-0040

Proposed Ren. & Amends: 411-305-0060 to 411-305-0105, 411-305-0070 to 411-305-0025, 411-305-0100 to 411-305-0027, 411-305-0130 to 411-305-0115, 411-305-0150 to 411-305-0023

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

Summary: The Department of Human Services (DHS), Seniors and People with Disabilities Division (SPD) is proposing to redesign and revise the family support services rules in OAR chapter 411, division 305 to adopt the recommendations of the Children’s Budget Note Steering Committee that was convened at the request of the 2005 Oregon Legislature. The proposed rules:

- Provide clearer definitions;
- Revise eligibility criteria to include more children with developmental disabilities and their families;
- Provide statewide standardization of family support services while including increased flexibility to the Community Developmental Disability Program (CDDP) in the delivery of some specific support services;
- Clarify references to allowable purchases with direct assistance funding to encourage increased family direction; and
- Provide general housekeeping changes 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

.....
**Department of Justice
Chapter 137**

Rule Caption: Clarifies processes involving parties’ contact addresses, case assignment and credit for SSB and VA benefits.

Stat. Auth.: ORS 25.020, 25.080, 180.345

Stats. Implemented: ORS 25.020, 25.080, 107.135, 192.820–192.858, 416.425

Proposed Amendments: 137-055-1160, 137-055-2020, 137-055-5520

Proposed Repeals: 137-055-1180, 137-055-2040

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

Summary: OAR 137-055-1160 is being amended to remove the term “address of record.” This is because the rule for address of record (OAR 137-055-1180) is being repealed as it is not necessary for a contact address and is confusing to program staff. Parties will continue to be able to provide the program with a contact address that can be used in a legal proceeding.

OAR 137-055-2020 is being amended to clarify how cases are assigned within the program and incorporates the provisions of 137-055-2040 (which is therefore being repealed). The rule also makes provisions for manager approval for case transfers within the program.

OAR 137-055-5520 is being amended to remove the two-year limitation on allowing credit against arrears for a child’s receipt of Social Security or Veterans’ Administration benefits. The rule will retain the limitation that the credit cannot exceed arrears, and credit must not have already been applied.

Rules Coordinator: Vicki Tungate

NOTICES OF PROPOSED RULEMAKING

Address: 494 State Street, Suite 300, Salem Oregon 97301
Telephone: (503) 986-6086

.....

Rule Caption: Amends Notice of Garnishment Model Forms to Respond to Increase in Federal Disposable Earnings Exemption.
Stat. Auth.: ORS 18.854(8)

Stats. Implemented: ORS 18.600-18.857

Proposed Amendments: 137-060-0150, 137-060-0160, 137-060-0350, 137-060-0360

Last Date for Comment: 5-31-09

Summary: Amends existing model garnishment forms for notice of garnishment issued by state agencies and county tax collectors.

Rules Coordinator: Carol Riches

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

Telephone: (503) 378-6313

.....

Department of Revenue Chapter 150

Rule Caption: Tax Years to which Rules Adopted by the Department of Revenue Apply.

Date:	Time:	Location:
7-21-09	10 a.m.	Fishbowl Conference Rm. 955 Center St. NE Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 305.100

Proposed Amendments: 150-305.100-(B)

Last Date for Comment: 7-21-09, 5 p.m.

Summary: Purpose: (1) To establish a default standard that the department will not apply its administrative rules to tax years or periods prior to the date the rule is adopted.

(2) To illustrate situations in which the department may apply rules retroactively. The situations described in the rule are:

(a) To implement a court decision that specifies the correct interpretation of a statute.

(b) If the legislature has adopted statutes that have retroactive effect.

(c) To prevent or mitigate abuse of the tax system.

(d) When the rule is intended to clarify statutes.

(3) To state that the default standard applies to rules currently in effect and to later adopted rules.

(4) To require that rules that are adopted after the effective date of this rule must contain a statement of the years or periods to which the rule applies if the rule is to be applied retroactively.

Rules Coordinator: Debra L. Buchanan

Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301-2555

Telephone: (503) 945-8653

.....

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

Rule Caption: CDL Third Party Testing – Record Requirements, Test Completion Certificates, and Re-Testing Authority.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.070 807.080 & 807.170

Stats. Implemented: ORS 807.040, 807.070, 807.080, 807.100 & 807.170

Proposed Amendments: 735-060-0040, 735-060-0055, 735-060-0057, 735-060-0065, 735-060-0105, 735-060-0110, 735-060-0120, 735-060-0130, 735-062-0080

Last Date for Comment: 5-21-09

Summary: Oregon allows applicants for commercial driver licenses (CDL) to take a driving skills test from a CDL Third Party Tester. The department's CDL Third Party Testing Program has been in place since 1986. DMV proposes to amend above listed rules to

improve program oversight, deter fraud, and ensure applicants are provided necessary information concerning testing fees and the possibility of a retest before a CDL is issued. DMV proposes to amend these rules as follows:

- Clarify that the Oregon Secretary of State may audit tester records;

- Require the CDL Third Party Tester to ensure that each of their examiners obtain a copy of the applicant's Oregon CDL instruction permit and driver license (or the applicant's Oregon CDL) and provide a receipt for fees paid;

- Require that a photocopy of the applicant's Oregon CDL instruction permit and driver license (or the applicant's Oregon CDL) becomes part of the applicant's permanent file maintained by the third party tester;

- Update the Tester and Examiner sanction tables to correspond with the proposed amendments;

- Require that CDL Third Party Examiners view and obtain a copy of the applicant's valid Oregon CDL instruction permit and valid driver license (or the applicant's valid Oregon CDL);

- Require that a Third Party Examiner provide a receipt for fees paid;

- Require that a CDL Certificate(s) of Test Completion not be issued without obtaining a copy of the applicant's valid Oregon CDL instruction permit and driver license (or Oregon CDL), and, if required, provide a written receipt for fees paid for the certification drive test. The receipt must include specific language provided by DMV, including notice that the applicant may be retested by DMV before issuance of a CDL;

- Give DMV the authority to retest a CDL applicant who submits a CDL Certificate of Test Completion or test a CDL applicant who surrenders on out-of-state CDL; and

- Clarify that an out-of-state CDL must be surrendered to DMV before an Oregon CDL is issued.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301

Telephone: (503) 986-3171

.....

Rule Caption: Availability and Requirements of Hardship or Probationary Permit.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.240, 807.252 & 807.270

Stats. Implemented: ORS 807.062, 807.240, 807.250, 807.270, 807.370, 809.265, 809.380, 809.419, 809.421, 813.500 & 813.602

Proposed Amendments: 735-064-0020, 735-064-0040

Last Date for Comment: 5-21-09

Summary: OAR 735-064-0020 specifies the particular types of suspensions for which DMV will not issue a hardship or probationary permit. OAR 735-064-0020 currently does not allow DMV to issue a hardship permit to a person who has committed a fraudulent or unlawful act in applying for or in the use of a driver license, driver permit or identification card.

To establish identity, DMV is using facial recognition software to compare a person's current photograph with his or her previous photographs and all other digital photographs in DMV's data base. As a result, DMV can determine if a person previously applied for a driver license or identification (ID) card using a false name, false age or through some other fraudulent or unlawful act. ORS 809.310 and OAR 735-070-0004 authorizes DMV to suspend a person's driving privileges or identification card and the person's right to apply for privileges and an ID card if the person committed a fraudulent or unlawful act in applying for or in the use of a driver license, driver permit or ID card.

Often these suspensions result from an application for false ID when the person was under the age of 21 years. Once DMV determines the person obtained a driver license or ID card through a

NOTICES OF PROPOSED RULEMAKING

fraudulent or unlawful act, a suspension is imposed regardless of the number of years that have passed and regardless of the circumstances. For example, the person may have obtained the false identification in college and now eight years later is gainfully employed. Ineligibility for a hardship permit can result in tremendous financial impact on a person whose poor judgment has come to light many years later. DMV has determined it is inequitable that a person convicted of a crime such as DUI or reckless driving is eligible for a hardship permit, whereas a person who obtained a false license or ID card is not eligible. DMV proposes to correct this inequity by amending OAR 735-064-0020 to repeal the prohibition on issuance of a hardship permit under these circumstances. The result is that a person whose driving privileges are suspended under ORS 809.310(3) or 809.411(9) for committing a fraudulent or unlawful act in applying for or in the use of a driver license, driver permit or identification card will be eligible for a hardship permit if he or she otherwise qualifies.

OAR 735-064-0040 establishes the application requirements for persons applying for a hardship or probationary permit. The requirements may differ depending on the reason or reasons that the person's driving privileges are suspended or revoked. DMV proposes to amend this rule to specify that a person applying for a hardship permit whose driving privileges are suspended due to committing a fraudulent or unlawful act in applying for or in the use of a driver license, driver permit or identification card, must provide documentation insuring that the person is being issued the hardship permit in his or her true identity.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, Rm. 29, Salem, OR 97301
Telephone: (503) 986-3171

Department of Transportation, Highway Division Chapter 734

Rule Caption: Signs identifying cultural and historical features.

Stat. Auth.: ORS 184.616, 184.619 & 377.753

Stats. Implemented: ORS 377.753

Proposed Amendments: 734-062-0005, 734-062-0010, 734-062-0015, 734-062-0020, 734-062-0030, 734-062-0035, 734-062-0040

Proposed Repeals: 734-062-0025, 734-062-0045

Last Date for Comment: 5-21-09

Summary: General updating of rules, most of which have not been updated in over 20 years; deleting former fee rule that was superseded by ORS 377.729 and subsequent fee rule for all outdoor advertising signs in 734-059-0100.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>

Rules Coordinator: Lauri Kunze

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

Landscape Architect Board Chapter 804

Rule Caption: Adoption of the biennial budget for 2009-11 with a spending limit of \$315,082.

Date:	Time:	Location:
6-5-09	10 a.m.	Conference Rm. 1193 Royvonne Ave. SE, Salem, OR

Hearing Officer: S. Knight

Stat. Auth.: ORS 671.415, 182.562 & 670.310

Stats. Implemented: ORS 671.415 & 182.462

Proposed Amendments: 804-001-0002

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

Summary: The Administrative Rule revision will adopt the 2009-11 biennial budget of the Board with a spending limit of \$315,082. The March 2009 Board newsletter's lead article discusses the Board deliberations on this budget. The newsletter is posted on the Board's website. Individuals may view a copy of the draft budget on the Board's web page or request a copy of the budget by contacting Board staff.

Rules Coordinator: Susanna Knight

Address: Landscape Architect Board, 1193 Royvonne Ave SE, Suite 19, Salem, OR 97302

Telephone: (503) 589-0093

Landscape Contractors Board Chapter 808

Rule Caption: Adopt 009-2011 Budget; increases fees; requirement for license card replacement.

Date:	Time:	Location:
5-29-09	9 a.m.	2111 Front St. NE, Suite 2-101 Salem OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 182.462

Proposed Amendments: 808-001-0008, 808-003-0045, 808-003-0100, 808-003-0105, 808-003-0130

Last Date for Comment: 5-29-09, Close of Hearing

Summary: 808-001-0008 — Adopts 2009-2011 budget.

808-003-0045 — Deletes a license card being issued at no cost.

808-003-0100 — Clarifies the responsibility of the landscape construction professional or landscape contracting business to continuously maintain the licensing requirements or be suspended, revoked and/or penalties may be assessed.

808-003-0105 — Adopts requirements that new license card be required id specific information is changed.

808-003-0130 — Increases fees; adds new fees for new license cards and reinstatement of suspended licenses.

Rules Coordinator: Kim Gladwill-Rowley

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

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

Mortuary and Cemetery Board Chapter 830

Rule Caption: Clarifies/updates industry terminology and practices, updates statute numbers; reflects statute changes, implements plain language.

Date:	Time:	Location:
5-20-09	9 a.m.	800 NE Oregon St., Suite 445 Portland, OR 97232

Hearing Officer: Michelle Gaines

Stat. Auth.: ORS 692.320 & 692.190

Other Auth.: ORS 692.140, 692.190, 97.010, 97.130, 97.150, 97.923 & 432.317

Stats. Implemented: ORS 692.140, 692.190, 432.317, 97.130 & 97.150

Proposed Amendments: 830-001-0000, 830-011-0000, 830-011-0020, 830-011-0040, 830-020-0030, 820-030-0000, 830-030-0050, 830-030-0060, 830-040-0000, 830-040-0040

Last Date for Comment: 5-20-09, 4 p.m.

Summary: The proposed rules recognize industry changes in practices and terminology, corrects outdated references to various statute numbers and correct the date of Administrative Procedures Act uniform Model Rules. The proposed rules also reflect statutory changes in ORS 692 and ORS 97 in relation to apprenticeship. Plain language statutory mandates (spelling, grammar, etc) are also proposed.

Rules Coordinator: Michelle Gaines

Address: Mortuary and Cemetery Board, 800 NE Oregon St., Suite 430, Portland, OR 97232

Telephone: (971) 673-1502

NOTICES OF PROPOSED RULEMAKING

Oregon Department of Education Chapter 581

Rule Caption: Increases maximum length allowed for school buses.

Stat. Auth.: ORS 820.100–820.120

Other Auth.: HB 2562 (2009)

Stats. Implemented: ORS 818.100

Proposed Amendments: 581-053-0517

Last Date for Comment: 5-20-09, 5 p.m.

Summary: House Bill 2562 (2009) increased the maximum allowable length for school buses to 45 feet. The bill took effect March 26, 2009. The rule implements the bill by increasing the maximum allowable length from 40 to 45 feet.

Rules Coordinator: Paula Merritt

Address: 255 Capitol St NE, Salem, OR 97310

Telephone: (503) 947-5746

Rule Caption: Modifies rules relating to talented and gifted students.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 343.391–343.413

Proposed Amendments: 581-022-1310, 581-022-1330

Last Date for Comment: 5-20-09, 5 p.m.

Summary: Academically talented students are identified currently using a nationally standardized test. The rule allows school districts to use, in addition to a nationally standardized test, an internationally standardized test and the Oregon Assessment of Knowledge And Skills.

Rules Coordinator: Paula Merritt

Address: 255 Capitol Street NE, Salem, OR 97310

Telephone: (503) 947-5746

Oregon Liquor Control Commission Chapter 845

Rule Caption: Repeal rule which restricts how many inside alcoholic beverage signs can be seen from outside.

Date:	Time:	Location:
6-2-09	10 a.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Jennifer Huntsman

Stat. Auth.: ORS 471, including 471.030 & 471.730

Stats. Implemented: ORS 471.730(7)

Proposed Repeals: 845-007-0025

Last Date for Comment: 6-16-09

Summary: This rule limits each licensed premises to only four alcoholic beverage signs that are visible from the outside. The proposal to repeal this rule came from a Business Partners Joint Steering Committee. Industry and staff see the current rules as problematic in its application. Often signs can be seen from outside a licensed premises that are on the back wall of a business. Typically these signs are neon signs, banners, pendants or posters. The current rule prohibits pendants that can be seen from outside because each flag in the pendant is considered a separate sign. Staff is supportive of this repeal. It would remove overly restrictive and often illogical prohibitions on how a business may utilize advertising inside its premises. Because advertising alcoholic beverage specials outside of a licensed premises would still be prohibited (OAR 845-007-0020(7)), regulation of our core public safety concerns, such as over consumption, would be maintained.

Rules Coordinator: Jennifer Huntsman

Address: Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222

Telephone: (503) 872-5004

Rule Caption: Adoption of two new rules governing distilled liquor tastings provided on a distillery licensee's premises.

Date:	Time:	Location:
5-26-09	10 a.m.	9079 SE McLoughlin Blvd. Portland, OR

Hearing Officer: Jennifer Huntsman

Stat. Auth.: ORS 471, including 471.030, 471.040 & 471.730(1) & (5)

Stats. Implemented: ORS 471.230

Proposed Adoptions: 845-005-0431, 845-006-0452

Last Date for Comment: 6-9-09

Summary: The Commission is proposing the adoption of 2 new rules, OAR 845-005-0431 & OAR 845-006-0452. These rules will describe both the qualifications and the requirements a distillery licensee must meet in order to provide tastings on its premises owned or leased by the licensee. The 2007 legislature passed Senate Bill (SB) 451, effective January 1, 2008. Senate Bill 451 amended ORS 471.230 removing the restriction that permitted tastings of only brandy or pot distilled liquor. This statutory change, which opens up the possibility of tasting rooms to a lot more distillery licensees, prompted the Commission to initiate rulemaking to address the basic guidelines these tasting rooms must follow.

Rules Coordinator: Jennifer Huntsman

Address: Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222

Telephone: (503) 872-5004

Rule Caption: Amend rule to more closely match standard language in Attorney General's sample notice rule.

Stat. Auth.: ORS 183.341, 471.030 & 471.730(1) & (5)

Stats. Implemented: ORS 183.335 & 183.341

Proposed Amendments: 845-001-0005

Last Date for Comment: 5-29-09

Summary: This rule describes the procedure the Commission utilizes to inform interested parties of intended rulemaking. ORS 183.341(4) requires an agency to adopt such rules of procedure which provide a reasonable opportunity for interested persons to be notified of the agency's intention to adopt, amend or repeal a rule. The Attorney General's Model Rules of Procedure do not include a proposed notice rule designed to meet the statutory requirements because each agency needs to tailor its notice rule to identify its own particular constituencies, however the Attorney General does provide guidance in a sample rule. Staff proposes amendment of our notice rule in order to more closely match the standard rule language utilized in the Attorney General's sample notice rule, while also better reflecting the Commission's specific rulemaking notice procedure.

Rules Coordinator: Jennifer Huntsman

Address: Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222

Telephone: (503) 872-5004

Oregon Public Employees Retirement System Chapter 459

Rule Caption: Revises dates related to actuarial equivalency factors.

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 238.630

Proposed Amendments: 459-005-0055

Last Date for Comment: 7-1-09

Summary: Revises dates relating to actuarial equivalency factors and compiles with anticipated changes to actuarial equivalency factors in November of 2009.

Copies of the Proposed rule(s) are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml

NOTICES OF PROPOSED RULEMAKING

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 97281-3700

Telephone: (503) 603-7713

Rule Caption: Specifies that a disability estimate may be provided only after receiving a member's disability application.

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

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.610 & 238.650

Stats. Implemented: 1999 OL Ch. 971, ORS 238.610, 238.148, 238.157, 238.162 & 238.175

Proposed Amendments: 459-005-0250

Last Date for Comment: 7-1-09

Summary: Specifies that a disability estimate may be provided only after receiving a member's disability application, at no charge to the member. This will serve members who are seriously considering PERS disability and help streamline the workflow process between the Account Reconciliation Team and Disability Unit. This will reduce the number of estimate requests from members who are not eligible for a disability retirement or who have already received service retirement estimates and are not seriously considering disability retirement.

Copies of the Proposed rule(s) are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml

Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas

Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281-3700

Telephone: (503) 603-7713

Rule Caption: New rule sets forth criteria for terminating PERS membership.

Date:	Time:	Location:
5-26-09	2 p.m.	PERS Boardroom 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.095

Proposed Adoptions: 459-010-0300

Last Date for Comment: 5-29-09

Summary: This new rule will set forth the criteria for terminating PERS membership.

Copies of the Proposed rule(s) are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml.

Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas

Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281-3700

Telephone: (503) 603-7713

Rule Caption: New rules address reemployment of retired OPSRP Pension Program and IAP members.

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.120, 238A.145, 238A.150, 238A.245, 238A.375 & 238A.415

Proposed Adoptions: 459-075-0300, 45-080-0300

Last Date for Comment: 7-1-09

Summary: A rule is needed to comprehensively implement the statutory provision of the OPSRP Pension Program regarding reemployment of retired members. Also, application of the statutory provision to a retired member who receive a cash out of a small benefit needs clarification.

There is no specific statutory provisions addressing reemployment of retired IAP members. Restrictions for such members need to be identified and clarified to ensure continued compliance with federal standards. The application of IAP restrictions to members who are also retired from the Tier One/Tier Two Program or the OPSRP Pension Program needs to be reconciled.

Copies of the Proposed rule(s) are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml

Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas

Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281-3700

Telephone: (503) 603-7713

Rule Caption: Addresses what service can be counted toward the IAP Employer Account.

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

Hearing Officer: Daniel Rivas

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

Stats. Implemented: ORS 238A.010 & 238A.320

Proposed Adoptions: 459-080-0060

Last Date for Comment: 7-1-09

Summary: A new rule is needed in division 80 to address what service can be counted toward the IAP Employer Account.

One standard for vesting in an IAP employer account is completion of at least 600 hours of service in five calendar years. Whether those years of service must be within the same employer making the employer IAP contributions is unclear. A rule is needed to clarify the vesting by service standard.

Copies of the Proposed rule(s) are available to any person upon request. The rules are also available at http://www.oregon.gov/PERS/about_us.shtml

Public comment may be mailed to the above address or sent via email to Daniel.Rivas@state.or.us

Rules Coordinator: Daniel Rivas

Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281-3700

Telephone: (503) 603-7713

Oregon State Marine Board Chapter 250

Rule Caption: Adopt no-wake zone for Holgate Channel and restrict motors on the Ross Island lagoon.

Date:	Time:	Location:
5-27-09	7 p.m.	The Portland Bldg. Auditorium 1120 SW Fifth Ave. Portland, OR

Hearing Officer: Randy Henry

Stat. Auth.: ORS 830.110, 830.175 & 830.195

Stats. Implemented: ORS 830.110 & 830.197

Proposed Amendments: 250-020-0280

Last Date for Comment: 5-31-09, 5 p.m.

NOTICES OF PROPOSED RULEMAKING

Summary: This rule action would establish a no-wake zone for the Holgate Channel and prohibit the use of motors in the Ross Island lagoon.

Rules Coordinator: June LeTarte

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

Telephone: (503) 378-2617

.....
Oregon University System
Chapter 580

Rule Caption: To establish Tuition and Fees for the 2009–2010 Academic Year, including Room and Board rates.

Date:	Time:	Location:
5-7-09	10–11 a.m.	Kerr Administration Bldg., Rm. B214 Oregon State University Corvallis, OR
5-14-09	10–11 a.m.	Kerr Administration Bldg., Rm. B214 Oregon State University Corvallis, OR

Hearing Officer: Shonna S. Butler

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351

Proposed Amendments: 580-040-0040

Last Date for Comment: 5-15-09

Summary: To establish Tuition and Fees for the 2009–2010 Academic Year, including Room and Board rates.

Rules Coordinator: Marcia M. Stuart

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

Telephone: (541) 346-5749

.....
Oregon University System,
Oregon Institute of Technology
Chapter 578

Rule Caption: To amend the Schedule of Special Institution Fees and Charges.

Date:	Time:	Location:
5-21-09	2 p.m.	Snell Hall, Rm. 215 Oregon Institute of Technology Klamath Falls, OR

Hearing Officer: Bob Nettles

Stat. Auth.: ORS 51

Stats. Implemented: ORS 351.070

Proposed Amendments: 578-041-0030

Last Date for Comment: 5-29-09

Summary: 578-041-0030: Amends the Schedule of Special Institution Fees and Charges. Amendments allow for increases, revisions additions or deletions of special course fees and general services fees for fiscal 2009–2010. The schedule of subject fees may be obtained from the Oregon Institute of Technology office.

Rules Coordinator: Ceilia E. Foster

Address: Oregon University System, Oregon Institute of Technology, 3201 Campus Drive, Klamath Falls, OR 97603

Telephone: (541) 885-1105

.....
Rule Caption: To amend the Parking Fees.

Date:	Time:	Location:
5-21-09	2 p.m.	Snell Hall, Rm. 215 OIT, 3201 Campus Dr. Klamath Falls, OR

Hearing Officer: Bob Nettles

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Proposed Amendments: 578-072-0030

Last Date for Comment: 5-29-09

Summary: 578-072-0030: Amends the Parking Permits and Fees. Amendments allow for cost increases for fiscal year 2009–2010. The

schedule of parking fees may be obtained from the Oregon Institute of Technology, Finance and Administration office.

Rules Coordinator: Ceilia E. Foster

Address: Oregon University System, Oregon Institute of Technology, 3201 Campus Drive, Klamath Falls, OR 97603

Telephone: (541) 885-1105

.....
Rule Caption: To amend the title of Authority of Campus Police Officers to Authority of Campus Safety.

Date:	Time:	Location:
5-21-09	2 p.m.	Snell Hall, Rm. 215 OIT, 3201 Campus Dr. Klamath Falls, OR

Hearing Officer: Bob Nettles

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351.070

Proposed Amendments: 578-072-0091

Last Date for Comment: 5-29-09

Summary: 578-072-0091: Amends the title of the Authority of Campus Police Officers to Authority of Campus Safety. The Schedule of parking fees may be obtained from the Oregon Institute of Technology, Finance and Administration office.

Rules Coordinator: Ceilia E. Foster

Address: Oregon University System, Oregon Institute of Technology, 3201 Campus Drive, Klamath Falls, OR 97603

Telephone: (541) 885-1105

.....
Oregon University System,
Oregon State University
Chapter 576

Rule Caption: Regulations Governing the Use of Motor Vehicles—clarifying rule, adding permits, suspending color parking code.

Date:	Time:	Location:
6-3-09	2 p.m.	Memorial Union, Rm. 206 Oregon State University Corvallis, OR

Hearing Officer: Barbara Melton

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

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

Proposed Amendments: 576-030-0005, 576-030-0010, 576-030-0020, 576-030-0025, 576-030-0035, 576-030-0040, 576-030-0045, 576-030-0055, 576-030-0060, 576-030-0070, 576-030-0090

Proposed Repeals: 576-030-0030

Last Date for Comment: 6-5-09

Summary: The proposed revisions to the Regulations Governing the Use of Motor Vehicles provide administrative flexibility by removing the color parking code from the former regulations and by allowing OSU to offer a term parking permit to students and employees. Without these revisions, students and employees must purchase an annual permit and seek a refund for any term during which the permit was not used. The proposed revisions also lend clarity to the former regulations by further defining terms and eliminating ambiguities.

Rules Coordinator: Barbara Melton

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

Telephone: (541) 737-6262

.....
Rule Caption: Setting fees and charges at Oregon State University for fiscal year 2009–2010.

Date:	Time:	Location:
6-3-09	1 p.m.	Memorial Union, Rm. 206 Oregon State University Corvallis, OR

Hearing Officer: Barbara Melton

Stat. Auth.: ORS 351.070 & 352.360

Other Auth.: OAR 580-040-0010

Stats. Implemented: ORS 351.070 & 352.360

Proposed Amendments: 576-010-0000

NOTICES OF PROPOSED RULEMAKING

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

Summary: The proposed amendment will set fees and charges for designated services at Oregon State University for fiscal year 2009–2010. The rules states: “The University hereby adopts by reference a list of fees and charges for fiscal year 2009–2010. The list of fees and charges is available at the Oregon State University Office of Budget and Fiscal Planning and the Oregon State University Valley Library, and is hereby incorporated by reference in the rule.”

Rules Coordinator: Barbara Melton

Address: Office of the General Counsel, 638 Kerr Administration Bldg. Corvallis, OR 97331-2128

Telephone: (541) 737-6262

.....

Rule Caption: Alcoholic Beverage Policy.

Date:	Time:	Location:
6-3-09	2:30 p.m.	Memorial Union, Rm. 206 Oregon State University Corvallis, OR

Hearing Officer: Barbara Melton

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Proposed Amendments: 576-060-0031

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

Summary: This amendment to the Alcoholic Beverage Policy rules repeals the requirement that vendors licensed to dispense alcoholic beverages in the skyboxes at Reser Stadium provide proof of insurance to Oregon State University's Office of Risk Management, while retaining the requirement that such vendors have insurance in satisfaction of the rule.

Rules Coordinator: Barbara Melton

Address: Office of the General Counsel, 638 Kerr Administration Building, Corvallis, OR 97331-2128

Telephone: (541) 737-6262

.....

Oregon University System, Southern Oregon University Chapter 573

Rule Caption: Special Fees.

Date:	Time:	Location:
5-29-09	10 a.m.	Churchill Rm. 1250 Siskiyou Blvd. Southern Oregon University Ashland, OR 97520

Hearing Officer: Staff

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Proposed Amendments: 573-040-0005

Last Date for Comment: 5-29-09

Summary: The proposed rule amendment eliminates fees that are no longer necessary and establish, increase, or decrease fees to more accurately reflect the actual costs of instruction for certain courses and special services not otherwise funded through the institution's operating budget.

Rules Coordinator: Treasa Sprague

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

Telephone: (541) 552-6319

.....

Public Utility Commission Chapter 860

Rule Caption: In the Matter of a Rulemaking to Implement ORS 469A.005–469A.200 — Renewable Portfolio Standards.

Date:	Time:	Location:
5-18-09	9:30 a.m.	Public Utility Commission Main Hearing Rm. 550 Capitol St. NE, 1st Flr Salem, OR 97301

Hearing Officer: Patrick Power

Stat. Auth.: ORS 756.040, 469A.065, 469A.075, 469A.100, 469A.150, 469A.170, 469A.180 & 469A.200

Stats. Implemented: ORS 469A.005–469A.200

Proposed Adoptions: Rules in 860-083

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

Summary: This is Phase 3 of the Commission's rulemaking required to establish compliance by electric companies and electricity service suppliers with the Renewable Portfolio Standards under the Oregon Renewable Energy Act (ORS 469A.005 through 469A.210). The new rules implement estimation of electric company annual revenue requirement under ORS 469A.100(2) and (3); estimation of the incremental cost of compliance under ORS 469A.100(4); implementation plans under ORS 469A.075; alternative compliance rates and the use of such funds under ORS 469A.180; compliance standards under the cost limits in ORS 469A.100(1) and (6); and compliance reports under ORS 469A.170.

As of the date of this notice, the Commission has not yet adopted rules or amendments proposed in Phase 2 of this rulemaking. There are Phase 2 rules proposed for Division 083. The rulemaking in this Phase 3 may result in the reorganization or renumbering of rules adopted in Phase 2.

The Commission encourages participants to file written comments as early as practicable in the proceeding so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 518 on comments and file them by e-mail to the Commission's Filing Center at PUC.FilingCenter@state.or.us and also send a signed hard copy to the Filing Center at PO Box 2148, Salem, Oregon 97308-2418. For more information about the Commission's Filing Center, please see <http://apps.puc.state.or.us/edockets/center.htm>. Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=14193>

Participants wishing to monitor the hearing by telephone (listen only) must contact Diane Davis at diane.davis@state.or.us or (503) 378-4372 by close of business May 14, 2009, to request a dial-in number. To present oral comment at the hearing, participants must attend in person.

Rules Coordinator: Diane Davis

Address: Public Utility Commission of Oregon, PO Box 2148, Salem, Oregon 97308-2418

Telephone: (503) 378-4372

.....

Public Utility Commission, Board of Maritime Pilots Chapter 856

Rule Caption: Updates and codifies investigation policies and procedures.

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

Hearing Officer: Board of Maritime Pilots

Stat. Auth.: ORS 776 & 670

Stats. Implemented: ORS 776.115 & 670.310

Proposed Adoptions: 856-010-0022

Last Date for Comment: 6-17-09

Summary: Adopts updated incident investigation procedures; defines categories of incidents; provides for independent investigator assistance.

Rules Coordinator: Susan Johnson

Address: Public Utility Commission, Board of Maritime Pilots, 800 NE Oregon St., #507, Portland, OR 97232

Telephone: (971) 673-1530

NOTICES OF PROPOSED RULEMAKING

**Secretary of State,
Elections Division
Chapter 165**

Rule Caption: Amending the Billing Formula for Local Elections.

Date:	Time:	Location:
5-28-09	2-3 p.m.	255 Capitol St. NE, Rm. 500A Salem, OR 97310

Hearing Officer: Brenda Bayes

Stat. Auth.: ORS 246.150 & 255.305

Stats. Implemented: ORS 246.179, 246.250, 251.365, 254.046 & 255.305

Proposed Amendments: 165-020-0050, 165-020-0055, 165-020-0060

Last Date for Comment: 5-28-09

Summary: The amendments update the billing formula for special district elections. The amendment to OAR 165-020-0050 incorporates an exemption from chargeable costs for an election of directors of a soil and water conservation district. The OAR 165-020-0055 amendments update the definitions used in the calculation of costs. These changes would mean that districts would be charged in proportion to the number of candidates and measures qualified to the ballot, rather than on registration within the district. OAR 165-020-0060 would be amended to remove a reference to form SEL 951, because that form would no longer be needed under the new formula provided in the amendment to OAR 165-020-0055.

Rules Coordinator: Brenda Bayes

Address: Secretary of State, Elections Division, 255 Capitol St. NE, Suite 501, Salem, OR 97310

Telephone: (503) 986-1518

**Travel Information Council
Chapter 733**

Rule Caption: Adopt rules to establish standards for an Interstate Oasis sign program.

Stat. Auth.: ORS 377.700-377.840

Stats. Implemented: ORS 183.310-183.550

Proposed Adoptions: 733-030-0400, 733-030-0410, 733-030-0420, 733-030-0430, 733-030-0440, 733-030-0450, 733-030-0460, 733-030-0470, 733-030-0480

Last Date for Comment: 5-21-09

Summary: The Travel Information Council held a quarterly meeting on March 27, 2009. The Council proposed adopting new rules to establish standards for Interstate Oasis signing erected within highway right-of-way to provide directional information to qualified facilities that provide products and services to the public.

Rules Coordinator: Diane Cheyne

Address: Travel Information Council, 229 Madrona Ave. SE, Salem, OR 97302

Telephone: (503) 378-4508

ADMINISTRATIVE RULES

Board of Parole and Post-Prison Supervision Chapter 255

Rule Caption: Amends Exhibit J, which lists all of the general, and some special, conditions of supervision.

Adm. Order No.: PAR 1-2009(Temp)

Filed with Sec. of State: 4-9-2009

Certified to be Effective: 4-10-09 thru 10-7-09

Notice Publication Date:

Rules Amended: 255-070-0001

Subject: The Board has jurisdiction to impose conditions of supervision for offenders on parole, post-prison supervision (PPS), or both. OAR 255-070-0001 provides that the Board may order parole conditions or PPS conditions and that supervision conditions are not limited to those shown in Exhibit J. Exhibit J is being amended to reflect the current general conditions of supervision and to list some of the special conditions of supervision that the Board order. Exhibit J is also being amended to make formatting changes and to streamline the conditions ordered consistent with best-practices in the field.

Rules Coordinator: Michelle Mooney—(503) 945-0914

255-070-0001

Conditions Not Limited by Exhibit J

(1) The Board may order parole conditions pursuant to OAR 255-070-0015.

(2) The Board shall approve post-prison supervision conditions pursuant to OAR 213-11-001.

(3) Conditions of parole and post-prison supervision are not limited to those shown in **Exhibit J**.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 144.096, 144.102 & 144.270

Stats. Implemented:

Hist.: 2PB 15-1985, f. & ef. 5-31-85; 2PB 1-1986(Temp), f. & ef. 11-3-86; PAR 2-1987, f. & ef. 4-1-87; PAR 5-1988(Temp), f. & ef. 4-15-88; PAR 6-1988, f. & ef. 5-19-88; PAR 8-1988, f. & ef. 7-1-88; PAR 17-1988, f. & ef. 10-18-88; PAR 2-1990, f. & ef. 4-5-90; PAR 4-1990, f. 6-29-90, cert. ef. 7-1-90; PAR 3-1992, f. & cert. ef. 4-15-92; PAR 4-1992(Temp), f. & cert. ef. 4-30-92; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 3-1993, f. & cert. ef. 10-15-93; PAR 5-1993(Temp), f. & cert. ef. 12-3-93; PAR 1-1994, f. & cert. ef. 4-4-94; PAR 3-1994, f. 11-9-94, cert. ef. 12-1-94; Administrative correction 8-14-97; PAR 5-1998, f. & cert. ef. 11-9-98; PAR 2-1999, f. & cert. ef. 1-15-99; PAR 6-1999(Temp), f. & cert. ef. 9-15-99 thru 3-12-00; PAR 9-1999, f. & cert. ef. 11-15-99; PAR 5-2000, f. & cert. ef. 5-22-00; PAR 6-2001(Temp), f. 12-10-01, cert. ef. 1-1-02 thru 6-29-02; PAR 3-2001, f. & cert. ef. 2-29-02; PAR 5-2002(Temp), f. & cert. ef. 4-15-02 thru 10-11-02; PAR 8-2002, f. & cert. ef. 6-17-02; PAR 4-2003(Temp), f. & cert. ef. 6-13-03 thru 12-9-03; PAR 6-2003, f. & cert. ef. 10-10-03; PAR 1-2004, f. & cert. ef. 1-14-04; PAR 4-2006, f. & cert. ef. 4-5-06; PAR 1-2009(Temp), f. 4-9-09, cert. ef. 4-10-09 thru 10-7-09

.....

Bureau of Labor and Industries Chapter 839

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

Adm. Order No.: BLI 6-2009

Filed with Sec. of State: 3-17-2009

Certified to be Effective: 3-17-09

Notice Publication Date:

Rules Amended: 839-025-0700

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

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

839-025-0700

Prevailing Wage Rate Determination/Amendments to Determination

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

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

December 19, 2008).

(b) Amendments/Corrections to January 1, 2009 *PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act* (reflecting changes to Davis-Bacon rates effective January 2, 2009).

(c) Amendments/Corrections to January 1, 2009 *PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act* (reflecting changes to Davis-Bacon rates effective February 6, 2009).

(d) Amendments/Corrections to January 1, 2009 *PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act* (reflecting changes to Davis-Bacon rates effective March 13, 2009).

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

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

Stats. Implemented: ORS 279C.815

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002, f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-29-06, cert. ef. 6-29-06, f. & cert. ef. 7-1-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-23-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 1-31-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-30-07; BLI 12-2007, f. & cert. ef. 5-31-07; BLI 13-2007, f. 6-8-07, cert. ef. 6-11-07; BLI 14-2007, f. 6-27-07, cert. ef. 6-28-07; BLI 15-2007, f. & cert. ef. 6-28-07; BLI 16-2007, f. 6-29-07, cert. ef. 7-1-07; BLI 18-2007, f. 7-10-07, cert. ef. 7-12-07; BLI 21-2007, f. 8-3-07, cert. ef. 8-8-07; BLI 22-2007, cert. ef. 8-30-07; BLI 23-2007, f. 8-31-07, cert. ef. 9-4-07; BLI 24-2007, f. 9-11-07, cert. ef. 9-12-07; BLI 25-2007, f. 9-19-07, cert. ef. 9-20-07; BLI 26-2007, f. 9-25-07 cert. ef. 9-26-07; BLI 27-2007, f. 9-25-07 cert. ef. 10-1-07; BLI 28-2007, f. 9-26-07 cert. ef. 10-1-07; BLI 31-2007, f. 11-20-07, cert. ef. 11-23-07; BLI 34-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 1-2008, f. & cert. ef. 1-4-08; BLI 2-2008, f. & cert. ef. 1-11-08; BLI 3-2008, f. & cert. ef. 2-21-08; BLI 6-2008, f. & cert. ef. 3-13-08; BLI 8-2008, f. 3-31-08, cert. ef. 4-1-08; BLI 9-2008, f. & cert. ef. 4-14-08; BLI 11-2008, f. & cert. ef. 4-24-08; BLI 12-2008, f. & cert. ef. 4-30-08; BLI 16-2008, f. & cert. ef. 6-11-08; BLI 17-2008, f. & cert. ef. 6-18-08; BLI 19-2008, f. & cert. ef. 6-26-08; BLI 20-2008, f. & cert. ef. 7-1-08; BLI 23-2008, f. & cert. ef. 7-10-08; BLI 26-2008, f. & cert. ef. 7-30-08; BLI 28-2008, f. & cert. ef. 9-3-08; BLI 30-2008, f. & cert. ef. 9-25-08; BLI 31-2008, f. 9-29-08, cert. ef. 10-1-08; BLI 32-2008, f. & cert. ef. 10-8-08; BLI 36-2008, f. & cert. ef. 10-29-08; BLI 41-2008, f. & cert. ef. 11-12-08; BLI 42-2008, f. & cert. ef. 12-1-08; BLI 44-2008, f. & cert. ef. 12-29-08; BLI 45-2008, f. 12-31-08, cert. ef. 1-1-09; BLI 1-2009, f. & cert. ef. 1-6-09; BLI 2-2009, f. & cert. ef. 1-12-09; BLI 4-2009, f. & cert. ef. 2-11-09; BLI 6-2009, f. & cert. ef. 3-17-09

.....

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

Adm. Order No.: BLI 7-2009

Filed with Sec. of State: 3-24-2009

Certified to be Effective: 3-24-09

Notice Publication Date:

Rules Amended: 839-025-0700

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

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

ADMINISTRATIVE RULES

839-025-0700

Prevailing Wage Rate Determination/Amendments to Determination

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

(a) Amendments/Corrections to January 1, 2009 PWR Rates for *Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act* (reflecting changes to Davis-Bacon rates effective December 19, 2008).

(b) Amendments/Corrections to January 1, 2009 PWR Rates for *Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act* (reflecting changes to Davis-Bacon rates effective January 2, 2009).

(c) Amendments/Corrections to January 1, 2009 PWR Rates for *Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act* (reflecting changes to Davis-Bacon rates effective February 6, 2009).

(d) Amendments/Corrections to January 1, 2009 PWR Rates for *Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act* (reflecting changes to Davis-Bacon rates effective March 13, 2009).

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

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

Stats. Implemented: ORS.279C.815

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002 f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 1-31-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-30-07; BLI 12-2007, f. & cert. ef. 5-31-07; BLI 13-2007, f. 6-8-07, cert. ef. 6-11-07; BLI 14-2007, f. 6-27-07, cert. ef. 6-28-07; BLI 15-2007, f. & cert. ef. 6-28-07; BLI 16-2007, f. 6-29-07, cert. ef. 7-1-07; BLI 18-2007, f. 7-10-07, cert. ef. 7-12-07; BLI 21-2007, f. 8-3-07, cert. ef. 8-8-07; BLI 22-2007, cert. ef. & 8-30-07; BLI 23-2007, f. 8-31-07, cert. ef. 9-4-07; BLI 24-2007, f. 9-11-07, cert. ef. 9-12-07; BLI 25-2007, f. 9-19-07, cert. ef. 9-20-07; BLI 26-2007, f. 9-25-07 cert. ef. 9-26-07; BLI 27-2007, f. 9-25-07 cert. ef. 10-1-07; BLI 28-2007, f. 9-26-07 cert. ef. 10-1-07; BLI 31-2007, f. 11-20-07, cert. ef. 11-23-07; BLI 34-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 1-2008, f. & cert. ef. 1-4-08; BLI 2-2008, f. & cert. ef. 1-11-08; BLI 3-2008, f. & cert. ef. 2-21-08; BLI 6-2008, f. & cert. ef. 3-13-08; BLI 8-2008, f. 3-31-08, cert. ef. 4-1-08; BLI 9-2008, f. & cert. ef. 4-14-08; BLI 11-2008, f. & cert. ef. 4-24-08; BLI 12-2008, f. & cert. ef. 4-30-08; BLI 16-2008, f. & cert. ef. 6-11-08; BLI 17-2008, f. & cert. ef. 6-18-08; BLI 19-2008, f. & cert. ef. 6-26-08; BLI 20-2008, f. & cert. ef. 7-1-08; BLI 23-2008, f. & cert. ef. 7-10-08; BLI 26-2008, f. & cert. ef. 7-30-08; BLI 28-2008, f. & cert. ef. 9-3-08; BLI 30-2008, f. & cert. ef. 9-25-08; BLI 31-2008, f. 9-29-08, cert. ef. 10-1-08; BLI 32-2008, f. & cert. ef. 10-8-08; BLI 36-2008, f. & cert. ef. 10-29-08; BLI 41-2008, f. & cert. ef. 11-12-08; BLI 42-2008, f. & cert. ef. 12-1-08; BLI 44-2008, f. & cert. ef. 12-29-08; BLI 45-2008, f. 12-31-08, cert. ef. 1-1-09; BLI 1-2009, f. & cert. ef. 1-6-09; BLI 2-2009, f. & cert. ef. 1-12-09;

BLI 4-2009, f. & cert. ef. 2-11-09; BLI 6-2009, f. & cert. ef. 3-17-09; BLI 7-2009, f. & cert. ef. 3-24-09

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

Adm. Order No.: BLI 8-2009

Filed with Sec. of State: 3-31-2009

Certified to be Effective: 4-1-09

Notice Publication Date:

Rules Amended: 839-025-0700

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

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

839-025-0700

Prevailing Wage Rate Determination/Amendments to Determination

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

(a) Amendments/Corrections to *January 1, 2009 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act* (reflecting changes to Davis-Bacon rates effective December 19, 2008).

(b) Amendments/Corrections to *January 1, 2009 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act* (reflecting changes to Davis-Bacon rates effective January 2, 2009).

(c) Amendments/Corrections to *January 1, 2009 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act* (reflecting changes to Davis-Bacon rates effective February 6, 2009).

(d) Amendments/Corrections to *January 1, 2009 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act* (reflecting changes to Davis-Bacon rates effective March 13, 2009).

(e) Amendments/Corrections to *January 1, 2009 PWR Rates for Public Works Contracts in Oregon subject to BOTH State PWR Law and federal Davis-Bacon Act* (reflecting changes to Davis-Bacon rates effective March 20, 2009).

(f) Amendment to Oregon Determination 2009-01 (effective April 1, 2009).

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

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

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

Stats. Implemented: ORS.279C.815

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002 f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04;

ADMINISTRATIVE RULES

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

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

Adm. Order No.: BLI 9-2009

Filed with Sec. of State: 4-15-2009

Certified to be Effective: 4-16-09

Notice Publication Date:

Rules Amended: 839-025-0750

Subject: The rule adopts prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and Industries for specified residential projects for the dates specified.

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

839-025-0750

Residential Prevailing Wage Rate Determinations

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in the following residential rate determinations are the prevailing rates of wage for workers upon said public works projects for the periods of time specified:

(a) *Special Prevailing Wage Rate Determination for Residential Project, West Pine Terrace Roof Replacement, Project #2008-01, dated May 21, 2008, for the period of June 5, 2008 through June 30, 2009.*

(b) *Special Prevailing Wage Rate Determination for Residential Project, Richardson Bridge Apartments Re-Roof, Project #2009-01, dated February 4, 2009, for the period of March 1, 2009 through June 30, 2009.*

(c) *Special Prevailing Wage Rate Determination for Residential Project, Patio Village Roof Replacement Project, Project #2009-02, dated April 6, 2009, for the period of April 16, 2009 through June 30, 2009.*

(2) Copies of the rates referenced in section (1) of this rule are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Medford, Portland and Salem and listed in the blue pages of the phone book. Copies may also be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

Stat. Auth.: ORS 279C.815

Stats. Implemented: ORS 279C.815

Hist.: BLI 5-1999, f. 6-30-99, cert. ef. 7-1-99; BLI 7-1999, f. 8-26-99, cert. ef. 9-15-99; BLI 8-1999, f. & cert. ef. 9-8-99; BLI 10-1999, f. 9-14-99, cert. ef. 9-17-99; BLI 11-1999, f. 9-22-99, cert. ef. 9-27-99; BLI 6-2000, f. 2-14-00, cert. ef. 2-15-00; BLI 12-2000, f. 5-24-00, cert. ef. 7-1-00; BLI 18-2000, f. & cert. ef. 9-1-00; BLI 21-2000, f. 9-15-00, cert. ef. 9-22-00; BLI 23-2000, f. & cert. ef. 9-25-00; BLI 24-2000, f. 10-30-00, cert. ef. 11-1-00; BLI 2-2001, f. & cert. ef. 1-24-01; BLI 6-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 7-2001, f. 7-20-01, cert. ef. 7-24-01; BLI 9-2001, f. 7-31-01, cert. ef. 8-1-01; BLI 10-2001, f. 8-14-01, cert. ef. 8-15-01; BLI 11-2001, f. & cert. ef. 8-22-01; BLI 13-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 6-2002, f. 3-14-02, cert. ef. 3-15-02; BLI 7-2002, f. 3-22-02, cert. ef. 3-25-02; BLI 11-2002, f. & cert. ef. 5-23-02; BLI 13-2002, f. 6-26-02, cert. ef. 7-1-02; BLI 14-2002, f. 8-23-02, cert. ef. 10-1-02; BLI 2-2003, f. & cert. ef. 3-28-03; BLI 2-2004, f. 4-23-04, cert. ef. 5-1-04; BLI 3-2004, f. 5-18-04, cert. ef. 5-19-04; BLI 4-2004, f. & cert. ef. 5-24-04; BLI 5-2004, f. 6-23-04, cert. ef. 6-24-04; BLI 7-2004, f. 7-14-04, cert. ef. 7-15-04; BLI 13-2004, f. & cert. ef. 10-19-04; BLI 14-2004, f. 10-29-04, cert. ef. 11-1-04; BLI 16-2004, f. 11-8-04, cert. ef. 11-10-

04; Renumbered from 839-016-0750, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 9-2005, f. 4-15-05, cert. ef. 4-18-05; BLI 10-2005, f. & cert. ef. 5-2-05; BLI 11-2005, f. 5-31-05, cert. ef. 6-1-05; BLI 12-2005, f. & cert. ef. 6-21-05; BLI 13-2005, f. 6-30-05, cert. ef. 7-1-05; BLI 14-2005, f. & cert. ef. 7-22-05; BLI 15-2005, f. 8-9-05, cert. ef. 8-10-05; BLI 17-2005, f. 8-26-05, cert. ef. 8-29-05; BLI 23-2005, f. 10-26-05, cert. ef. 10-28-05; BLI 25-2005, f. 12-22-05, cert. ef. 12-23-05; BLI 6-2006, f. 3-9-06, cert. ef. 3-13-06; BLI 22-2006, f. 6-16-06, cert. ef. 7-1-06; BLI 27-2006, f. 7-17-06, cert. ef. 7-18-06; BLI 30-2006, f. 8-16-06, cert. ef. 8-18-06; BLI 31-2006, f. 9-8-06, cert. ef. 9-11-06; BLI 44-2006, f. 12-18-06, cert. ef. 1-1-07; BLI 17-2007, f. & cert. ef. 7-2-07; BLI 30-2007, f. 11-1-07, cert. ef. 11-2-07; BLI 10-2008, f. 4-22-08, cert. ef. 4-23-08; BLI 15-2008, f. 6-4-08, cert. ef. 6-5-08; BLI 5-2009, f. 2-27-09, cert. ef. 3-1-09; BLI 9-2009, f. 4-15-09, cert. ef. 4-16-09

Columbia River Gorge Commission Chapter 350

Rule Caption: Amendments to Plan Amendments and Urban Area Boundary Revisions Rules.

Adm. Order No.: CRGC 2-2009

Filed with Sec. of State: 3-17-2009

Certified to be Effective: 5-1-09

Notice Publication Date: 2-1-2009

Rules Amended: 350-040-0020, 350-040-0040, 350-050-0020, 350-050-0060

Subject: These changes clarify that the Commission's consideration of applications to amend the Management Plan and revise urban area boundaries is a discretionary action, and specify that the Commission will determine, as part of its work planning, how many of these types of applications it will accept for review.

Rules Coordinator: Nancy A. Andring—(509) 493-3323, ext. 221

350-040-0020

Authority

(1) Consideration of requests to revise urban area boundaries is a discretionary action authorized by section 4(f) of the Act. The Act does not entitle a county, or any person or entity, to have the Commission review a request to revise any urban area boundary. The Commission may make "minor revisions" to the boundaries of an Urban Area.

(2) Three procedural requirements are included in Section 4(f)(1) of the Scenic Area Act:

(a) Requests to revise an Urban Area boundary are submitted to the Commission by a county government;

(b) The Commission must consult the Secretary of Agriculture before revising an Urban Area boundary; and

(c) Two-thirds of the Commission members, including a majority of the members appointed from each state, must approve a revision of an Urban Area boundary. In the event of recusal, the doctrine of necessity shall apply.

(3) Section 4(f)(2) of the Scenic Area Act allows the Commission to revise the boundaries of an Urban Area only if the following criteria are satisfied:

(a) A demonstrable need exists to accommodate long-range urban population growth requirements or economic needs consistent with the Management Plan;

(b) Revision of Urban Area boundaries is consistent with the standards established in Section 6 and the purposes of the Scenic Area Act;

(c) Revision of Urban Area boundaries will result in maximum efficiency of land uses within and on the fringe of existing Urban Areas; and

(d) Revision of Urban Area boundaries will not result in the significant reduction of agricultural lands, forest lands, or open spaces.

Stat. Auth.: ORS 196.150 & RCW 43.97.015

Stats. Implemented: ORS 196.150, RCW 43.97.015 & 16 U.S.C. § 544 et seq.

Hist.: CRGC 1-1992(Temp), f. & cert. ef. 2-6-92; CRGC 4-1992, f. & cert. ef. 5-8-92; CRGC 1-1999, f. & cert. ef. 10-14-99; CRGC 1-2009(Temp), f. & cert. ef. 1-14-09 thru 5-15-09; CRGC 2-2009, f. 3-17-09, cert. ef. 5-1-09

350-040-0040

Processing of Application

Applications for revision of urban area boundaries shall be reviewed upon receipt and in the order in which they are received, except that the Commission may, as part of its work planning, set a limit on the number of urban area boundary revision applications it will process during the biennium and may set its limit at zero.

Stat. Auth.: ORS 196.150 & RCW 43.97.015

Stats. Implemented: ORS 196.150, RCW 43.97.015 & 16 U.S.C. § 544 et seq.

Hist.: CRGC 1-1992(Temp), f. & cert. ef. 2-6-92; CRGC 4-1992, f. & cert. ef. 5-8-92; CRGC 1-1999, f. & cert. ef. 10-14-99; CRGC 1-2009(Temp), f. & cert. ef. 1-14-09 thru 5-15-09; CRGC 2-2009, f. 3-17-09, cert. ef. 5-1-09

ADMINISTRATIVE RULES

350-050-0020

Authority

(1) Consideration of amendments to the Management Plan is a discretionary action authorized by section 6(h) of the Act. The Act does not entitle any person or entity to have the Commission review an application to amend the Management Plan. The Commission may adopt an amendment to the Management Plan only if it is consistent with the purposes and standards of the Scenic Area Act, the provisions in section 6(h) of the Act, and this rule.

(2) The Act only allows the Commission to adopt a plan amendment:

(a) If the Commission determines at any time that conditions within the Scenic Area have significantly changed; and

(b) If the Commission approves the plan amendment by a majority vote of the members appointed, including approval by at least three members from each state. In the event of recusal, the doctrine of necessity shall apply.

Stat. Auth.: ORS 196.150 & RCW 43.97.015

Stats. Implemented: ORS 196.150, RCW 43.97.015 & 16 U.S.C. § 544 et seq.

Hist.: CRGC 3-1992(Temp), f. & cert. ef. 4-16-92; CRGC 5-1992, f. & cert. ef. 7-1-92; CRGCI-1999, f. & cert. ef. 10-14-99; CRGC 1-2009(Temp), f. & cert. ef. 1-14-09 thru 5-15-09; CRGC 2-2009, f. 3-17-09, cert. ef. 5-1-09

350-050-0060

Processing of Application

(1) Applications for quasi-judicial amendments shall be reviewed upon receipt and in the order in which they are received, except that the Commission may, as part of its work planning, set a limit on the number of quasi-judicial applications it will process during the biennium and may set its limit at zero. Applications shall be reviewed pursuant to sections 070 through 120 of this division.

(2) The Executive Director shall maintain requests for legislative amendments. The Commission shall review requested legislative amendments at least once each biennium and determine which, if any, to handle as an application to amend the Management Plan. In determining which legislative amendments to handle, the Commission may consider such factors as: whether the issue has been the subject of appeals, whether the issue has been an implementation problem, whether the issue is a priority of federal, state, local, or tribal governments, and availability of data and resources necessary to analyze the issue. The Commission shall solicit public comment during its work planning concerning legislative amendments to initiate. The decision to initiate a legislative amendment is at the sole discretion of the Commission.

(3) For legislative amendments, the Executive Director shall hold a pre-application conference as provided in 350-50-045. Following the pre-application conference, the Executive Director shall process a legislative amendment pursuant to sections 080 through 120 of this division.

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

Stat. Auth.: ORS 196.150 & RCW 43.97.015

Stats. Implemented: ORS 196.150, RCW 43.97.015 & 16 U.S.C. § 544 et seq.

Hist.: CRGC 3-1992(Temp), f. & cert. ef. 4-16-92; CRGC 5-1992, f. & cert. ef. 7-1-92; CRGC 1-1999, f. & cert. ef. 10-14-99; CRGC 1-2006, f. 3-22-06, cert. ef. 5-1-06; CRGC 1-2009(Temp), f. & cert. ef. 1-14-09 thru 5-15-09; CRGC 2-2009, f. 3-17-09, cert. ef. 5-1-09

Commission for the Blind Chapter 585

Rule Caption: Financial Support for Funding Business Ventures; Equipment Policy.

Adm. Order No.: CFTB 1-2009

Filed with Sec. of State: 4-13-2009

Certified to be Effective: 4-13-09

Notice Publication Date: 3-1-2009

Rules Amended: 585-010-0310, 585-020-0005, 585-020-0020, 585-020-0025, 585-020-0030, 585-020-0040, 585-020-0045, 585-020-0060

Rules Repealed: 585-020-0055

Subject: Division 10: Financial Support for Funding Business Ventures — Updates language to reflect current practice

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

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

585-010-0310

Business Policy

(1) What This Rule Does. This rule establishes the conditions under which financial support for funding business ventures will be provided by the Commission for the Blind.

(2) Statutory Authority. This rule is authorized by ORS 183.341 and 346.150.

(3) Definitions. The following definitions apply to this rule:

(a) "Agency" means the Commission for the Blind;

(b) "IPE" means Individualized Plan for Employment;

(c) "SBA" means the U. S. Small Business Administration;

(d) "SSA" means the U. S. Social Security Administration;

(e) "Counselor" means the client's assigned Vocational Rehabilitation Counselor who is a staff member of the Agency.

(4) Effective Date. This rule is effective upon publication for clients requesting assistance in becoming involved in a business venture.

(5) Basic Criteria:

(a) Intent to establish or run a business is to help an individual become financially independent. Agency involvement will be available to establish or run a business that can reasonably be expected to provide income to the client commensurate with the individual's strengths, abilities, capabilities and interests. The agency will not fund "hobby" businesses;

(b) If a client is involved with a business partnership or corporation, s/he must present written evidence of being the controlling partner or controlling shareholder of the corporation. Provision must be made in the Partnership Agreement for the client to settle all debts should the business not succeed. The agency will assume no financial liability for debts;

(c) Speculative or high-risk business ventures will not be considered. These include those which present a risk beyond the control of the business owner or those which are so subject to economic whims as to have an unpredictable future;

(d) The client must present documentary evidence to indicate that a reasonable effort has been made to obtain financial support from other sources to finance the business in part or in whole before requesting agency assistance. If the request was denied because of an insufficient business plan, the client must revise the plan and resubmit it to the funding source. When no comparable benefits and services are available, the agency may fund reasonable and necessary start up costs for a business as part of a client's Individualized Plan for Employment. In order for a plan to be viable, other funding sources may be necessary to cover costs identified in the business plan that would not be covered by the agency;

(e) Where partial support is obtained elsewhere, the client must submit copies of the relevant documentation to identify the extent of that financial assistance;

(f) Where denial of financial support outside this agency is based on the availability of personal or family resources, the client will be expected to utilize those resources before requesting agency funding support;

(g) The client may seek assistance in developing a business plan from outside sources such as the Small Business Administration or the Small Business Development Centers at community colleges.

(6) Comprehensive Assessment:

(a) Financial support will be provided to a client to become involved in a business only after the client has satisfied a comprehensive assessment. As a part of this, the agency is prepared to provide or arrange for an assessment by agency staff or competent business persons outside the agency to assess the business skills, background, and potential of the client seeking financial assistance. Portions of the assessment may be conducted by business persons such as a representative of the Oregon Small Business Development Center;

(b) The comprehensive assessment will cover the following:

(A) Evaluation of previous work experience, especially in the same or a similar industry to the proposed business or in other self-employment;

(B) Understanding of other career options and availability of jobs in the present and future job market;

(C) Communications skills necessary in the proposed business (written and verbal skills, along with capability to maintain and interpret financial records for the business);

(D) Factors such as willingness to make personal financial investment in the business, ability to make appropriate decisions, dependability, follow-through, organizational ability, adequate travel skills as demonstrated by interaction with agency personnel and former business colleagues;

(E) Alternative skills of blindness adequate to function in the business; Knowledge of technology, adaptive technology and software applications currently being used in the management of similar businesses;

(F) Demonstration of money/resource management skills consistent with running a viable small business.

(G) Background or training in financial management skills required for managing a self-owned business.

(7) Comprehensive Business Plan:

ADMINISTRATIVE RULES

(a) The client must prepare a well-researched and written comprehensive business plan such as that required by a bank or the Small Business Administration.

(b) The plan must include an itemized list of equipment or business-related expenses, which the client requests the agency to provide. The client must make a formal presentation of the plan to the agency. If the plan is accepted, the decisions made will lead to the development or amendment of the IPE. Any agency support must be a part of an agreed upon IPE.

(c) If the total request for financial assistance and technical assistance is less than \$3,500 the counselor may not require a formal business plan. However, in providing assistance less than \$3,500, there still should be sufficient evidence that the business is viable.

(d) Requests for an existing business, which exclusively involve adaptive equipment, may require documentation of the viability of the business rather than a formal business plan.

(8) Training. Where assessment results indicate that a client lacks some of the skills necessary for successful business management, the agency may make available and require training in those specific skill areas, especially the alternative skills dealing with blindness and financial management skills.

(9) Availability of Funds:

(a) Financial support for any service provided under an IPE is contingent upon the availability of funds to the agency;

(b) Financial assistance should not place a burden on agency resources to the extent that the agency would be unable to provide services to other clients.

(10) Financial Support:

(a) Client will provide timely financial statements and other documentation as requested by the Commission showing progress toward becoming self-sufficient.

(b) Agency support is designed to assist in the initial startup of a business; it is not to be considered an on-going resource, and in no case will losses be reimbursed by the agency;

(c) The client and Counselor will jointly determine the limits of agency financial involvement and time limits. Development of a comprehensive business plan is expected to adequately capitalize the business and limit the need for ongoing financial support by the agency.

(11) Equipment:

(a) Any equipment for the business must be purchased in accordance with agency policy; i.e., preauthorized, with appropriate bids, where necessary, obtained by the client;

(b) Under the criteria in ORS 346.210, ownership of equipment may be transferred to the client. The Counselor will determine appropriateness of this action. Regardless of ownership, the client is responsible for adequately maintaining the equipment;

(c) Any equipment whose title is not passed to the client will be returned to the agency when it is no longer required for the purpose for which it was procured.

Stat. Auth.: ORS 183 & 346

Stats. Implemented: ORS 346.150

Hist: 2BC 1-1985, f. & ef. 1-31-85; CFTB 3-1999, f. & cert. ef. 7-8-99; CFTB 1-2004, f. & cert. ef. 10-8-04; CFTB 1-2005, f. & cert. ef. 2-11-05; CFTB 1-2009, f. & cert. ef. 4-13-09

585-020-0005

Purpose

These rules establish the conditions under which equipment will be purchased and maintained for the use of clients of the Oregon Commission for the Blind.

Stat. Auth.: ORS 183 & 346

Stats. Implemented:

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

585-020-0020

Financing Equipment

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

(1) Employer purchases equipment.

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

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

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

Stat. Auth.: ORS 183 & 346

Stats. Implemented:

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

580-020-0025

Maintenance of Equipment

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

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

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

Stat. Auth.: ORS 183 & 346

Stats. Implemented:

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

585-020-0030

Property Receipts and Transfer of Ownership

Clients are required to sign property receipts for non-expendable equipment provided to them with a cost of \$5000 or more. Receipts verify that the client received the item and spells out the applicable conditions of this policy. When ownership of equipment and software are transferred to a client, clients are required to sign a transfer of ownership form. This verifies that equipment and software have been assigned to the client and spells out the applicable conditions of this policy.

Stat. Auth.: ORS 183 & 346

Stats. Implemented:

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

585-020-0040

Maintaining Equipment

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

Stat. Auth.: ORS 183 & 346

Stats. Implemented:

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

585-020-0045

Changing Jobs

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

Stat. Auth.: ORS 183 & 346

Stats. Implemented:

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

585-020-0060

Transfer of Equipment to Clients

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

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

(3) If the equipment is likely to be usable for other clients after the current client no longer requires it for employment, the case manager may determine that the agency will retain ownership. This determination will be

ADMINISTRATIVE RULES

made on an individual basis. Once ownership is transferred to the client, the agency will have no further obligation to repair or maintain the equipment.

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

(b) Equipment Purchases by Agency

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

Stat. Auth.: ORS 183 & 346

Stats. Implemented:

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

.....
**Department of Administrative Services,
Oregon Educators Benefit Board
Chapter 111**

Rule Caption: Establishes Oregon Educators Benefit Board policy for complaints and administrative reviews for members.

Adm. Order No.: OEGB 7-2009

Filed with Sec. of State: 3-24-2009

Certified to be Effective: 4-1-09

Notice Publication Date: 2-1-2009

Rules Adopted: 111-080-0030

Rules Repealed: 111-080-0030(T)

Subject: OAR 111-080-0030 establishes OEGB's policy for complaints and administrative review for members.

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

111-080-0030

Complaints and Administrative Review

(1) OEGB eligible employees may request a review to determine if an educational entity's eligibility decision is based on OAR 111-010-0015(11), (13), (14), or (21) or an educational entity's enrollment decision is based on 111-040-0001 through 0050.

(2) OEGB members have the right to request a review of benefit and claim issues that are not resolved following the completion of the carrier appeal process.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(a)

Hist.: OEGB 17-2008(Temp), f. & cert. ef. 10-16-08 thru 4-13-09; OEGB 7-2009, f. 3-24-09, cert. ef. 4-1-09

.....
**Department of Agriculture
Chapter 603**

Rule Caption: The scientific name of the pathogen causing hop powdery mildew requires updating.

Adm. Order No.: DOA 4-2009

Filed with Sec. of State: 4-9-2009

Certified to be Effective: 4-9-09

Notice Publication Date: 2-1-2009

Rules Amended: 603-052-1020

Subject: The officially recognized scientific name of the pathogen causing hop powder mildew has changed to *Podosphaera macularis*. The amendment updates OAR 603-52-1020, Quarantine against Powdery Mildew of Hops, to reflect the name change.

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

603-052-1020

Quarantine Against Powdery Mildew of Hops

(1) Establishing Quarantine: A quarantine is established against the powdery mildew disease of hops caused by the fungus *Podosphaera macularis* (Wallr.) U. Braun & S. Takam. (*Sphaerotheca humuli* (DC.) Burr.).

(2) Area under Quarantine: All states and districts of the United States, except the states of Washington and Idaho.

(3) Commodities Covered: Plants and all plant parts of hops, *Humulus lupulus*, excepting kiln dried cones of hops are prohibited entry into this state directly, indirectly, diverted or reconsigned. Used bale coverings and

any other articles or equipment that could transmit spores or other infectious material.

(4) Conditions: Covered commodities from the area under quarantine are prohibited.

(5) Director's Exemptions: Persons wishing to import covered commodities from the area under quarantine must apply in writing for a Director's Exemption as authorized by OAR 603-052-1020. Applications for Director's Exemptions must list the prospective buyer and seller; the number, and origin of stock; location of proposed planting site; and any other relevant information. Director's Exemptions, when granted, will list required safeguards to prevent disease establishment.

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

Stat. Auth.: ORS 561 & 570.305

Stats. Implemented: ORS 561.190, 561.510 - 561.600 & 570.305

Hist.: AD 7-1993(Temp), f. & cert. ef. 5-26-93; AD 20-1993, f. & cert. ef. 12-14-93; AD 10-1996, f. & cert. ef. 9-5-96; DOA 4-1998, f. & cert. ef. 5-11-98; DOA 12-1999, f. & cert. ef. 6-4-99; DOA 4-2009, f. & cert. ef. 4-9-09

.....
Rule Caption: Updates the federal host list and eradication protocols in Oregon's regulations for *Phytophthora ramorum*.

Adm. Order No.: DOA 5-2009

Filed with Sec. of State: 4-9-2009

Certified to be Effective: 4-9-09

Notice Publication Date: 2-1-2009

Rules Amended: 603-052-1230, 603-052-1250

Subject: The USDA Animal and Plant Health Inspection Service has updated their quarantine and official protocols for *Phytophthora ramorum*. The Oregon Department of Agriculture is proposing to amend our State regulations to harmonize with the federal changes. The host and associated plant list will be updated to the May 5, 2008 version. Also, the Confirmed residential Protocol and the Response Protocol for Forest and Wildland Environments will be updated to the latest versions. Finally, the Confirmed Retail Nursery Protocol will be added to both state regulations.

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

603-052-1230

Quarantine: *Phytophthora ramorum*

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

(2) Area under quarantine:

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

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

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

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

ADMINISTRATIVE RULES

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

(a) "Hosts and associated plants" means plants on the USDA APHIS List of Regulated Hosts and Plants Associated with *Phytophthora ramorum*, last revised May 5, 2008.

NOTE: This list is available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone 503-986-4644.

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

(4) Commodities regulated:

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

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

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

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

(b) Nursery stock grown in a quarantined county or area may be eligible for shipment to and within Oregon providing the nursery is part of an official certification program and has been inspected and tested as required by the federal interim rule, 7 CFR 301.92, for *P. ramorum*. The official certificate must include the following additional declaration: "The (covered commodity) from (name of county or other location identifier) has met the *Phytophthora ramorum* quarantine requirements for shipment into and within Oregon.

NOTE: Recipients of tree and shrub nursery stock imported into the state must notify the ODA no later than two business days after its arrival as required by OAR 603-054-0027.

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

(6) Infected properties in Oregon: Confirmation of a *P. ramorum* infection must be made by the ODA or an official cooperator. The disease must be eradicated from the property as quickly as possible in accordance with USDA APHIS's Confirmed Residential Protocol for *Phytophthora ramorum* Detections in Landscaped Residential or Commercial Settings, last revised December 20, 2007 or the *Phytophthora ramorum* APHIS Response Protocol for Forest and Wildland Environments Version 1.0, updated November 21, 2008.

NOTE: These protocols are available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone 503-986-4644.

Affected property owners will be issued infection location and eradication requirements in the form of an Administrative Directive. For public and private forested lands, the Oregon Departments of Agriculture (ODA) and Forestry (ODF) will work with the landowner to develop an eradication plan that will be based on the best available science. The program may include some or all of the following activities: cutting and piling susceptible trees and shrubs, burning the wood and plant debris when safe to do so, herbicide treatment of stumps and sprouts, fungicide spraying, sampling and monitoring.

(7) Infected nurseries in Oregon: Confirmation of a *P. ramorum* infection must be made by the ODA or an official cooperator. Nurseries are required to eradicate the disease as quickly as possible in accordance with USDA APHIS's Official Regulatory Protocol for Wholesale and Production Nurseries Containing Plants Infected with *Phytophthora ramorum* Version 8.0, last revised July 20, 2007, or the Official Regulatory Protocol for Retail Nurseries Containing Plants Infected with *Phytophthora ramorum* Version 1.0, dated December 19, 2007, will be implemented immediately.

NOTE: These protocols are available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone 503-986-4644.

The ODA will work with the nursery owner to implement an eradication and monitoring program utilizing protocols prescribed by USDA APHIS.

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

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

Stat. Auth.: ORS 561.190 & 561.560

Stats. Implemented: ORS 561.560

Hist.: DOA 1-2001(Temp), f. & cert. ef. 1-5-01 thru 4-4-01, DOA 5-2001, f. & cert. ef. 3-27-01; DOA 1-2005, f. & cert. ef. 1-24-05; DOA 4-2006, f. & cert. ef. 3-10-06; DOA 7-2007, f. & cert. ef. 3-27-07; DOA 5-2008, f. & cert. ef. 1-16-08; DOA 5-2009, f. & cert. ef. 4-9-09

603-052-1250

Phytophthora ramorum Regulated Area for Nursery Stock

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

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

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

(a) "Hosts and associated plants" means plants on the USDA APHIS's List of Regulated Hosts and Plants Associated with *Phytophthora ramorum*, last revised May 5, 2008.

NOTE: This list is available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone 503-986-4644.

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

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

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

(5) Growers in the certification program shall be inspected and tested for *P. ramorum* in accordance with federal interim rule, 7 CFR 301.92.

NOTE: This interim rule is available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone 503-986-4644.

Inspection and sampling procedures will meet or exceed USDA standards for nurseries in regulated and quarantine areas. The department, using federally approved laboratory protocols, will test the samples.

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

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

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

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

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

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

ADMINISTRATIVE RULES

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

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

and

- (c) Any plants located within 10 meters of a host or associated plant.
- (8) Failure to comply with all articles of a compliance agreement will result in revocation of the compliance agreement and decertification.

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

- (a) All symptomatic plants;
- (b) Any plants located in the same lot as the suspect plant; and
- (c) Any plants located within 2 meters of this lot of plants.

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

(11) If *P. ramorum* is officially confirmed within a nursery, delimitation and eradication procedures as outlined in USDA APHIS's Official Regulatory Protocol for Wholesale and Production Nurseries Containing Plants Infected with *Phytophthora ramorum* Version 8.0, last revised July 20, 2007, or the Official Regulatory Protocol for Retail Nurseries Containing Plants Infected with *Phytophthora ramorum* Version 1.0, dated December 19, 2007, will be implemented immediately.

NOTE: These protocols are available from the Oregon Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301, telephone 503-986-4644.)

Hosts and associated hosts shall not be moved from the nursery/growing site until all conditions of the protocol are met and the department releases the plants.

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

Stat. Auth.: ORS 561.510 & 570.305

Stats. Implemented: ORS 561.190

Hist.: DOA 13-2005, f. & cert. ef. 3-25-05; DOA 4-2006, f. & cert. ef. 3-10-06; DOA 7-2007, f. & cert. ef. 3-27-07; DOA 5-2008, f. & cert. ef. 1-16-08; DOA 5-2009, f. & cert. ef. 4-9-09

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

Rule Caption: Amends Oregon Electrical Specialty Code Article 708, Critical Operations Power Systems.

Adm. Order No.: BCD 2-2009

Filed with Sec. of State: 3-31-2009

Certified to be Effective: 4-1-09

Notice Publication Date: 3-1-2009

Rules Amended: 918-305-0280

Subject: This rule amends the Oregon Electrical Specialty (OESC), Article 708 Critical Operations Power Systems, by removing provisions that are outside the scope of the OESC, such as continuing maintenance and physical security. The rule also clarifies who has the authority to designate an area as a critical operations area (DCOA) and classify systems in the DCOA as critical operations power systems.

Rules Coordinator: Shauna Parker—(503) 373-7438

918-305-0280

Amend Chapter 7 Special Conditions

(1) Chapter 7 Special Conditions. Amend Chapter 7 by adding the following preface to the Chapter: "Building Officials and inspectors administering and enforcing the state building code under ORS 455.148 and 455.150, shall not inspect for compliance with Sections 700.27, 701.18, or 708.54, refuse to perform or finalize inspections, refuse to issue a certificate of occupancy, or use other methods to ensure compliance with Sections 700.27, 701.18, or 708.54. If requested by the Building Codes Division, the

Supervising Electrician must demonstrate that the requirements of Sections 700.27, 701.18, or 708.54, as appropriate, have been met. In determining whether a system meets the requirements of Sections 700.27, 701.18, or 708.54, the division may request the local jurisdiction to perform an inspection or collect the relevant information, so that the division may review and make a determination."

(2)(a) Section 700.27 Coordination. Amend 700.27 by adding the following to the end of the first paragraph: "For the purposes of this section, supply side overcurrent protection means those protective devices on the emergency system supply side and not on the normal power supply side. The protection shall be coordinated using the higher of the normal power supply fault current levels or emergency system fault current levels."

(b) Amend 700.27 by inserting the following: "Exception No. 2: The requirements for selective coordination described in 700.27 are not required where the emergency system was installed prior to April 1, 2005. For new emergency systems that are supplied from an existing emergency system installed prior to April 1, 2005, the new portion of the emergency system must comply with NEC 700.27. The ground fault sensing function of overcurrent protective devices will only be required to selectively coordinate with the ground fault sensing functions of other protective devices."

(3)(a) Section 701.18 Coordination. Amend by adding the following after 701.18: "For the purposes of this section, supply side overcurrent protection means those protective devices on the emergency system supply side and not on the normal power supply side. The protection shall be coordinated using the higher of the normal power supply fault current levels or emergency system fault current levels."

(b) Amend Section 701.18 by inserting the following: "Exception No. 2: The requirements for selective coordination described in 701.18 are not required where the required standby system was installed prior to April 1, 2005. For new emergency systems that are supplied from an existing required standby system installed prior to April 1, 2005, the new portion of the required standby system must comply with NEC 701.18. The ground fault sensing function of overcurrent protective devices will only be required to selectively coordinate with the ground fault sensing functions of other protective devices."

(4) The following provisions of Article 708 are amended:

(a) Section 708.1 Scope amended as follows:

(A) Amend 708.1 Scope to read: "The provisions of this article apply to the installation of the portions of the premises' wiring system intended to supply, distribute, and control electricity to designated critical operations areas (DCOA) in the event of disruption to elements of the normal system. Critical operations areas and critical operations power systems are designated by the owner of the facility. A building official has no authority to designate or require designation of an area as requiring a critical operations power system. Critical operations power systems can include but are not limited to power systems, HVAC, fire alarm, security, communications, and signaling for designated critical operations areas."

(B) Amend 708.1 by inserting the following: "FPN 9: Chapter 5 of NFPA 1600-2007, Standard on Disaster/Emergency Management and Business Continuity Programs, provides additional guidance concerning risk assessment and hazard analysis."

(b) Amend Section 708.4 Risk Assessment by deleting Section in its entirety.

(c) Amend Section 708.5 Physical Security to read: "Electrical circuits and equipment for critical operations power systems shall be accessible to qualified personnel only."

(d) Amend Section 708.6 as follows:

(A) Amend Section 708.6(A) to read: "The authority having jurisdiction shall conduct or witness a test of the completed system upon installation."

(B) Delete 708.6(B) Tested Periodically.

(C) Delete 708.6(C) Maintenance.

(D) Delete Fine Print Note.

(E) Delete 708.6 (D) Written Record.

(F) Renumber 708.6(E) Testing Under Load as 708.6(B).

(e) Amend Section 708.8 by deleting the section in its entirety.

(f) Amend Section 708.22. Amend 708.22(B) by deleting the second paragraph.

(g) Section 708.54 Coordination is amended as follows:

(A) Amend 708.54 by adding the following to the end of Section 708.54: "For the purposes of this section, supply side overcurrent protection means those protective devices on the emergency system supply side and not on the normal power supply side. The protection shall be coordinated using the higher of the normal power supply fault current levels or emergency system fault current levels."

ADMINISTRATIVE RULES

(B) Amend Section 708.54 by inserting the following: "Exception: The requirements for selective coordination described in 708.54 are not required where the critical operations power system(s) was installed prior to April 1, 2005. For new critical operations power system(s) that are supplied from an existing emergency system installed prior to April 1, 2005, the new portion of the critical operations power system(s) must comply with NEC 708.54. The ground fault sensing function of overcurrent protective devices will only be required to selectively coordinate with the ground fault sensing functions of other protective devices."

(h) Amend Part V by deleting the Part and Section 708.64 Emergency Operations Plan in its entirety.

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.730

Hist.: BCD 23-2004, f. 12-15-04, cert. ef. 4-1-05; BCD 6-2008, f. 3-7-08, cert. ef. 4-1-08;

BCD 2-2009, f. 3-31-09, cert. ef. 4-1-09

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

Rule Caption: Updates rules to be clear with processing and administrative procedures for the 2009 benefit year.

Adm. Order No.: OMIPB 2-2009

Filed with Sec. of State: 3-30-2009

Certified to be Effective: 4-15-09

Notice Publication Date: 3-1-2009

Rules Amended: 443-002-0070, 443-002-0180

Rules Repealed: 443-002-0070(T)

Subject: 0070 — Updates reference to benefits, benefit limitations, benefit exclusions and claims administration for the OMIP program to the plans, contract, application, member handbook, and benefit and rate instructions as of January 1, 2009. These rules do not change program requirements.

0180 — Updates rule by clarifying current administrative procedures as outlined in the January 1, 2009 contracts for credits towards the six-month waiting period for pre-existing conditions. Also, amendments include deleting language pertaining to OMIP if a waiting list exists. These rules do not change program requirements.

Rules Coordinator: Linnea Saris—(503) 378-5672

443-002-0070

Benefits, Benefit Limitations, Benefit Exclusions and Claims Administration

Effective January 1, 2009, Benefits, Benefit Limitations, Benefit Exclusions and Claims Administration for the OMIP program are set forth in the OMIP individual benefit plan contracts as of January 1, 2009, the OMIP application as of January 1, 2009, the OMIP handbook as of January 1, 2009, the OMIP Premium Rates and Instructions pamphlet as of January 1, 2009, the OMIP Benefit Summary pamphlet as of January 1, 2009 and any applicable endorsements. These documents are hereby incorporated into this rule by reference.

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

Stat. Auth.: ORS 735.610(6) & 735.625

Stats. Implemented: ORS 735.600 - 735.650

Hist.: OMIPB 2-2004, f. 12-30-04, cert. ef. 1-1-05; OMIPB 2-2005, f. 12-30-05, cert. ef. 1-1-06; OMIPB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-5-08; OMIPB 1-2008, f. & cert. ef. 1-2-08; OMIPB 1-2008(Temp), f. & cert. ef. 2-12-09 thru 8-10-09; OMIPB 2-2009, f. 3-30-09, cert. ef. 4-15-09

443-002-0180

Credit Towards the Six-Month Waiting Period for Pre-Existing Conditions

(1) OMIP may reduce the six month wait period for pre-existing conditions for each month of creditable coverage the enrollee had prior to applying to OMIP if:

(a) The enrollee's application to OMIP was received by OMIP or OMIP's third party administrator within 63 days from the prior health plan's termination date; and

(b) The enrollee provided a Certificate of Coverage (COC) document reflecting the enrollee's name, effective date of coverage, and termination date. In addition, the enrollee included a summary of benefits for the prior health plan, to determine if the plan was creditable.

(2) OMIP may not give credit for benefits, treatments, or services if the enrollee had not satisfied any of the prior health plan's waiting periods or if the benefit, treatment, or services were excluded by the previous health plan.

Stat. Auth.: ORS 735.610(6) & 735.625

Stats. Implemented: ORS 735.600 - 735.650

Hist.: OMIPB 2-2004, f. 12-30-04, cert. ef. 1-1-05; OMIPB 2-2009, f. 3-30-09, cert. ef. 4-15-09

Department of Consumer and Business Services, Oregon Occupational Safety and Health Division Chapter 437

Rule Caption: Adopt changes to the Electrical Standard in General Industry.

Adm. Order No.: OSHA 3-2009

Filed with Sec. of State: 4-6-2009

Certified to be Effective: 4-17-09

Notice Publication Date: 3-1-2009

Rules Amended: 437-002-0320

Subject: The Occupational Safety and Health Administration (Federal OSHA) published a final rule revising its electrical installation standard for general industry on February 14, 2007. Oregon OSHA adopted the Federal OSHA changes to the electrical installation standard found in Division 2/S as they appeared in the February, 2007 Federal Register.

This rulemaking adopts the additional Federal OSHA changes published in the October 29, 2008 Federal Register. The changes revise the scope of 1910.304(3) Ground-fault circuit interrupter protection for personnel, and addresses some questions raised by stakeholders on the application of the provision. Also two typographical errors located in Table S-3 of 1910.303 are corrected.

Please visit OR-OSHA's web site at www.orosha.org

Rules Coordinator: Sue C. Joye—(503) 947-7449

437-002-0320

Adoption by Reference.

In addition to, and not in lieu of, any other health and safety codes contained in OAR chapter 437, the Department adopts by reference the following rules as printed in the Code of Federal Regulations, 29 CFR 1910, revised as of 7/1/93:

(1) 29 CFR 1910.301 Introduction; published 1/16/81, Federal Register vol. 46, p. 4056; amended 8/7/81, FR vol. 46, p. 40185.

Design Safety Standards for Electrical Systems

(2) 29 CFR 1910.302 Electrical utilization systems; published 1/16/81, Federal Register vol. 46, p. 4056; amended 8/7/81, FR vol. 46, p. 40185; 2/14/07, FR vol. 72, no. 30, p. 7136.

(3) 29 CFR 1910.303 General requirements; published 1/16/81, Federal Register vol. 46, p. 4056; amended 8/7/81, FR vol. 46, p. 40185; 2/14/07, FR vol. 72, no. 30, p. 7136; amended 10/29/08, FR vol. 73, no. 210, p. 64202. OAR 437-002-0321 through 0325, Additional Oregon General Requirements.

(4) 29 CFR 1910.304 Wiring design and protection; published 1/16/81, Federal Register vol. 46, p. 4056; amended 8/7/81, FR vol. 46, p. 40185; amended 8/6/90, FR vol. 55, no. 151, pp. 32016-32020; 2/14/07, FR vol. 72, no. 30, p. 7136; amended 10/29/08, FR vol. 73, no. 210, p. 64202.

(5) 29 CFR 1910.305 Wiring methods, components and equipment for general use; published 1/16/81, Federal Register vol. 46, p. 4056; amended 8/7/81, FR vol. 46, p. 40185; 2/14/07, FR vol. 72, no. 30, p. 7136.

(6) 29 CFR 1910.306 Specific purpose equipment and installations; published 1/16/81, Federal Register vol. 46, p. 4056; amended 8/7/81, FR vol. 46, p. 40185; 2/14/07, FR vol. 72, no. 30, p. 7136.

(7) 29 CFR 1910.307 Hazardous (classified) locations; published 1/16/81, Federal Register vol. 46, p. 4056; amended 8/7/81, FR vol. 46, p. 40185; 2/14/07, FR vol. 72, no. 30, p. 7136.

(8) 29 CFR 1910.308 Special systems; published 1/16/81, Federal Register vol. 46, p. 4056; amended 8/7/81 FR vol. 46, p. 40185; 2/14/07, FR vol. 72, no. 30, p. 7136.

(9) (Reserved for 1910.309–1910.330)

Safety-Related Work Practices

(10) 29 CFR 1910.331 Scope; published 8/6/90, Federal Register vol. 55, no. 151, pp. 32016-32020; amended 1/31/94, FR vol. 59, no. 20, pp. 4475-6.

(11) 29 CFR 1910.332 Training; published 8/6/90, Federal Register vol. 55, no. 151, pp. 32016-32020.

(12) 29 CFR 1910.333 Selection and use of work practices; published 8/6/90, Federal Register vol. 55, no. 151, pp. 32016-32020; amended 11/1/90, FR vol. 55, no. 212, pp. 46052-46054; amended 1/31/94, FR vol.

ADMINISTRATIVE RULES

59, no. 20, pp. 4475-6; amended with OR-OSHA AO 4-2007, filed and effective 8/15/07.

(13) 29 CFR 1910.334 Use of equipment; published 8/6/90, Federal Register vol. 55, no. 151, pp. 32016-32020; amended 11/1/90, FR vol. 55, no. 212, pp. 46052-46054.

(14) 29 CFR 1910.335 Safeguards for personnel protection; published 8/6/90, Federal Register vol. 55, no. 151, pp. 32016-32020.

(15) (Reserved for 1910.336-1910.360)

Safety-Related Maintenance Requirements

(16) (Reserved for 1910.361-1910.380)

Safety Requirements for Special Equipment

(17) (Reserved for 1910.381-1910.398)

Definitions

(18) 29 CFR 1910.399 Definitions Applicable to this Subdivision; published 1/16/81, Federal Register vol. 46, p. 4056; amended 8/7/81, FR vol. 46, p. 40185, amended 4/12/88, FR vol. 53, p. 12123; amended 8/6/90 FR vol. 55, no. 151, pp. 32016-32020; 2/14/07, FR vol. 72, no. 30, p. 7136.

(19) Appendices: Appendix A — Reference Documents. These standards are available at the Oregon Occupational Safety and Health Division (OR-OSHA), Department of Consumer and Business Services; and the United States Government Printing Office.

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 2-1991, f. 2-4-91, cert. ef. 4-1-91; OSHA 3-1994, f. & cert. ef. 8-1-94; OSHA 4-2007, f. & cert. ef. 8-15-07; OSHA 3-2009, f. 4-6-09, cert. ef. 4-17-09

Rule Caption: Adopt changes to Division 2/F, Powered Platforms, Manlifts, and Vehicle Mounted Work Platforms.

Adm. Order No.: OSHA 4-2009

Filed with Sec. of State: 4-13-2009

Certified to be Effective: 4-17-09

Notice Publication Date: 3-1-2009

Rules Adopted: 437-002-0072, 437-002-0074, 437-002-0076

Rules Repealed: 437-002-0067, 437-002-0069, 437-002-0071, 437-002-0073, 437-002-0075

Subject: Oregon OSHA has repealed five Oregon Administrative Rules (OARs):

OAR 437-002-0067 Extensible and Articulating Boom Platforms, because the rule does not allow for additional acceptable alternatives. The rule currently requires equipment to have clearly visible flashing warning lights on all vehicles when operating in or exposed to traffic.

The rule does not allow for other approved methods such as traffic control devices, barricades or simply roping off the area as referenced in the 2006 edition of the ANSI/SIA A92.5 consensus standard for Boom-Supported Elevating Work Platforms. Similar equipment or vehicles can simply conform to the Millennium Edition of the (FHWA) Manual of Uniform Traffic Control Devices (MUTCD), December 2000.

OAR 437-002-0069 General rules for proximity to overhead high voltage lines and equipment, 437-002-0071 Clearance or Safeguards Required, 437-002-0073 Warning Signs Required, and 437-002-0075 Notification to Power Company and Responsibility for Safeguards. These are redundant to overhead electrical rules found in Division 2/S Electrical.

Repeal of these rules in Division 2/F, further maintains consistency with the division 3 Construction rules.

Oregon OSHA has adopted three new OARs:

OAR 437-002-0072 Manually Propelled Elevating Aerial Platforms, equipment identified in ANSI A92.3; 437-002-0074 Self-Propelled Elevating Work Platforms-Scissor Lifts, equipment identified in ANSI A92.6; and 437-002-0076 Boom Supported Elevating Work Platforms, equipment identified in ANSI A92.5. Oregon OSHA adopted rules in 1997 into division 3, Construction concerning this equipment. This provides consistent requirements for general industry and construction.

Please visit OR-OSHA's web site at www.orosha.org

Rules Coordinator: Sue C. Joye—(503) 947-7449

437-002-0072

Manually Propelled Elevating Aerial Platforms.

When using manually propelled elevating aerial platforms as covered by ANSI/SIA A92.3-1990, the manufacturer's operating manual must be with the equipment. You must follow all manufacturers' operating and maintenance instructions and recommendations.

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stat. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 4-2009, f. 4-13-09, cert. ef. 4-17-09

437-002-0074

Scissor Lifts — Self-Propelled Elevating Work Platforms.

When using self-propelled elevating aerial platforms, scissor lifts, as covered by ANSI/SIA A92.6-1990, the manufacturer's operating manual must be with the equipment. You must follow all manufacturers' operating and maintenance instructions and recommendations.

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stat. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 4-2009, f. 4-13-09, cert. ef. 4-17-09

437-002-0076

Boom Supported Elevating Work Platforms.

(1) When using boom supported elevating work platforms as covered by ANSI/SIA A92.5-1996, the manufacturer's operating manual must be with the equipment. You must follow all manufacturers' operating and maintenance instructions and recommendations.

(2) All occupants on platforms must use a personal fall protection system that will protect against the potential effects of ejection.

Stat. Auth.: ORS 654.025(2) & 656.726(4)

Stat. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 4-2009, f. 4-13-09, cert. ef. 4-17-09

Department of Corrections

Chapter 291

Rule Caption: Alternative Incarceration Programs for Inmates.

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

Filed with Sec. of State: 3-20-2009

Certified to be Effective: 3-20-09 thru 9-11-09

Notice Publication Date:

Rules Adopted: 291-062-0170

Rules Amended: 291-062-0100, 291-062-0110, 291-062-0120, 291-062-0130, 291-062-0140, 291-062-0150, 291-062-0160

Subject: 2008 OR Laws, Ch. 35 (HB 3638) modifies the process for release of an inmate on post-prison supervision following successful completion of alternative incarceration program. These temporary rule amendments are necessary to update the Department's policy and procedures for releasing an inmate on post-prison supervision after successful completion of an alternative incarceration program to the provisions of the new legislation. These amendments modify the eligibility criteria for inmate participation in an alternative incarceration program. Other amendments are necessary to reflect the operational and organizational changes that have occurred in the Department since the last rule revision.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-062-0100

Authority, Purpose and Policy

(1) Authority: The authority for these rules is granted to the Director of the Department of Corrections in accordance with 2003 Or Laws, Ch 464, 2008 Or Laws, Ch 35, ORS 179.040, 421.500 to 421.512, 423.020, 423.030 and 423.075.

(2) Purpose: The purpose of these rules is to establish special alternative incarceration programs and establish Department policy and procedures for the program's operation and management in accordance with ORS 421.500 to 421.512.

(3) Policy: Within the inherent limitations of resources, and the need to maintain facility security, internal order, and discipline, and the health and safety of staff, inmates, and the public, it is the policy of the Department of Corrections to discharge its statutory responsibilities to establish alternative incarceration programs by creating and operating programs that promote inmate rehabilitation during incarceration and reduce the risk of continuing criminal conduct when the inmate is returned to the community.

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030, 423.075, 2008 Or Laws, Ch

35

Stats. Implemented: ORS 179.040, 421.500 - 421.512, 423.020, 423.030, 423.075

ADMINISTRATIVE RULES

Hist.: DOC 1-2004(Temp), f. & cert. ef. 1-14-04 thru 6-12-04; DOC 5-2004, f. & cert. ef. 7-12-04; DOC 3-2009(Temp), f. & cert. ef. 3-20-09 thru 9-11-09

291-062-0110

Definitions

(1) Alternative Incarceration Program (AIP): A highly structured corrections program that includes intensive interventions, rigorous personal responsibility and accountability, physical labor, and service to the community.

(2) Custody Cycle: The time period during which an offender begins incarceration with the Department of Corrections and [or] is under the supervision of community corrections until discharge from all Department of Corrections and community corrections incarceration and supervision.

(3) Other charges: Any criminal or civil accusatory instrument that alleges wrong doing and for which a person may be imprisoned or incarcerated.

(4) Short-Term Transitional Leave/Non-Prison Leave: A leave for a period not to exceed 90 days preceding an established release date that allows an inmate opportunity to secure appropriate transitional support when necessary for successful reintegration into the community. Short-term transitional leave/non-prison is granted in accordance with ORS 421.148, 421.510 and the Department's rule on Short-Term Transitional Leave, Emergency Leaves and Supervised Trips (OAR 291-063). For purposes of these rules, short-term transitional leave is non-prison leave.

(5) Static 99: An actuarial instrument designed to estimate the probability of sexual recidivism among adults. It is used to determine which offenders will be designated "predatory".

(6) Term of Incarceration: The period of commitment to the legal and physical custody of the Department imposed by a sentencing court in a judgment. For purposes of these administrative rules, "term of Incarceration" includes pre-sentence incarceration credit granted to an inmate by the Department under ORS 137.370(2)(a), as well as any time an inmate spends on short-term transitional/non-prison leave under ORS 421.510.

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030 & 423.075, Or Laws, Ch 35
Stats. Implemented: ORS 179.040, 421.500-421.512, 423.020, 423.030, 423.075

Hist.: DOC 1-2004(Temp), f. & cert. ef. 1-14-04 thru 6-12-04; DOC 5-2004, f. & cert. ef. 7-12-04; DOC 11-2005, f. 8-19-05, cert. ef. 8-22-05; DOC 3-2009(Temp), f. & cert. ef. 3-20-09 thru 9-11-09

291-062-0120

General

(1) The Department of Corrections has established and operates two types of alternative incarceration programs.

(a) One of the alternative incarceration programs is an intensive cognitive program and the other is an intensive addictions program that includes intensive addiction intervention and treatment.

(b) Each alternative incarceration program is a minimum of 270 days duration and includes two components — a structured institution program and a period of structured short-term transitional leave.

(c) Each alternative incarceration program will require its participants to engage in a minimum of 14 hours of highly structured routine every day for the duration of the program.

(2) Inmates are required to participate in and successfully complete transition classes offered as a condition of program graduation. The number and frequency of these classes will be determined by each facility.

(3) The Department in its discretion may grant individual inmates a period of structured, short-term transitional leave as part of their alternative incarceration program assignment if the inmate has identified viable self-support options in the community or if the supervising community corrections agency has approved a temporary subsidy that will allow the inmate to successfully transition in the community.

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030 & 423.075, Or Laws, Ch 35
Stats. Implemented: ORS 179.040, 421.500-421.512, 423.020, 423.030, 423.075

Hist.: DOC 1-2004(Temp), f. & cert. ef. 1-14-04 thru 6-12-04; DOC 5-2004, f. & cert. ef. 7-12-04; DOC 11-2005, f. 8-19-05, cert. ef. 8-22-05; DOC 3-2009(Temp), f. & cert. ef. 3-20-09 thru 9-11-09

291-062-0130

Inmate Eligibility

(1) The Department will identify inmates eligible to participate in alternative incarceration programs. To be eligible to participate in the program an inmate must:

(a) Be sentenced to the legal and physical custody of the Department and be subject to a term of post-prison supervision upon satisfaction of a term of physical confinement in a Department of Corrections facility;

(b) Be at least 18 years of age at the time of entry into the program, or may be under 18 years of age and have been convicted of a crime upon remand from juvenile court; and

(c) Be assigned Level 1 or Level 2 in accordance with the Department's rule on Classification (Inmate) (OAR 291-104) and have no more than 36 months to serve at the time of program entry.

(2) An inmate is not eligible to participate in alternative incarceration programs during service of a sentence for conviction of a crime described in:

- (a) ORS 163.095 (Aggravated Murder);
- (b) ORS 163.115 (Murder);
- (c) ORS 163.118 (Manslaughter I);
- (d) ORS 163.235 (Kidnapping I);
- (e) ORS 163.355 (Rape III);
- (f) ORS 163.365 (Rape II);
- (g) ORS 163.375 (Rape I);
- (h) ORS 163.385 (Sodomy III);
- (i) ORS 163.395 (Sodomy II);
- (j) ORS 163.405 (Sodomy I);
- (k) ORS 163.408 (Unlawful Sexual Penetration II);
- (l) ORS 163.411 (Unlawful Sexual Penetration I);
- (m) ORS 163.415 (Sexual Abuse III);
- (n) ORS 163.425 (Sexual Abuse II);
- (o) ORS 163.427 (Sexual Abuse I);
- (p) ORS 163.435 (Contributing to the Delinquency of a Minor);
- (q) ORS 163.525 (Incest);
- (r) ORS 164.325 (Arson I); or
- (s) ORS 164.415 (Robbery I).

(3) An inmate is not eligible to participate in alternative incarceration programs if the inmate is serving a sentence under the provisions of ORS 137.635.

(4) An inmate is not eligible to participate in alternative incarceration programs if the inmate is serving a sentence under ORS 161.610 until the inmate completes the minimum incarceration term imposed by the court less earned time under ORS 421.121.

(5) An inmate is not eligible to participate in alternative incarceration programs if the inmate:

(a) Has an adult conviction for felony escape which was committed within three years prior to the time of program entry, or has a conviction for unauthorized departure from the legal and/or physical custody of the Oregon Department of Corrections or its authorized agents which was committed within three years prior to the time of program entry.

(b) Is serving non-sentencing guidelines prison terms (sentences with crime dates prior to November 1, 1989), or has unresolved criminal prosecutions, consecutive county jail terms, or any other circumstances that would conflict with his/her release from prison upon satisfactory completion of an alternative incarceration program.

(c) Has a current detainer.

(A) Inmates who are serving a sentence for a crime committed prior to January 1, 2009, and who have detainees lodged with the Department after they have been selected and assigned to one of the programs, and the detainer is discovered after the inmate has completed approximately one-half of the program may be permitted to continue their participation in the program at the discretion of the functional unit manager or designee based on their program performance to date.

(B) Inmates who are serving a sentence for a crime committed on or after January 1, 2009, and who have a current detainer from any jurisdiction that will not expire prior to the inmate's calculated date of release onto post-prison supervision are not eligible for, and shall not be permitted to continue participation in, an alternative incarceration program.

(d) Is currently assigned to special security housing for reasons of protective custody, and the inmate's assignment to the program is otherwise determined by Department officials to pose a threat to the safe, secure and orderly operation and management of the program, including the safety of Department staff and inmates.

(e) Has less than ten months to serve from the first day of program entry. Inmates that have between nine and ten months to serve may participate in alternative incarceration programs with the functional unit manager's or designee's approval.

(f) Is serving a parole or post-prison supervision violation sanction pursuant to ORS 421.168(1) and 144.108(3)(b).

(6) For sentences imposed for crimes committed prior to January 1, 2009, an inmate is not eligible to participate in alternative incarceration programs if the inmate is serving a sentence under the provision of ORS 137.700 or 137.707 until completion of the mandatory minimum incarceration.

ADMINISTRATIVE RULES

ation term. For sentences imposed for crimes committed on or after December 5, 1996, the inmate is eligible after completion of the mandatory minimum incarceration term only upon order of the sentencing court as ordered in a judgment pursuant to ORS 137.750.

(7) For sentences imposed for crimes committed prior to January 1, 2009, an inmate is not eligible to participate in alternative incarceration programs if the inmate, on or after April 1, 1995, commits and is convicted of:

(a) Assault II as defined in ORS 163.175(1)(b) (Intentionally or knowingly causes physical injury to another by means of a deadly or dangerous weapon);

(b) Kidnapping II (ORS 163.225); or

(c) Robbery II (ORS 164.405); unless the sentencing court, notwithstanding ORS 137.700 and 137.707, has imposed a lesser sentence pursuant to ORS 137.712 and (for crimes committed on or after December 5, 1996 and prior to January 1, 2009) only upon order of the sentencing court as directed in the judgment pursuant to ORS 137.750.

(8) For sentences imposed for crimes committed prior to January 1, 2009, an inmate is not eligible to participate in alternative incarceration programs if the inmate on or after October 23, 1999, commits and is convicted of Manslaughter II as defined in ORS 163.125, unless the sentencing court, notwithstanding ORS 137.700 and 137.707, has imposed a lesser sentence pursuant to ORS 137.712 and only upon order of the sentencing court as directed in the judgment pursuant to ORS 137.750.

(9) An inmate is not eligible to participate in alternative incarceration programs if the inmate is serving a sentence under the provisions of ORS 161.725 or 161.737 (dangerous offenders) for a crime committed on or after November 1, 1989. An inmate shall not be allowed to participate in alternative incarceration programs even after completion of the required minimum incarceration term (determinate sentence) even if the Board of Parole and Post-Prison Supervision finds that the person is no longer dangerous or finds that the person remains dangerous but can be adequately controlled with supervision and mental health treatment and sets a post-prison supervision release date.

(10) If otherwise eligible under Oregon law, any person sentenced for a crime committed on or after December 5, 1996 and prior to January 1, 2009, may be considered for alternative incarceration programs only upon order of the sentencing court as directed in the judgment pursuant to ORS 137.750.

(11) An inmate who is serving a sentence, including a sentence imposed under ORS 137.712, for a crime listed in 137.700, 137.707, 163.095, or 181.594(4) committed on or after January 1, 2009, is not eligible to participate in alternative incarceration programs.

(12) If otherwise eligible under Oregon law, an inmate sentenced for a crime committed on or after January 1, 2009, may be considered for short-term transitional leave and release onto post-prison supervision only upon order of the sentencing court as directed in a judgment pursuant to ORS 421.508(4).

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030 & 423.075, Or Laws, Ch 35
Stats. Implemented: ORS 179.040, 421.500-421.512, 423.020, 423.030, 423.075
Hist.: DOC 1-2004(Temp), f. & cert. ef. 1-14-04 thru 6-12-04; DOC 5-2004, f. & cert. ef. 7-12-04; DOC 11-2005, f. 8-19-05, cert. ef. 8-22-05; DOC 7-2007, f. & cert. ef. 10-9-07; DOC 3-2009(Temp), f. & cert. ef. 3-20-09 thru 9-11-09

291-062-0140

Inmate Selection

(1) The Department in its discretion may accept eligible inmates into an alternative incarceration program based on its determination that the inmate's participation in such a program is consistent with the safety of the community, the welfare of the applicant, the program objectives and the rules of the Department.

(2) The functional unit manager or designee of each facility that has an alternative incarceration program shall appoint a committee that is responsible for making recommendations to the functional unit manager or designee on the placement of inmates in the program.

(3) An inmate will not be accepted into an alternative incarceration program unless the inmate submits a written request to participate.

(a) The request must contain a statement signed by the inmate applicant providing that he/she:

(A) Is physically and mentally able to withstand the rigors of the program; and

(B) Has reviewed the alternative incarceration program descriptions provided by the Department and agrees to comply with each of the requirements.

(b) Otherwise eligible inmate applicants with a physical or mental disability will be evaluated individually by the Department to determine

whether the inmate may successfully participate in the fundamental components of an alternative incarceration program.

(c) The Department shall make the final determination regarding an inmate's physical or mental ability to withstand the rigors of the program.

(4) Inmates who score a six or higher on the Static 99 will not be accepted into an AIP.

(5) Inmates with a predatory designation will not be accepted into an AIP.

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030 & 423.075, 2008 Or Laws, Ch 35

Stats. Implemented: ORS 179.040, 421.500-421.512, 423.020, 423.030, 423.075

Hist.: DOC 1-2004(Temp), f. & cert. ef. 1-14-04 thru 6-12-04; DOC 5-2004, f. & cert. ef. 7-12-04; DOC 11-2005, f. 8-19-05, cert. ef. 8-22-05; DOC 7-2007, f. & cert. ef. 10-9-07; DOC 3-2009(Temp), f. & cert. ef. 3-20-09 thru 9-11-09

291-062-0150

Removal or Suspension From an Alternative Incarceration Program

(1) The functional unit manager or designee in his/her discretion may remove or suspend an inmate from any portion of an alternative incarceration program, and may reassign the inmate to another Department of Corrections facility to serve the balance of the inmate's court-imposed incarceration term(s), for administrative or disciplinary reasons. The decision to remove or suspend an inmate from the program will be made in consultation with a committee appointed by the functional unit manager or designee that is responsible to review the performance of inmates participating in an alternative incarceration program.

(2) Administrative Removal/ Suspension:

(a) The functional unit manager or designee in his/her discretion may immediately remove or suspend an inmate from the program and reassign the inmate to another Department of Corrections facility without a hearing, for administrative reasons.

(b) An inmate who is not available to participate substantially in the program (e.g., physical and mental illness, court appearance(s), disciplinary segregation, etc.) for up to 30 days following placement will have his/her program participation suspended and be evaluated by the committee to determine whether the inmate will be removed from the program or accepted back into the program at the program level deemed appropriate by the functional unit manager or designee.

(c) Any change in status that would cause an inmate to be ineligible to continue participating in the program as described in OAR 291-062-0130 (e.g., discovery of a detainer), may result in a suspension.

(A) If suspended, the inmate will have 30 days to resolve his/her eligibility status with the Department. If the inmate's eligibility status remains unresolved, the inmate will be removed from the program.

(B) An extension may be made by the functional unit manager or designee on a case-by-case basis.

(d) If other charges will result in immediate incarceration upon release to short-term transitional leave, the inmate will have 30 days to resolve his/her eligibility status with the Department. If the inmate's eligibility status remains unresolved, the inmate will be removed from the program. An extension may be made by the functional unit manager or designee on a case-by-case basis.

(e) Inmates are expected to participate in all aspects of their program assignment at a level consistent with the length of time they have been assigned to the program.

(A) The functional unit manager or designee in his/her discretion may suspend an inmate from the program for 30 days or more when, in consultation with the program performance review committee, the functional unit manager or designee determines that the inmate is not making adequate program progress. During the suspension, the inmate will be given an opportunity to come into compliance with established program standards.

(B) If the inmate comes into compliance, he/she will be placed at a program level deemed appropriate by the functional unit manager or designee. If the inmate fails to meet program expectations, he/she may be removed from the program. If the inmate is assigned to an intensive alternative incarceration addiction program, the inmate may have the length of his/her program extended beyond 270 days.

(3) Disciplinary Removal/ Suspension: An inmate who after a hearing in accordance with procedures provided in the Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105) is found to have committed a major disciplinary rule violation may be removed from the program and transferred to another Department of Corrections facility at the discretion of the functional unit manager or designee.

(4) Voluntary Removal: An inmate may elect to remove himself/herself from an alternative incarceration program; however, to do so the inmate must sign a document requesting removal from the program to the

ADMINISTRATIVE RULES

functional unit manager or designee. Voluntary removal from the program constitutes a program failure.

(5) Once an inmate has been removed from an alternative incarceration program as a program failure or completes the program and returns to prison on another crime, he/she will be ineligible to participate in another alternative incarceration program during the same custody cycle. If the failure is from an alternative incarceration addictions program, he/she will be ineligible to participate in any other alcohol and drug treatment program during the same custody cycle (this does not include dual diagnosis programs).

(6) Administrative Review of Removal for Program Failure:

(a) When the functional unit manager or designee removes an inmate from the inmate's program assignment for a program failure, the inmate will be notified in writing of the reason(s) for the removal decision, and the opportunity for administrative review of the decision.

(b) To obtain an administrative review of the removal decision, an inmate must send a request for administrative review in writing to the Assistant Director for Transitional Services or designee, together with any supporting documentation. The Assistant Director for Transitional Services or designee must receive the request within 15 calendar days of the date of the notice of the administrative removal.

(c) The review should be completed within 15 days after receiving an inmate's review request. The Assistant Director for Transitional Services or designee's decision on administrative review shall be final.

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030 & 423.075, 2008 Or Laws, Ch 35
Stats. Implemented: ORS 179.040, 421.500-421.512, 423.020, 423.030, 423.075
Hist.: DOC 1-2004(Temp), f. & cert. ef. 1-14-04 thru 6-12-04; DOC 5-2004, f. & cert. ef. 7-12-04; DOC 11-2005, f. 8-19-05, cert. ef. 8-22-05; DOC 7-2007, f. & cert. ef. 10-9-07; DOC 3-2009(Temp), f. & cert. ef. 3-20-09 thru 9-11-09

291-062-0160

Alternative Incarceration Program Prison Management

(1) To the extent that other Department of Corrections rules may conflict with provisions in these rules (OAR 291-062-0100 to 291-062-0160), such rules are inapplicable to alternative incarceration programs and are modified as provided below to reflect the purposes of alternative incarceration programs and the relatively short period of confinement.

(2) Modified Rules:

(a) Short-Term Transitional Leave, Emergency Leaves and Supervised Trips (OAR 291 063):

(A) An inmate who completes, to the Department's satisfaction, all of the requirements of the structured institution program may be released into the community on short-term transitional leave.

(B) OAR 291-063 is modified with respect to alternative incarceration program participants to provide that violations of short-term transitional leave conditions will be addressed in accordance with Department of Corrections rule on Structured Intermediate Sanctions, OAR 291-058.

(C) Additionally, an inmate's short-term transitional leave agreement will constitute the Department of Corrections expectations for both behavior and programming compliance. Accordingly, if an inmate violates his/her conditions of short-term transitional leave, he/she will not be awarded either institutional conduct or programming compliance credit for the period of time while on short-term transitional leave status.

(b) Hygiene, Grooming and Sanitation (Inmate) (OAR 291-123) and Personal Property (Inmate) (OAR 291-117): The functional unit managers in the facilities where alternative incarceration programs are provided may establish separate and distinct standards for personal grooming and hygiene as a means to support program goals. Commissary operations and purchases, food services and educational requirements for participants may be modified by those facilities where alternative incarceration programs are offered as a means of supporting program goals. Each facility may develop internal processes for staff and inmates outlining the applicable requirements or restrictions specific to these programs.

(c) Performance Recognition and Award System (PRAS) (OAR 291-077): Inmates assigned to an alternative incarceration program will receive a standard number of points for their PRAS award as determined by the Department for work and program participation. Inmates are eligible for special recognition awards pursuant to the Department's rule on Performance Recognition and Award System.

(d) Mail (Inmate) (OAR 291-131): Inmates participating in alternative incarceration programs may not be allowed to correspond with inmates participating in the same program and may not be allowed to correspond with other inmates housed in general population at the facility where the program is operating.

(e) Prison Term Modification (OAR 291-097): Inmates who begin an alternative incarceration program will be considered to be participating in

their primary program plan. If an inmate fails to complete any portion of the program because of inadequate program performance, disciplinary reasons, or voluntary removal, the inmate will be considered noncompliant with his/her primary program plan, and will not be granted earned time credit for programming during that review period.

(f) Assessment, Assignment, and Supervision of Inmates for Work Assignments and Unfenced Minimum Housing (OAR 291-082): Inmates participating in the military model of intervention alternative incarceration program and who are otherwise ineligible for outside work crews and unfenced minimum housing may participate in outside work crews after reaching red hat status and reside in an unfenced minimum housing so long as the victim of their crime does not reside in the area.

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030 & 423.075, 2008 Or Laws, Ch 35

Stats. Implemented: ORS 179.040, 421.500-421.512, 423.020, 423.030, 423.075

Hist.: DOC 1-2004(Temp), f. & cert. ef. 1-14-04 thru 6-12-04; DOC 5-2004, f. & cert. ef. 7-12-04; DOC 11-2005, f. 8-19-05, cert. ef. 8-22-05; DOC 3-2009(Temp), f. & cert. ef. 3-20-09 thru 9-11-09

291-062-0170

Release onto Post-Prison Supervision

(1) For inmates serving a sentence for a crime committed prior to January 1, 2009, upon successfully conforming to directed activities while participating in the short-term transitional leave component of the program, the inmate shall be released into the community on post-prison supervision.

(2) For inmates serving a sentence for a crime committed on or after January 1, 2009, the inmate shall be released onto post-prison supervision only if all of the following requirements are met:

(a) The sentencing court has issued an order contained in a judgment that authorizes the Department to release the inmate onto post-prison supervision;

(b) The inmate has served at least one year of the term of incarceration imposed by the sentencing court;

(c) The inmate's release does not result in the inmate being released onto post-prison supervision earlier than the length of physical confinement imposed by the sentencing court, including any earned time credits, minus 20 percent; and

(d) The inmate has successfully conformed to directed activities while participating in the short-term transitional leave component of the program.

Stat. Auth.: ORS 179.040, 421.500 - 421.512, 423.020, 423.030 & 423.075, 2008 Or Laws, Ch 35

Stats. Implemented: ORS 179.040, 421.500-421.512, 423.020, 423.030, 423.075

Hist.: DOC 3-2009(Temp), f. & cert. ef. 3-20-09 thru 9-11-09

Department of Fish and Wildlife Chapter 635

Rule Caption: Inseason Actions Implemented By the Federal Government for Commercial Groundfish Fisheries.

Adm. Order No.: DFW 29-2009(Temp)

Filed with Sec. of State: 3-18-2009

Certified to be Effective: 3-18-09 thru 5-1-09

Notice Publication Date:

Rules Amended: 635-004-0019

Rules Suspended: 635-004-0019(T)

Subject: Amended rules adopts in-season actions implemented by the federal government on March 6, 2009 for commercial groundfish fisheries, including changes to cumulative trip limits and RCA boundaries.

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.

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

ADMINISTRATIVE RULES

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

Rule Caption: 2009 Commercial Spring Chinook Fishery in the Columbia River.

Adm. Order No.: DFW 30-2009(Temp)

Filed with Sec. of State: 3-23-2009

Certified to be Effective: 3-27-09 thru 4-30-09

Notice Publication Date:

Rules Amended: 635-042-0022

Subject: Amended rule allows the non-Indian commercial spring Chinook fishery in the mainstem Columbia River to commence on March 29, 2009 from the west powerlines on Hayden Island upstream to Beacon Rock (Zones 4 and 5). Modifications are consistent with joint state action taken March 20, 2009 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0022

Spring Chinook Gillnet and Tangle Net Fisheries

(1) Adipose fin-clipped Chinook salmon, white sturgeon and shad may be taken by drift net for commercial purposes from the west powerlines on Hayden Island upstream to Beacon Rock (part of Zone 4 and all of Zone 5) during the following period: Sunday, March 29, 2009 from 1:00 p.m. to 11:00 p.m. (10 hours).

(a) Individual fishing periods will not exceed sixteen hours in length during small mesh fisheries.

(b) White sturgeon possession and sales restrictions by each participating vessel will be determined inseason based on gear type and number of fish remaining on the fish guideline.

(c) Retention of green sturgeon is prohibited.

(2) An adipose fin clip salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(3) During the spring Chinook gillnet fishery: It is *unlawful* to use a gillnet having a mesh size less than 8 inches or more than 9 3/4 inches.

(4) During the spring Chinook tangle net fishery:

(a) It is *unlawful* to use other than a single-wall multi-filament net. Monofilament tangle nets are not allowed. Maximum mesh size is 4 1/4 inches stretched taut. Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Other permanent gear regulations remain in effect.

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(5) Nets shall not exceed 900 feet (150 fathoms) in length. 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.

(6) On tangle nets, an optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4 1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associ-

ated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submerged corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4 1/4 inch maximum mesh size tangle net.

(a) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms).

(b) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in section (5) above, must have two red corks at each end of the net.

(7) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(8) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(9) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(10) It is *unlawful* for a net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished.

(11) It is *unlawful* to fish more than one net from a licensed commercial fishing boat at any one time.

(12) Non-legal sturgeon, nonadipose fin-clipped Chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked.

(b) Non-adipose fin-clipped salmon and all steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river.

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to the Department and Washington Department of Fish and Wildlife employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(13) At least one fisher on each boat engaged in the fishery must have attended a one-day workshop hosted by the Department or Washington Department of Fish and Wildlife to educate fishers on regulations and best methods for conduct of the fishery.

(14) Nothing in this section sets any precedent for any future spring Chinook fishery. The fact that an individual has attended a live capture training workshop does not entitle the individual to participate in any other fishery. If the Department authorizes a Live Capture fishery in the spring or at any other time, the Department may establish qualifications and require-

ADMINISTRATIVE RULES

ments that are different from those already established. In particular, the Department may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future Live Capture fisheries.

(15) As authorized by OAR-635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery.

(16) Closed waters, as described in OAR 635-042-0005 for Washougal River sanctuary and Sandy River sanctuary are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, ORS 496.146, & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp), f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. & cert. ef. 3-22-04, thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. & cert. ef. 3-2-05, cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 7-31-05; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 3-30-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. & cert. ef. 3-1-06, cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. & cert. ef. 3-6-06, cert. ef. 3-7-06 thru 7-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; DFW 12-2006(Temp), f. & cert. ef. 3-14-06 thru 7-31-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 30-2006(Temp), f. & cert. ef. 5-18-06 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; Administrative correction 8-22-06; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 17-2007(Temp), f. & cert. ef. 3-20-07 thru 9-15-07; DFW 19-2007(Temp), f. & cert. ef. 3-22-07 thru 9-17-07; DFW 44-2007(Temp), f. & cert. ef. 6-14-07 thru 9-17-07; Administrative correction 9-18-07; DFW 31-2008(Temp), f. & cert. ef. 4-1-08 thru 9-27-08; DFW 33-2008(Temp), f. & cert. ef. 4-7-08, cert. ef. 4-8-08 thru 9-27-08; DFW 34-2008(Temp), f. & cert. ef. 4-15-08 thru 9-27-08; Suspended by DFW 71-2008(Temp), f. & cert. ef. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 10-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 30-2009(Temp), f. & cert. ef. 3-27-09 thru 4-30-09

Rule Caption: Establish 2009 Seasons and Regulations for Game Mammals.

Adm. Order No.: DFW 31-2009

Filed with Sec. of State: 3-23-2009

Certified to be Effective: 4-1-09

Notice Publication Date: 9-1-2008

Rules Amended: 635-070-0000, 635-071-0000

Subject: Establish 2009 hunting regulations for game mammals, including season dates, open areas, location of cooperative travel management areas, wildlife areas, and other rules including general hunting and controlled hunt regulations.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-070-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Cascade and Coast elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2008 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 070 by reference.

(3) OAR chapter 635, division 070 incorporates, by reference, the requirements for hunting western Oregon elk set out in the document entitled "2009 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2009 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting western Oregon elk. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

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

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

Hist.: FWC 41-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; 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 92-1999, f. & cert. ef. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. & cert. ef. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. & cert. ef. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03;

DFW 50-2003, f. & cert. ef. 6-13-03; DFW 119-2003, f. & cert. ef. 12-4-03, cert. ef. 4-1-04; DFW 130-2003(Temp), f. & cert. ef. 12-24-03 thru 3-1-04; DFW 8-2004(Temp), f. & cert. ef. 2-2-04 thru 7-31-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 107-2004(Temp), f. & cert. ef. 10-18-04 thru 11-27-04; DFW 131-2004, f. & cert. ef. 12-21-04, cert. ef. 4-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 132-2005, f. & cert. ef. 12-1-05, cert. ef. 4-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 126-2006, f. & cert. ef. 12-7-06, cert. ef. 4-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 115-2007, f. & cert. ef. 10-31-07, cert. ef. 4-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 31-2009, f. & cert. ef. 3-23-09, cert. ef. 4-1-09

635-071-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Rocky Mountain elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2008 are listed in Tables 1 and 2 and are adopted and incorporated in OAR chapter 635, division 071 by reference.

(3) OAR chapter 635, division 071 incorporates, by reference, the requirements for hunting Rocky Mountain elk set out in the document entitled "2009 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2009 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting Rocky Mountain elk. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

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

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

Hist.: FWC 42-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; 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 92-1999, f. & cert. ef. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. & cert. ef. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. & cert. ef. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 118-2003, f. & cert. ef. 12-4-03, cert. ef. 1-1-04; DFW 1-2004(Temp), f. & cert. ef. 1-13-04 thru 7-9-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 105-2004(Temp), f. & cert. ef. 10-13-04 thru 11-15-04; Administrative correction 11-22-04; DFW 131-2004, f. & cert. ef. 12-21-04, cert. ef. 4-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 132-2005, f. & cert. ef. 12-1-05, cert. ef. 4-1-06; DFW 22-2006(Temp), f. & cert. ef. 4-7-06 thru 10-4-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 126-2006, f. & cert. ef. 12-7-06, cert. ef. 4-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 115-2007, f. & cert. ef. 10-31-07, cert. ef. 4-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 31-2009, f. & cert. ef. 3-23-09, cert. ef. 4-1-09

Rule Caption: Amendments to Rules Regarding Public Use for Sauvie Island Wildlife Area.

Adm. Order No.: DFW 32-2009(Temp)

Filed with Sec. of State: 3-30-2009

Certified to be Effective: 3-30-09 thru 8-10-09

Notice Publication Date:

Rules Amended: 635-008-0147

Subject: This will extend the closure of portions of Sauvie Island Wildlife Area.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-008-0147

Rules Regarding Public Use for Sauvie Island Wildlife Area

The Sauvie Island Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the Sauvie Island Wildlife Area Long Range Plan unless otherwise excluded or restricted by the following rules:

- (1) Hunting is prohibited except by permit.
- (2) Discharging firearms is prohibited except for shotguns on designated Dog Training Areas, Trapshooting Areas, or as authorized during game bird and game mammal season, or by permit.
- (3) Public use is prohibited from 10 p.m. to 4 a.m. daily, except by permit.
- (4) Camping is prohibited except on areas designated for that use, or by permit.
- (5) All dogs must be on leash, except when in the designated dog training area, or by permit.
- (6) Open fires are prohibited, except by permit.
- (7) Any vehicle found parked or unattended on the wildlife area between the hours of 10 p.m. and 4 a.m., or obstructing public access, may be towed at the expense of the registered owner or owners.
- (8) No person shall possess or use lead shot at any time on the area.
- (9) Horses and bicycles are restricted to roads open to vehicles, or by permit.

ADMINISTRATIVE RULES

(10) Portions of Sauvie Island Wildlife Area are closed to all entry except by hunting permit during authorized waterfowl hunting seasons.

(11) Portions of Sauvie Island Wildlife Area will be closed from the end of waterfowl hunting season through April 30 each year.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162 & 496.992
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162 & 496.992
Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(16); FWC 12-1990, f. & cert. ef. 2-2-90, Renumbered from 635-008-0150; FWC 8-1993, f. & cert. ef. 2-8-93; FWC 53-1994, f. & cert. ef. 8-25-94; DFW 26-2009(Temp), f. & cert. ef. 3-11-09 thru 8-10-09; DFW 32-2009(Temp), f. & cert. ef. 3-30-09 thru 8-10-09

Rule Caption: Sport Sturgeon Fishery Closes In The Dalles and John Day Pools.

Adm. Order No.: DFW 33-2009(Temp)

Filed with Sec. of State: 4-2-2009

Certified to be Effective: 4-13-09 thru 10-9-09

Notice Publication Date:

Rules Amended: 635-023-0095

Subject: Amend rule to prohibit retention of sturgeon in the Columbia River and tributaries from John Day Dam upstream to McNary Dam effective at 12:01 a.m. Monday, April 13, 2009; and from The Dalles Dam upstream to John Day Dam effective at 12:01 a.m. Sunday, April 19, 2009. Revisions are consistent with Joint State action taken by the states of Oregon and Washington on April 1, 2009.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-023-0095

Sturgeon Season

(1) The 2009 Oregon Sport Fishing Regulations provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the 2009 Oregon Sport Fishing Regulations.

(2) The Columbia River from Wauna powerlines (River Mile 40) upstream to Bonneville Dam is open to the retention of white sturgeon with a fork length of 38–54 inches, three days per week, Thursdays through Saturdays, during the following periods:

- (a) January 1 through July 31; and
- (b) October 1 through December 31.

(3) The retention of white sturgeon in the area identified in section (2) of this rule is prohibited August 1 through September 30.

(4) The Columbia River from Wauna powerlines (River Mile 40) downstream to the mouth at Buoy 10, including Youngs Bay is open to the retention of white sturgeon seven days per week during the following periods:

- (a) January 1 through April 30;
- (b) May 9 through June 28; and
- (c) July 2 through July 5 (or until guideline is met).

(5) The retention of white sturgeon in the area identified in section (4) of this rule is prohibited May 1 through May 8, June 29 through July 1, and from July 6 through December 31.

(6) During the fishing period as identified in subsection (4)(a) of this rule, only white sturgeon with a fork length of 38–54 inches may be retained.

(7) During the fishing period as identified in subsection (4)(b) of this rule, only white sturgeon with a fork length of 41–54 inches may be retained.

(8) During the fishing period as identified in subsection (4)(c) of this rule, only white sturgeon with a fork length of 41–54 inches may be retained.

(9) The Columbia River and tributaries from John Day Dam upstream to McNary Dam (John Day Reservoir) is closed to the retention of sturgeon effective 12:01 a.m. Monday, April 13, 2009.

(10) The Columbia River and tributaries from The Dalles Dam upstream to John Day Dam (The Dalles Reservoir) are closed to the retention of sturgeon effective 12:01 a.m. Sunday, April 19, 2009.

(11) Angling for sturgeon is prohibited from Marker 85 upstream to Bonneville Dam, from Highway 395 Bridge upstream to McNary Dam, and from the west end of the grain silo at Rufus upstream to John Day Dam during May 1 through July 31.

(12) Retention of green sturgeon is prohibited all year in all areas.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 129-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 2-28-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 22-2005(Temp), f. 4-1-05, cert. ef. 4-30-05 thru 7-31-05; DFW 50-2005(Temp), f. 6-3-05, cert. ef. 6-11-05 thru 11-30-05; DFW 60-2005(Temp), f. 6-21-05, cert. ef. 6-24-05 thru 12-21-05; DFW 65-2005(Temp), f. 6-30-05, cert. ef. 7-10-05 thru 12-31-05; DFW 76-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 19-2006(Temp), f. 4-6-06, cert. ef. 4-8-06 thru 7-31-06; DFW 54-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-27-06; DFW 62-2006(Temp), f. 7-13-06, cert. ef. 7-24-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 20-2007(Temp), f. 3-26-07, cert. ef. 3-28-07 thru 7-30-07; DFW 38-2007(Temp), f. & cert. ef. 5-31-07 thru 11-26-07; DFW 59-2007(Temp), f. 7-18-07, cert. ef. 7-29-07 thru 12-31-07; DFW 75-2007(Temp), f. 8-17-07, cert. ef. 8-18-07 thru 12-31-07; DFW 102-2007(Temp), f. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 8-2008, f. & cert. ef. 2-11-08; DFW 23-2008(Temp), f. 3-12-08, cert. ef. 3-15-08 thru 9-10-08; DFW 28-2008(Temp), f. 3-24-08, cert. ef. 3-26-08 thru 9-10-08; DFW 72-2008(Temp), f. 6-30-08, cert. ef. 7-10-08 thru 12-31-08; DFW 78-2008(Temp), f. 7-9-08, cert. ef. 7-12-08 thru 12-31-08; DFW 86-2008(Temp), f. & cert. ef. 7-25-08 thru 12-31-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 33-2009(Temp), f. 4-2-09, cert. ef. 4-13-09 thru 10-9-09

Rule Caption: Extension of Commercial Tangle-net Fishery In the Columbia River.

Adm. Order No.: DFW 34-2009(Temp)

Filed with Sec. of State: 4-6-2009

Certified to be Effective: 4-7-09 thru 4-30-09

Notice Publication Date:

Rules Amended: 635-042-0022

Rules Suspended: 635-042-0022(T)

Subject: Amended rule allows the non-Indian commercial tangle-net Chinook salmon fishery in the mainstem Columbia River to continue with an additional 10-hour fishing period from 1:00 p.m. to 11:00 p.m. on Tuesday, April 7, 2009 in the area from the west powerlines on Hayden Island upstream to Beacon Rock (Zones 4 and 5). Modifications are consistent with joint state action taken April 6, 2009 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0022

Spring Chinook Gillnet and Tangle Net Fisheries

(1) Adipose fin-clipped Chinook salmon, white sturgeon and shad may be taken by drift net for commercial purposes from the west powerlines on Hayden Island upstream to Beacon Rock (part of Zone 4 and all of Zone 5) during the following periods: Sunday, March 29, 2009 from 1:00 p.m. to 11:00 p.m. (10 hours); Tuesday, April 7, 2009 from 1:00 p.m. to 11:00 p.m. (10 hours).

(a) Individual fishing periods will not exceed sixteen hours in length during small mesh fisheries.

(b) White sturgeon possession and sales restrictions by each participating vessel will be determined inseason based on gear type and number of fish remaining on the fish guideline.

(c) Retention of green sturgeon is prohibited.

(2) An adipose fin clip salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(3) During the spring Chinook gillnet fishery: It is *unlawful* to use a gillnet having a mesh size less than 8 inches or more than 9 3/4 inches.

(4) During the spring Chinook tangle net fishery:

(a) It is *unlawful* to use other than a single-wall multi-filament net. Monofilament tangle nets are not allowed. Maximum mesh size is 4 1/4 inches stretched taut. Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Other permanent gear regulations remain in effect.

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(5) Nets shall not exceed 900 feet (150 fathoms) in length. 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.

ADMINISTRATIVE RULES

(6) On tangle nets, an optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4-1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submerged corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4-1/4 inch maximum mesh size tangle net.

(a) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms).

(b) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in section (5) above, must have two red corks at each end of the net.

(7) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(8) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(9) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(10) It is *unlawful* for a net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished.

(11) It is *unlawful* to fish more than one net from a licensed commercial fishing boat at any one time.

(12) Nets fished from sunset to sunrise shall have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required.

(13) Non-legal sturgeon, nonadipose fin-clipped Chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked.

(b) Non-adipose fin-clipped salmon and all steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river.

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39-1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to the Department and Washington Department of Fish and Wildlife employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1-1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(14) At least one fisher on each boat engaged in the fishery must have attended a one-day workshop hosted by the Department or Washington Department of Fish and Wildlife to educate fishers on regulations and best methods for conduct of the fishery.

(15) Nothing in this section sets any precedent for any future spring Chinook fishery. The fact that an individual has attended a live capture training workshop does not entitle the individual to participate in any other fishery. If the Department authorizes a Live Capture fishery in the spring or at any other time, the Department may establish qualifications and requirements that are different from those already established. In particular, the Department may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future Live Capture fisheries.

(16) As authorized by OAR-635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery.

(17) Closed waters, as described in OAR 635-042-0005 for Washougal River sanctuary and Sandy River sanctuary are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, ORS 496.146, & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp) f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. 3-22-04, cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. 3-2-05, cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(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; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 3-30-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. 3-1-06, cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. 3-6-06, cert. ef. 3-7-06 thru 7-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; DFW 12-2006(Temp), f. 3-13-06, cert. ef. 3-14-06 thru 7-31-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 30-2006(Temp), f. & cert. ef. 5-18-06 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; Administrative correction 8-22-06; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 17-2007(Temp), f. & cert. ef. 3-20-07 thru 9-15-07; DFW 19-2007(Temp), f. & cert. ef. 3-22-07 thru 9-17-07; DFW 44-2007(Temp), f. & cert. ef. 6-14-07 thru 9-17-07; Administrative correction 9-18-07; DFW 31-2008(Temp), f. 3-31-08, cert. ef. 4-1-08 thru 9-27-08; DFW 33-2008(Temp), f. 4-7-08, cert. ef. 4-8-08 thru 9-27-08; DFW 34-2008(Temp), f. 4-14-08, cert. ef. 4-15-08 thru 9-27-08; Suspended by DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 10-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 30-2009(Temp), f. 3-23-09, cert. ef. 3-27-09 thru 4-30-09; DFW 34-2009(Temp), f. 4-6-09, cert. ef. 4-7-09 thru 4-30-09

.....

Rule Caption: Extension of Commercial Salmon and Sturgeon Fishery for the Deep River Select Area.

Adm. Order No.: DFW 35-2009(Temp)

Filed with Sec. of State: 4-7-2009

Certified to be Effective: 4-8-09 thru 4-30-09

Notice Publication Date:

Rules Amended: 635-042-0180

Rules Suspended: 635-042-0180(T)

Subject: Amended rule adds a 12-hour fishing period (7:00 p.m. Wednesday, April 8 to 7:00 a.m. Thursday, April 9, 2009) to the Chinook salmon fishery in the Deep River Select Area of the Columbia River. Modifications are consistent with the action taken April 6, 2009 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

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: Monday nights from 7:00 p.m. to 7:00 a.m. (12 hours) beginning February 16 through March 31, 2009 (7 nights); and 7:00 p.m. Wednesday, April 8 through 7:00 a.m. Thursday, April 9, 2009 (12 hours).

(b) Spring season: Sunday and Wednesday nights from 7:00 p.m. to 7:00 a.m. (12 hours) beginning April 15 through April 30, 2009 (5 nights).

ADMINISTRATIVE RULES

(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.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. 3-12-03, cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 77-2006(Temp), f. 8-8-06, cert. ef. 9-4-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 23-2009(Temp), f. 3-5-09, cert. ef. 3-6-09 thru 4-30-09; DFW 35-2009(Temp), f. 4-7-09, cert. ef. 4-8-09 thru 4-30-09

Rule Caption: Commercial Tangle-net Fishery in the Columbia River.

Adm. Order No.: DFW 36-2009(Temp)

Filed with Sec. of State: 4-13-2009

Certified to be Effective: 4-14-09 thru 4-30-09

Notice Publication Date:

Rules Amended: 635-042-0022

Rules Suspended: 635-042-0022(T)

Subject: Amended rule allows the non-Indian commercial tangle-net Chinook salmon fishery in the mainstem Columbia River to continue with an additional 4-hour fishing period from 9:00 a.m. to 1:00 p.m. on Tuesday, April 14, 2009 in the area from the west powerlines on Hayden Island upstream to Beacon Rock (Zones 4 and 5). Modifications are consistent with Joint State Action taken April 13, 2009 by the Columbia River Compact agencies of Oregon and Washington.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0022

Spring Chinook Gillnet and Tangle Net Fisheries

(1) Adipose fin-clipped Chinook salmon, white sturgeon and shad may be taken by drift net for commercial purposes from the west powerlines on Hayden Island upstream to Beacon Rock (part of Zone 4 and all of Zone 5) during the following periods:

Sunday, March 29, 2009 from 1:00 p.m. to 11:00 p.m. (10 hours);

Tuesday, April 7, 2009 from 1:00 p.m. to 11:00 p.m. (10 hours);

Tuesday, April 14, 2009 from 9:00 a.m. to 1:00 p.m. (4 hours).

(a) Individual fishing periods will not exceed sixteen hours in length during small mesh fisheries.

(b) White sturgeon possession and sales restrictions by each participating vessel will be determined inseason based on gear type and number of fish remaining on the fish guideline.

(c) Retention of green sturgeon is prohibited.

(2) An adipose fin clip salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(3) During the spring Chinook gillnet fishery:

(a) It is unlawful to use a gillnet having a mesh size less than 8 inches or more than 9 3/4 inches.

(4) During the spring Chinook tangle net fishery:

(a) It is unlawful to use other than a single-wall multi-filament net. Monofilament tangle nets are not allowed. Maximum mesh size is 4 1/4 inches stretched taut. Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Other permanent gear regulations remain in effect.

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the outside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(5) Nets shall not exceed 900 feet (150 fathoms) in length. 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.

(6) On tangle nets, an optional use of a steelhead excluder panel of mesh may be hung between the corkline and the 4 1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submerged corkline. The corkline cannot be capable of floating the net in its entirety (including the headline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4 1/4 inch maximum mesh size tangle net.

(a) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms).

(b) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in section (5) above, must have two red corks at each end of the net.

(7) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(8) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(9) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(10) It is unlawful for a net in whole or in part to be anchored, tied, staked, fixed, or attached to the bottom, shore, or a beached boat; left unattended at any time it is fished; or attended by more than one boat while being fished.

(11) It is unlawful to fish more than one net from a licensed commercial fishing boat at any one time.

(12) Nets fished from sunset to sunrise shall have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required.

(13) Non-legal sturgeon, nonadipose fin-clipped Chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.

ADMINISTRATIVE RULES

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked.

(b) Non-adipose fin-clipped salmon and all steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river.

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to the Department and Washington Department of Fish and Wildlife employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(14) At least one fisher on each boat engaged in the fishery must have attended a one-day workshop hosted by the Department or Washington Department of Fish and Wildlife to educate fishers on regulations and best methods for conduct of the fishery.

(15) Nothing in this section sets any precedent for any future spring Chinook fishery. The fact that an individual has attended a live capture training workshop does not entitle the individual to participate in any other fishery. If the Department authorizes a Live Capture fishery in the spring or at any other time, the Department may establish qualifications and requirements that are different from those already established. In particular, the Department may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future Live Capture fisheries.

(16) As authorized by OAR-635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery.

(17) Closed waters, as described in OAR 635-042-0005 for Washougal River sanctuary and Sandy River sanctuary are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, ORS 496.146, & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp) f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. & cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. & cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 7-31-05; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 3-30-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. & cert. ef. 3-1-06, cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. & cert. ef. 3-6-06, cert. ef. 3-7-06 thru 7-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; DFW 12-2006(Temp), f. & cert. ef. 3-13-06, cert. ef. 3-14-06 thru 7-31-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 30-2006(Temp), f. & cert. ef. 5-18-06 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; Administrative correction 8-22-06; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 17-2007(Temp), f. & cert. ef. 3-20-07 thru 9-15-07; DFW 19-2007(Temp), f. & cert. ef. 3-22-07 thru 9-17-07; DFW 44-2007(Temp), f. & cert. ef. 6-14-07 thru 9-17-07; Administrative correction 9-18-07; DFW 31-2008(Temp), f. & cert. ef. 4-1-08 thru 9-27-08; DFW 33-2008(Temp), f. & cert. ef. 4-7-08, cert. ef. 4-8-08 thru 9-27-08; DFW 34-2008(Temp), f. & cert. ef. 4-14-08, cert. ef. 4-15-08 thru 9-27-08; Suspended by DFW 71-2008(Temp), f. & cert. ef. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 10-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 30-2009(Temp), f. & cert. ef. 3-27-09 thru 4-30-09; DFW 34-2009(Temp), f. & cert. ef. 4-6-09, cert. ef. 4-7-09 thru 4-30-09; DFW 36-2009(Temp), f. & cert. ef. 4-13-09, cert. ef. 4-14-09 thru 4-30-09

Rule Caption: Amend rules relating to harassing wildlife with a permit.

Adm. Order No.: DFW 37-2009(Temp)

Filed with Sec. of State: 4-13-2009

Certified to be Effective: 4-13-09 thru 8-31-09

Notice Publication Date:

Rules Amended: 635-043-0105

Subject: Amend rules relating to running dogs at large in a game bird habitat from April 1–July 31.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-043-0105

Permit Required to Harass Wildlife

Any landowner suffering damage from wildlife (except for bobcat, red fox, cougar, bear, and non-threatened or endangered migratory birds) to property that they own or lawfully occupy, and desiring to control the damage by means of harassment shall first secure a Wildlife Harassing Permit by applying to the Department. No Wildlife Harassing Permit is required of those persons in possession of a valid federal migratory bird permit which authorizes harassment of migratory bird species. However, a permit from the Department is required to use dogs to chase and harass migratory game birds to reduce damage to private lands, commercial properties, or public use recreation areas from April 1–July 31.

Stat. Auth.: ORS 183 & 496

Stats. Implemented: ORS 183 & 496

Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-025-0225, Renumbered from 635-007-0345; FWC 52-1987, f. & cert. ef. 7-23-87; FWC 49-1991, f. & cert. ef. 5-13-91; FWC 58-1994, f. & cert. ef. 9-1-94; DFW 12-2002, f. & cert. ef. 2-12-02; DFW 37-2009(Temp), f. & cert. ef. 4-13-09 thru 8-31-09

Department of Forestry

Chapter 629

Rule Caption: Procedures for Contracts, Agreements and Renewals.

Adm. Order No.: DOF 2-2009(Temp)

Filed with Sec. of State: 3-25-2009

Certified to be Effective: 3-25-09 thru 9-20-09

Notice Publication Date:

Rules Amended: 629-041-0100

Subject: Certain solicitations of bids or proposals for agreements or contracts related to the prevention and suppression of fire on forestland shall be conducted using the Attorney General's Model Rules for Public Contracting referenced by this rule. Applies to solicitations issued on or after February 1, 2009.

Rules Coordinator: Gayle Birch—(503) 945-7210

629-041-0100

Procedures for Contracts, Agreements and Renewals

(1) Pursuant to ORS 477.406(2), all agreements entered into by the forester or by a forest protective association, with each other, with a federal or state agency, political subdivision, corporation, responsible organization or responsible landowner or group of landowners for the prevention and suppression of fire shall be negotiated in accordance with the requirements and limitations of 477.406 to 477.412 and this rule.

(2) All negotiations for contracts or agreements pursuant to section (1) of this rule shall be:

(a) Limited to matters provided in ORS 477.406(1).

(b) Conducted by representatives authorized to act on behalf of their organization, where applicable, and that are knowledgeable in wildland fire protection systems or a relevant specialty addressed in the contract or agreement.

(c) Conducted in good faith with the intention of maintaining a complete and coordinated forest protection system for the State of Oregon that is effective in carrying out the policies of ORS Chapter 477 and is economically efficient.

(3) Upon completion of negotiations and agreement by the parties, the contract or agreement will be timely reviewed (though not necessarily prior to its effective date) for adherence to the requirements of relevant statutes and rules according to the following:

(a) The Board shall review any base level contract or agreement between the forester and a forest protective association.

(b) The State Forester or designated representative shall review:

(A) Any contract or agreement that is supplemental to an existing base level agreement between the forester and a forest protective association; or

ADMINISTRATIVE RULES

(B) Any contract or agreement with any other governmental agency or cooperator that affects areas outside a forest protection district or more than one forest protection district.

(c) The district warden or designated representative shall review any contract or agreement with any other governmental agency or cooperator that affects lands only within the warden's jurisdiction.

(d) Notwithstanding this section, any other applicable provision of law requiring a different standard of review or approval shall still apply.

(4) Notwithstanding section (3) of this rule, the Board may, at any time it is aware that a contract or agreement is to be negotiated under this rule, require the contract or agreement to be approved by the Board before its becoming effective.

(5) Any contract or agreement negotiated in accordance with this rule shall include a provision allowing the timely and prospective correction of deficiencies that may be found as a result of the review required in section (3) of this rule, or termination of the contract or agreement.

(6) The State Forester may advertise to solicit bids or proposals for agreements or contracts with corporations, landowners, groups of landowners, and other organizations for the prevention and suppression of fire on forestland or on land other than forestland, or both. The procedures specified in OAR chapter 137, divisions 046 and 047 (2008), apply to solicitations for agreements or contracts with corporations, landowners, groups of landowners, and other organizations for the prevention and suppression of fire on forestland or on land other than forestland, or both, but not to agreements or contracts with federal or state agencies, political subdivisions, or forest protective associations. This section applies to solicitations that were issued on or after February 1, 2009.

Stat. Auth.: ORS 526.016(4) & 526.041

Stats. Implemented: ORS 477.406

Hist.: DOF 3-2001, f. 3-14-01, cert. ef. 3-15-01; DOF 2-2009(Temp), f. & cert. ef. 3-25-09 thru 9-20-09

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

Rule Caption: To amend the conditions under which HIV testing may be administered without informed consent.

Adm. Order No.: MHS 2-2009(Temp)

Filed with Sec. of State: 4-2-2009

Certified to be Effective: 4-2-09 thru 7-22-09

Notice Publication Date:

Rules Amended: 309-114-0005

Rules Suspended: 309-114-0005(T)

Subject: The Addictions and Mental Health Division is amending OAR 309-114-0005 in order to provide that a "Human immunodeficiency virus" (HIV) test may be administered without the patient's or resident's consent, consistent with SB 160 Enrolled (2009 Session).

Rules Coordinator: Richard Luthe—(503) 947-1186

309-114-0005

Definitions

As used in these rules:

(1) "Certified Law Student" means an eligible law student certified by the Oregon State Bar to appear in court or in an administrative proceeding and is supervised by an attorney licensed by the Oregon State Bar.

(2) "Chief Medical Officer" means the physician designated by the superintendent of each state institution pursuant to ORS 179.360(1)(f) who is responsible for the administration of medical treatment at each state institution.

(3) "Division," as used in these rules means these Divisions of the Department of Human Services:

(a) Addictions and Mental Health Division (AMH) when referring to "patients;" and

(b) The Seniors and People with Disabilities Division (SPD) when referring to "residents."

(4) "Guardian" means a legal guardian who is a person appointed by a court of law to act as guardian of a minor or a legally incapacitated person.

(5) "Legally Incapacitated" means having been found by a court of law under ORS 426.295 to be unable, without assistance, to properly manage or take care of one's personal affairs.

(6) "Material Risk." A risk is material if it may have a substantial adverse effect on the patient's or resident's psychological or physical health, or both. Tardive dyskinesia is a material risk of neuroleptic medication. Other risks include, but are not limited to, raised blood pressure, onset of diabetes, and metabolic changes.

(7) "Medication Educator" means a Qualified Mental Health Professional (QMHP) or Qualified Mental Retardation Professional who provides information about the proposed significant procedures to patients and residents.

(8) "Patient" means a person who is receiving care and treatment in a state institution for the mentally ill.

(9) "Person Committed to the Division" or "Person" means a patient or resident committed under ORS 161.327, 161.370, 179.478, 426.130, or 427.215, or certified by the State Training Center Review Board under ORS 427.020.

(10) "Qualified Mental Health Professional" (QMHP) means any person meeting the following minimum qualifications as documented by the state institution:

(a) Graduate degree in psychology;

(b) Bachelor's or graduate degree in nursing and licensed by the State of Oregon;

(c) Graduate degree in social work or counseling;

(d) Graduate degree in a behavioral science field;

(e) Graduate degree in recreational art, or music therapy;

(f) Bachelor's degree in occupational therapy and licensed by the State of Oregon; or

(g) Bachelor's or graduate degree in a relevant area.

(11) "Qualified Mental Retardation Professional" means a person who meets the professional requirements under 42 CFR 483.430.

(12) "Resident" means a person who is receiving care, treatment, and training in a state institution for the mentally retarded.

(13) "Representative" is an individual allowed to represent a party or the agency in an administrative hearing under Oregon law.

(14) "Routine Medical Procedure" means a procedure customarily administered by facility medical staff under circumstances involving little or no risk of causing injury to a patient or resident, including, but not limited to physical examinations, blood draws, influenza vaccinations, tuberculosis (TB) testing, and hygiene.

(15) "Significant Procedure" means a diagnostic or treatment modality, and all significant procedures of a similar class, that pose a material risk of substantial pain or harm to the patient or resident such as, but not limited to, psychotropic medication and electro-convulsive therapy. Significant procedures do not include routine medical procedures. For purposes of these rules, "Human immunodeficiency virus" (HIV) testing shall be considered a "Significant Procedure."

(16) "Significant Procedures of a Similar Class" means a diagnostic or treatment modality that presents substantially similar material risks as the significant procedure listed on the treating physician's informed consent form and is generally considered in current clinical practice to be a substitute treatment or belong to the same class of medications as the listed significant procedure. Significant procedures of a similar class do not need to be specifically listed on the treating physician's form.

(17) "State Institution" or "Institution" means all Oregon State Hospital campuses, Blue Mountain Recovery Center and Eastern Oregon Training Center.

(18) "Superintendent" means the executive head of the state institution listed in section (17) of this rule, or the superintendent's designee.

Stat. Auth.: ORS 179.040

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

Hist.: MHD 3-1983, f. 2-24-83, ef. 3-26-83; MHD 3-1988, f. 4-12-88, (and corrected 5-17-88), cert. ef. 6-1-88; MHS 14-2007(Temp), f. 11-30-07, cert. ef. 12-1-07 thru 5-29-08; MHS 2-2008(Temp), f. & cert. ef. 4-7-08 thru 10-4-08; MHS 6-2008, f. & cert. ef. 7-25-08; MHS 1-2009(Temp), f. & cert. ef. 1-23-09 thru 7-22-09; MHS 2-2009(Temp), f. & cert. ef. 4-2-09 thru 7-22-09

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

Rule Caption: Update of Criminal History Check Rules for Providers Licensed, Certified, or Regulated by the Department.

Adm. Order No.: DHSD 2-2009

Filed with Sec. of State: 4-1-2009

Certified to be Effective: 4-1-09

Notice Publication Date: 3-1-2009

ADMINISTRATIVE RULES

Rules Amended: 407-007-0200, 407-007-0210, 407-007-0220, 407-007-0230, 407-007-0240, 407-007-0250, 407-007-0280, 407-007-0290, 407-007-0320, 407-007-0330, 407-007-0340, 407-007-0350, 407-007-0355

Subject: The Department of Human Services' criminal history check provider rules are being updated to change the name of the DHS Criminal Records Unit to the DHS Background Check Unit; to correct grammatical and errors in the rules which became effective 1/1/2009; and to make the rules accurately represent current practice in the following areas:

1. The Department may revoke a qualified entity's ability to appoint authorized designees and contact persons during a compliance investigation (OAR 407-007-0240);

2. A current and valid government-issues photo identification is needed to verify a subject individual's identity (OAR 407-007-0240);

3. The Department recognizes that a conflict of interest in making a fitness determination may occur for reasons other than relationship and financial relations (OAR 407-007-0240); and

4. The intent of active supervision is to have the subject individual within line-of-sight and hearing when outdoors or off the qualified entity's property.

Rules Coordinator: Jennifer Bittel—(503) 947-5250

407-007-0200

Purpose and Scope

(1) Purpose. The purpose of these rules, OAR 407-007-0200 to 407-007-0370, is to provide for the reasonable screening of subject individuals (SIs) to determine if they have a history of criminal behavior such that they should not be allowed to oversee, live or work closely with, or provide services to vulnerable individuals.

(2) Rule Applicability. These rules apply to evaluating criminal history and potentially disqualifying conditions of an SI when conducting fitness determinations based upon such information. The fact that an SI is approved does not guarantee employment or placement. These rules do not apply to individuals subject to OAR 407-007-0000 to 407-007-0100.

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

Stats. Implemented: ORS 181.534, 181.537, 409.010, 411.060, 411.122

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; Renumbered from 410-007-0200, DHS 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHS 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHS 2-2009, f. & cert. ef. 4-1-09

407-007-0210

Definitions

As used in OAR 407-007-0200 to 407-007-0370, unless the context of the rule requires otherwise, the following definitions apply:

(1) "Appointing Authority" means the individual designated by the qualified entity (QE) responsible for appointing authorized designees (ADs) and contact persons (CPs). Examples include but are not limited to a human resources staff with the authority to offer and terminate employment, business owner, a member of the board of directors, director, or program administrator.

(2) "Approved" means, with regard to a fitness determination, that an SI, following a final fitness determination, is eligible to perform in positions covered by these rules.

(3) "Authorized Designee" (AD) means an individual who is designated by the Department, or an approved QE and authorized by the Department, to receive and process criminal history check request forms from SIs and criminal history information from the Department. The AD conducts fitness determinations under the authority of the Department.

(4) "Background Check Unit" means the Department's Background Check Unit (BCU).

(5) "Care" means the provision of care, treatment, education, training, instruction, supervision, placement services, recreation or support to children, the elderly, or individuals with disabilities (see ORS 181.537).

(6) "Client" means any individual who receives services, care, or funding for care, through the Department.

(7) "Closed Case" means a criminal history check application that has been closed without a final fitness determination.

(8) "Contact Person" (CP) means an individual who is designated by the Department or an approved QE to receive and process criminal history check request forms from SIs, but who is not authorized to receive criminal history information from the Department. The CP is not allowed to make final fitness determinations. The CP is allowed to make the preliminary fit-

ness determinations under the authority of the Department only if there is no indication of potentially disqualifying crimes or conditions.

(9) "Criminal History Check" means obtaining and reviewing criminal history as required by these rules. The result of a criminal history check is a fitness determination or a closed case. The criminal history check includes any or all of the following:

(a) Oregon Criminal History Check. Criminal offender information is obtained from the Oregon Department of State Police (OSP) using the Law Enforcement Data System (LEDS). The Oregon criminal history check may also include a review of information from the Oregon Judicial Information Network (OJIN), Oregon Department of Corrections records, Oregon Department of Transportation Drivers and Motor Vehicles Division (DMV), local or regional criminal history information systems, or other official law enforcement agency or court records in Oregon.

(b) National Criminal History Check. Criminal history is obtained from the Federal Bureau of Investigation (FBI) through the use of fingerprint cards sent to OSP and other identifying information.

(c) State-Specific Criminal History Check. Criminal history is obtained from law enforcement agencies, courts or other criminal history information resources located in, or regarding, a state or jurisdiction outside Oregon.

(10) "Criminal Offender Information" means records, including fingerprints and photographs, received, compiled, and disseminated by OSP for purposes of identifying criminal offenders and alleged offenders and maintaining an individual's records of arrest, the nature and disposition of criminal charges, sentencing, confinement (confinement shall not include the retention by OSP of records of transfer of inmates between penal institutions or other correctional facilities), and release, and includes the OSP Computerized Criminal History System (see OAR 257-010-0015).

(11) "Denied" means, with regard to a fitness determination, that an SI, following a fitness determination including a weighing test, is not eligible to work, volunteer, be employed, or hold a position covered by these rules; or be certified, licensed, registered or otherwise authorized by the Department to provide care in an environment covered by these rules.

(12) "Department" means the Oregon Department of Human Services (DHS).

(13) "Fitness Determination" means the outcome of an application and preliminary review, or the outcome of an application and completed criminal history check including gathering other information as necessary, in a case that is not closed.

(14) "Good Cause" means a valid and sufficient reason for not complying with time frames set during the criminal history check process or contested case hearing process, and may include an explanation of circumstances beyond an SI's reasonable control.

(15) "Hearing Representative" means an employee of the Department representing the Department in a contested case hearing.

(16) "Other Criminal History Information" means information obtained and used in the criminal history check process that is not "criminal offender information" from OSP. "Other criminal history information" includes police investigations and records, justice records, court records, sexual offender registration records, warrants, DMV information, information provided on the Department's criminal history check forms, disclosures by an SI, and any other information from any jurisdiction obtained by or provided to the Department for the purpose of conducting a fitness determination.

(17) "Position" means the position listed on the DHS Criminal History Request form for the applicant SI. The position determines whether the individual is an SI under these or Department program rules. The duties or obligations of a position are considered in making a fitness determination.

(18) "Probationary Status" means a condition in which a SI may be hired on a preliminary basis and allowed by the QE to work, volunteer, be trained, or reside in an environment following submission of a completed DHS Criminal History Request form. The term "probationary status" is applicable only during the timeframe after a preliminary fitness determination and prior to a final fitness determination.

(19) "Qualified Entity" (QE) means a community mental health or developmental disability program, local health department, or an individual, business, or organization, whether public, private, for-profit, nonprofit, or voluntary, that provides care, including a business or organization that licenses, certifies, or registers others to provide care (see ORS 181.537).

(20) "Restricted Approval" means an approval in which some restriction is made including but not limited to the SI, the SI's environment, the type or number of clients for whom the SI may care, or the information to which the SI has access.

ADMINISTRATIVE RULES

(21) "Subject Individual" (SI) means an individual from whom the Department may require fingerprints for the purpose of conducting a national criminal history check. An SI is required to complete a criminal history check pursuant to these rules.

(a) Inclusion. An SI includes any of the following:

(A) An individual who is licensed, certified, registered, or otherwise regulated or authorized for payment by the Department and who provides care.

(B) An employee, contractor, temporary worker, or volunteer who provides care, or has access to client information or funds, within any entity or agency licensed, certified, registered, or otherwise regulated by the Department.

(C) Any direct care staff secured by any long term care facility licensed by the Department pursuant to ORS chapter 441 through the services of a personnel services or staffing agency who works in the long term care facility.

(D) Except as provided in paragraphs (21)(b)(C) and (D) of this rule, an individual who lives in a facility that is licensed, certified, registered or otherwise regulated by the Department to provide care. The position of this SI includes but is not limited to resident, household member, or boarder.

(E) An individual working for a private, licensed child caring agency or system of care contractor providing child welfare services pursuant to ORS chapter 418.

(F) A homecare worker, personal care services provider, or an independent provider employed by a Department client who provides care to the client if the Department helps pay for the services.

(G) A child care provider and their employees reimbursed through the Department's child care program and other individuals in child care facilities that are exempt from certification or registration by the Child Care Division of the Oregon Employment Department (OED). This includes all individuals who reside in or who are frequent visitors to the residence or facility where the child care services are provided and who may have unsupervised access to the children (see OAR 461-165-0180).

(H) An AD or CP in any entity or agency licensed, certified, registered, or otherwise regulated by the Department.

(I) An individual providing certified nursing assistant classes for employment to staff within a long term care facility.

(J) A student at a long term care facility who is enrolled in a certified nursing assistant class for employment at the facility.

(K) Any individual serving as an owner, operator or manager of a room and board facility pursuant to OAR chapter 411, division 68.

(L) Notwithstanding subsection (21)(b) of this rule, any individual who is required to complete a criminal history check pursuant to a contract with the Department or by other program rules, if the requirement is within the statutory authority granted to the Department. Specific statutory authority or reference to these rules, and the positions under the contract subject to a criminal history check, must be specified in the contract.

(b) Exclusion. An SI does not include:

(A) Any individual under 16 years of age.

(B) An individual receiving training in a Department-licensed or Department-certified facility as a part of the required curriculum through any college, university or other training program and who is not an employee in the facility in which training is provided. Facilities must ensure that all such students or interns have passed a substantially equivalent background check process through the training program or are:

(i) Actively supervised at all times as defined in OAR 407-007-320; and

(ii) Not allowed to have unsupervised access to vulnerable individuals.

(C) Residents of facilities licensed, certified, or registered by the Department who are receiving care or treatment, unless specific, written permission to conduct a criminal history check is received from the Department. The only circumstance in which the Department will allow a check to be performed on a client pursuant to this paragraph is if the client falls within the definition of "subject individual" as listed in sections (21)(a)(A) – (21)(a)(C) and 21(a)(E) – (21)(a)(L) of this rule.

(D) Individuals who live in or visit relative adult foster homes. This exemption does not apply to the licensee.

(E) Individuals working in child care facilities certified or registered by the OED.

(F) Individuals employed by a private business that provides services to clients and the general public and that is not regulated by the Department.

(G) Individuals employed by a business that provides appliance repair or structural repair to clients and the general public, and who are temporar-

ily providing such services in an environment regulated by the Department. The QE shall ensure active supervision of these individuals while on the QE property and the QE may not allow unsupervised contact with QE clients or residents. This exclusion does not apply to a business that receives funds from the Department for care provided by an employee of the business.

(H) Individuals employed by a private business in which a client of the Department is working as part of a Department-sponsored employment service program. This exclusion does not apply to an employee of a business that receives funds from the Department for care provided by the employee.

(I) Employees and volunteers working in hospitals, ambulatory surgical centers, special inpatient care facilities, outpatient renal dialysis facilities, and freestanding birthing centers as defined in ORS 442.015, in-home care agencies as defined on ORS 443.305, and home health agencies as defined in ORS 443.005.

(J) Volunteers who are not under the direction and control of any entity licensed, certified, registered, or otherwise regulated by the Department.

(K) Individuals employed or volunteering in a Medicare-certified health care business which is not subject to licensure or certification by the State of Oregon.

(L) Individuals working in restaurants or at public swimming pools.

(M) Hemodialysis technicians.

(N) Individuals employed by Alcohol and Drug Programs that are certified, licensed, or approved by the Department's Addictions and Mental Health Division to provide prevention, evaluation, or treatment Services. This exclusion does not apply to programs specifically required by other Department rules to conduct criminal history checks in accordance with these rules.

(O) Individuals working for a transit service provider which conducts background checks pursuant to ORS 267.237.

(P) Individuals being certified by the Department as interpreters pursuant to ORS 409.623. This paragraph is not intended to exempt a Department-certified interpreter from a criminal history check when being considered for a specific position.

(Q) Provider group categories that were authorized for payment by the Department for care if the provider group categories were not covered by a Department criminal record check process prior to 2004.

(R) Emergency medical technicians and first responders certified by the Department's Emergency Medical Services and Trauma Systems program.

(S) An individual employed by an entity that provides services solely contracted under ORS 414.022.

(22) "Weighing Test" means a process carried out by one or more ADs in which available information is considered, resulting in the outcome of a preliminary or final fitness determination. A weighing test is only conducted when an SI has potentially disqualifying crimes or conditions.

Stat. Auth.: ORS 181.537, 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0210, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; Hist.: DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09

407-007-0220

Criminal History Check Required

(1) Who Conducts Criminal History Check.

(a) The Department and QEs. The Department, or a QE authorized by the Department, shall conduct criminal history checks on all SIs through LEDS maintained by OSP in accordance with ORS chapter 181 and the rules adopted thereto (see OAR chapter 257, division 15).

(b) OSP. If a nationwide criminal records check of an SI is necessary, OSP shall provide the Department results of a criminal history records check conducted pursuant to ORS 181.534, including fingerprint identification, through the FBI.

(2) When Criminal History Check Is Required (New Checks and Re-checks). An SI is required to have a check in the following circumstances:

(a) New SI. An individual who becomes an SI on or after the effective date of these rules.

(b) Employer Change. The SI changes employers for a different QE. If the SI's employer merges with another QE or changes names, this action is not considered a change of employers.

(c) Position Change. Except as provided in section (3) of this rule, the individual, whether previously considered an SI or not, changes positions, and the new position requires a criminal history check.

(d) Qualification Change. The individual, whether previously considered an SI or not, changes Department-issued licenses, certifications, or

ADMINISTRATIVE RULES

registrations, and the license, certification, or registration requires a criminal history check under these rules.

(e) Criminal History Check Required by Regulation or Contract. A check is required by federal or state laws or regulations, other administrative rules adopted by the Department, or by contract with the Department.

(f) Criminal History Check Is Justified. The Department or the AD has reason to believe that a check is justified. Examples include but are not limited to any indication of possible criminal behavior and quality assurance monitoring of a previously conducted criminal history check.

(3) When a Criminal History Check Is Not Required.

(a) Criminal History Check Not Required. A new check is not required only under the following circumstances:

(A) A personal care services provider, respite care provider, or an independent provider who is paid with Department funds changes or adds clients, and the prior, documented criminal history check conducted within the previous 24 months through the Department has been approved without restrictions.

(B) The SI is a child care provider as described in OAR 461-165-0180 who has been approved without restrictions and who changes or adds clients.

(C) The SI has been offered a new position, there is no change of employer, there is no indication of new potentially disqualifying crimes or conditions, and at least one of the following is true:

(i) The previous fitness determination identified no potentially disqualifying history and the AD determines that the previous fitness determination is sufficient for the new position.

(ii) The AD determines that the new position requires the same or less contact with vulnerable individuals, personal information, financial information, or client funds.

(b) Documentation. When a criminal history check is not required under these rules, written documentation must indicate why a new check was not completed.

(4) Criminal History Check Not a Screening Tool. Criminal history checks are completed on SIs who otherwise meet the qualifications of the position in question. A criminal history check may not be used to screen applicants for a position.

Stat. Auth.: ORS 181.537, 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0220, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09

407-007-0230

Qualified Entity

(1) Approval Required. A QE and its appointing authority must be approved in writing by the Department pursuant to these rules in order to appoint an AD or CP. Unless specifically indicated in these rules, all QEs and appointing authorities discussed are considered approved.

(2) Appointment of ADs and CPs. Unless indicated under section (3) of this rule, all QEs are responsible for ensuring the completion of criminal history checks for SIs who are the QE's employees, volunteers, or other SIs under the direction or control of the QE. The QE's appointing authority must appoint ADs or CPs within 30 days of Department approval.

(a) ADs Required. Except as provided in section (3) of this rule, appointing authorities in all QEs shall appoint one or more ADs, or have a written agreement with another QE to handle AD responsibilities.

(b) CPs Optional. Appointing authorities in all QEs may also appoint one or more CPs, or may have a written agreement with another QE to handle CP responsibilities.

(3) Department ADs For Fitness Determinations. The Department's appointing authorities shall appoint ADs and CPs within the Department. Department-employed ADs shall make fitness determinations for the following QEs:

(a) Private QEs With Fewer Than 10 Employees. These QEs are not eligible to appoint ADs. These QEs shall do one of the following:

(A) Use another QE to handle AD responsibilities instead of using the Department. If another QE is used, there must be a written agreement between the two QEs. The QE must provide the Department with a copy of the agreement.

(B) Appoint one or more CPs, or have a written agreement with another QE to handle CP responsibilities. The QE must provide the Department with a copy of the agreement.

(b) QEs With SIs Not Under Their Direction and Control. The Department shall make fitness determinations for QEs with SIs not under the direction and control of the QE but who provide care under programs administered by the QE.

(A) For these SIs, the QE shall appoint one or more CPs, or use an AD or CP appointed under section (2) of this rule to handle CP responsibilities.

(B) Notwithstanding section (3)(b)(A), the QE may appoint an AD for these SIs if the QE chooses to do so, or is required to do so under other Department program administrative rules or contract with the Department. The QE shall notify the Department in writing which programs are affected and which AD will handle the responsibilities for each program.

(c) QEs Allowed Only CPs By Administrative Rule or Department Program. Administrative rules governing a type of QE may prohibit AD appointment or may allow only CP appointment. Department program offices may determine that certain types of QEs may only appoint CPs for the criminal history check process.

(d) QEs in Certain Circumstances. Department-employed ADs may make fitness determinations at the Department's discretion. Examples include but are not limited to initial opening of a new QE, newly effective administrative rules creating a new type of QEs, or an investigation or review of the QE by the Department.

(4) Revocation of QE Approval. Approval of the QE to appoint or maintain ADs may be revoked by the Department if the Department is investigating a compliance issue or determines that the QE, or an AD or CP appointed by the QE, has failed to comply with these rules.

(a) Communication with Program Office. BCU and the appropriate entity or program office within the Department shall work together regarding any compliance issues.

(b) Plan of Action. The Department may develop a plan of action to resolve the compliance issues.

(5) Managing Criminal History Check Process. The QE's appointing authority shall appoint ADs and CPs as needed to remain in compliance with these rules. If a QE no longer has an AD or CP for any reason, the appointing authority shall ensure that new ADs or CPs are appointed within 30 days.

(6) Training and Technical Assistance. The Department shall provide QEs with periodic training and on-going technical assistance.

(7) Department Decision Final. Any decisions made by the Department in regard to these rules are final and may not be overturned by any QE, its ADs, or its CPs.

Stat. Auth.: ORS 181.537, 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; OMAP 85-2004(Temp), f. & cert. ef. 11-4-04 thru 3-29-05; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0230, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09

407-007-0240

Authorized Designees and Contact Persons

(1) Requirements. All requirements in this section must be completed within a 90-day time period. To receive Department approval, all ADs and CPs must meet the following requirements:

(a) Employment. ADs and CPs for the Department must be employed by the Department. For QEs, the ADs and CPs must be one of the following:

(A) Employed by the agency for which they will handle criminal history check information.

(B) Contracted with the QE to perform as an AD or CP.

(C) Employed by another similar QE or a parent QE (e.g., assisted living facility AD helping another assisted living facility).

(b) Application. An appointing authority shall appoint an AD or CP in writing on a form provided by the Department. The applicant AD or CP shall complete the form and submit it to the Department for processing and registration.

(c) Criminal History Check. The Department shall conduct an Oregon criminal history check, a national criminal history check, and if necessary, state-specific criminal history checks. The AD or CP must have:

(A) No conviction for a potentially disqualifying permanent review crime;

(B) No convictions for any other crime in the past 15 years;

(C) No potentially disqualifying conditions; and

(D) If an AD, Criminal Justice Information Systems (CJIS) clearance and approval to view criminal history in accordance with OSP rules.

(d) Training. Complete a training program and successfully pass any testing as required by the Department.

(2) Denial of AD or CP Status. An individual's status as an AD or CP shall be denied if the individual does not meet the requirements to be an AD or CP. Once denied, the individual can no longer perform the duties of an AD or CP. There are no exceptions for individuals who do not meet the requirements to be an AD or CP.

(3) Responsibilities.

ADMINISTRATIVE RULES

(a) Responsibilities of Both ADs and CPs. An AD or CP shall:

(A) Demonstrate understanding of and adherence to these rules in all actions pertaining to the criminal history check process.

(B) Act as the Department's designee in any action pursuant to these rules and the criminal history check process. The AD or CP may not advocate for an SI during any part of the criminal history check process, including the contesting of a fitness determination.

(C) Ensure that adequate measures are taken to protect the confidentiality of the records and documents required by these rules.

(D) Verify the identity of a SI. This includes asking the SI for current and valid government-issued photo identification (e.g. drivers license) and confirming the information on the photo identification with the SI, the information written on the DHS Criminal History Request form, and the information written on the fingerprint card if a national criminal history check is conducted. Note: If an AD or CP is verifying the identity of an SI who is being rechecked, review of government-issued photo identification may not be necessary, but the AD or CP shall verify the SI's name, any aliases or previous names, and the SI's current address.

(E) Ensure that an SI is not permitted to work, volunteer, reside, or otherwise hold a position before the completion of a preliminary fitness determination and submission of the DHS Criminal History Request form to the Department along with a fingerprint card if the SI discloses out of state criminal history or residency.

(F) Ensure that when an SI is granted probationary status, the need for active supervision pursuant to OAR 407-007-0320(1)(d) is understood by each individual responsible for ensuring that active supervision is provided.

(G) Notify the Department of any changes regarding a SI who still has a criminal history check being processed, including but not limited to change of address or change in employment status.

(H) Monitor status of criminal history check applications and investigate any delays in processing.

(I) Ensure that required documentation required by these rules is processed and maintained in accordance with these rules.

(J) Notify the BCU immediately if arrested, charged, or convicted of any crime.

(b) Specific CP Limits on Preliminary Fitness Determinations. The CP may review the DHS Criminal History Request form completed by the SI to determine if the SI has any potentially disqualifying history.

(A) The CP may allow the SI to work or function on probationary status only after the CP has reviewed the DHS Criminal History Request form and determined there is no indication that the SI has any potentially disqualifying crimes or conditions.

(B) The CP shall not allow an SI who discloses any potentially disqualifying crimes or conditions to work or function on probationary status.

(C) If the SI discloses potentially disqualifying crimes or conditions, the CP shall forward the DHS Criminal History Request form to an AD for preliminary fitness determination, or to the BCU for processing if there is no local AD available.

(c) Specific AD Responsibilities. In addition to the responsibilities listed in (3)(a) of this rule, an AD shall:

(A) Review the completed DHS Criminal History Request form (if not already done so by a CP) and conduct a preliminary fitness determination to determine eligibility for probationary status before forwarding the DHS Criminal History Request form to the BCU.

(B) Conduct a final fitness determination.

(C) Participate in the appeal process if requested by the Department.

(4) AD Conflict of Interest. An AD must not have access to LEDS information or make a fitness determination if there is a conflict of interest between the AD and the SI.

(a) Conflict Exists. A conflict of interest exists includes but is not limited to the following circumstances:

(A) The AD is related to the SI. In this context, "related" means spouse, domestic partner, natural parent, child, sibling, adopted child, adopted parent, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew or cousin.

(B) The AD has a close personal or financial relationship, other than an employee-employer relationship, with the SI.

(b) Department Completes Determination. When there is a conflict of interest and the QE has no other ADs available to conduct the fitness determination, the Department shall complete the fitness determination.

(5) Termination of AD or CP Status.

(a) Position Ends. When the AD's or CP's position with the QE ends or when the QE terminates the appointment, the Department's registration

of an AD or CP is revoked. The QE shall notify the Department immediately upon the end of the position or the termination of the appointment.

(b) Noncompliance with Rules. The Department or the QE shall suspend or revoke the appointment if a AD or CP fails to comply with responsibilities or fails to continue to meet the requirements for AD or CP, as applicable. After suspending or revoking the appointment, the QE must immediately notify the BCU in writing. If the Department takes the action, it must immediately notify the QE in writing.

(6) Appeal Rights. Denial or termination of AD or CP status is not subject to appeal rights unless the denial or termination results in loss of employment or position. Individuals losing employment or position have the same hearing rights as other SIs under these rules.

(7) Not Transferable. If an AD or CP leaves employment of the QE for any reason, the individual will no longer be considered an AD or CP. If the individual finds employment with another QE, a new appointment, application, and registration must be conducted.

(8) Review of Appointment. The Department shall review and update appointments of ADs and CPs, up to and including a new application, criminal history check, and recertification training, to assure that all requirements are met:

(a) Scheduled Review. Every three years; or

(b) Justified Review. If the Department has reason to believe the individual no longer meets the qualifications to be an AD or CP such as but not limited to indication of criminal behavior.

Stat. Auth.: ORS 181.537, 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0240, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09

407-007-0250

Oregon Criminal History Check Process

(1) Forms Required. A QE and SI shall use the Department's form to request the criminal history check. The DHS Criminal History Request form shall include the following:

(a) Identifying Information Required. Indication of what identifying information and other information the SI is required to provide for the criminal history check process, including but not limited to name, aliases, date of birth, address, recent residency information, drivers license, disclosure of criminal history, and disclosure of other information to be considered in the event of a weighing test.

(b) Notice Regarding Social Security Number. A notice regarding disclosure of Social Security number indicating that:

(A) Disclosure is voluntary; and

(B) The Department requests the Social Security number solely for the purpose of positively identifying the SI during the criminal history check process.

(c) Fingerprinting. A notice that the SI is subject to fingerprinting as part of a criminal history check.

(2) Review of DHS Criminal History Request Form. The BCU shall review each form received for completeness and timeliness. If the BCU rejects the form, the QE's AD or CP shall immediately resolve the reasons for rejection and re-submit the form, or remove the SI from the position.

(3) Oregon Criminal History Check.

(a) Obtaining Information. Using information submitted on the DHS Criminal History Request form, the Department obtains criminal offender information from LEDS and requests other criminal history information as needed.

(b) QE Access. Only an approved QEs holding a contract with OSP for LEDS access may obtain criminal offender information. The QE's AD may:

(A) Receive and evaluate Oregon criminal history information from the Department as allowed by applicable statutes.

(B) Conduct fitness determinations.

(c) Handling of Information. Criminal offender information obtained through LEDS shall be handled in accordance with applicable OSP requirements in ORS chapter 181 and the rules adopted pursuant thereto (see OAR chapter 257, division 15).

(4) National Criminal History Check.

(a) Fingerprints Required. In addition to an Oregon criminal history check, a fingerprint-based national criminal history check is required under any of the following circumstances:

(A) The SI has lived outside Oregon:

(i) Child Care Providers (18 months). The SI is a child care provider or other individual included in OAR 461-165-0180 who has lived outside Oregon for 60 or more consecutive days during the previous 18 months.

ADMINISTRATIVE RULES

(ii) All other SIs (5 years). The SI is has lived outside Oregon for 60 or more consecutive days during the previous five years.

(B) The LEDS check, SI disclosures, or any other information obtained by the Department indicate there may be criminal history outside of Oregon.

(C) The SI has an out-of-state drivers license.

(D) The Department has reason to question the identity or history of the SI.

(E) A fingerprint-based criminal history check is required by federal or state laws or regulations, other rules adopted by the Department, or by contract with the Department.

(F) The SI is an AD or CP.

(b) Fingerprints May Be Required. In addition to an Oregon criminal history check, the Department may require a fingerprint-based national criminal history check if the Department has reason to believe that fingerprints are needed to make a final fitness determination.

(c) Fingerprinting a Juvenile. Consent of the parent or guardian is required to obtain fingerprints from an SI under 18 years of age.

(d) Processing. The SI shall complete and submit a fingerprint card when requested by the Department.

(A) The SI shall use a fingerprint card (e.g. FBI Form FD 258) provided by the Department. The Department shall give the SI notice regarding the Social Security number as set forth in OAR 407-007-0250(1)(b).

(B) The SI shall submit the card within 21 days of the request to the BCU.

(i) If the card is not received within 21 days, the Department will close the application. When a case is closed, the SI shall not be allowed to work, volunteer, be employed, or otherwise perform in positions covered by these rules, and shall be immediately terminated and removed from the position.

(ii) The Department may extend the time allowed for good cause.

(C) The Department may require new fingerprint cards if previous cards are rejected by OSP or the FBI.

(5) State-Specific Criminal History Check. The Department may also conduct a state-specific criminal history check instead of or in addition to a national criminal history check. Reasons for a state-specific criminal history check include but are not limited to:

(a) Out-of-State History. When the Department has reason to believe that out-of-state criminal history may exist.

(b) Illegible Fingerprints. When the Department has been unable to complete a national criminal history check due to illegible fingerprints.

(c) Incomplete Information. When the national criminal history check results show incomplete information about charges or criminal history without final disposition.

(d) State Not Included In FBI. When there is indication of residency or criminal history in a state that does not submit all criminal history to the FBI.

(e) Other Reasons. When, based on available information, the Department has reason to believe that a state-specific check is necessary.

(6) Additional Information Required. To complete a criminal history check and fitness determination, the Department may require additional information from the SI including but not limited to additional criminal, judicial, or other background information; or proof of identity.

(7) Imminent Danger.

(a) New Criminal History Check. If the Department determines there is indication of criminal behavior that could pose a potential immediate risk to vulnerable individuals, the Department shall conduct a new criminal history check on an SI without the completion of a new DHS Criminal History Request form.

(b) Opportunity to Disclose. If the Department determines that a fitness determination based on the new criminal history check would be adverse to the SI, the Department shall provide the SI, if available, the opportunity to disclose criminal history, potentially disqualifying conditions, and other information as indicated in OAR 407-007-0300 before the completion of the fitness determination.

(8) Documentation. All criminal history checks conducted under this rule shall be documented in writing.

Stat. Auth.: ORS 181.537, 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0250, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09

407-007-0280

Potentially Disqualifying Crimes

A conviction of any of the following crimes is potentially disqualifying. The list includes offenses that are crimes and are not intended to

include offenses that are classified or treated as violations (see ORS 161.505 to 161.565).

(1) Permanent Review. The crimes listed in this section are crimes which require that a fitness determination be completed regardless of date of conviction.

(a) ORS 162.155, Escape II;

(b) ORS 162.165, Escape I;

(c) ORS 162.285, Tampering with a witness;

(d) ORS 162.325, Hindering prosecution;

(e) ORS 163.005, Criminal homicide;

(f) ORS 163.095, Aggravated murder;

(g) ORS 163.115, Murder;

(h) ORS 163.118, Manslaughter I;

(i) ORS 163.125, Manslaughter II;

(j) ORS 163.145, Criminally negligent homicide;

(k) ORS 163.160, Assault IV;

(l) ORS 163.165, Assault III;

(m) ORS 163.175, Assault II;

(n) ORS 163.185, Assault I;

(o) ORS 163.187, Strangulation;

(p) ORS 163.190, Menacing;

(q) ORS 163.200, Criminal mistreatment II;

(r) ORS 163.205, Criminal mistreatment I;

(s) ORS 163.207, Female genital mutilation;

(t) ORS 163.208, Assault of public safety officer;

(u) ORS 163.213, Unlawful use of an electrical stun gun, tear gas, or mace I;

(v) ORS 163.225, Kidnapping II;

(w) ORS 163.235, Kidnapping I;

(x) ORS 163.257, Custodial interference I;

(y) ORS 163.275, Coercion;

(z) ORS 163.355, Rape III;

(aa) ORS 163.365, Rape II;

(bb) ORS 163.375, Rape I;

(cc) ORS 163.385, Sodomy III;

(dd) ORS 163.395, Sodomy II;

(ee) ORS 163.405, Sodomy I;

(ff) ORS 163.408, Unlawful sexual penetration II;

(gg) ORS 163.411, Unlawful sexual penetration I;

(hh) ORS 163.415, Sexual abuse III;

(ii) ORS 163.425, Sexual abuse II;

(jj) ORS 163.427, Sexual abuse I;

(kk) ORS 163.435, Contributing to the sexual delinquency of a minor;

(ll) ORS 163.445, Sexual misconduct;

(mm) ORS 163.452, Custodial sexual misconduct I;

(nn) ORS 163.454, Custodial sexual misconduct II;

(oo) ORS 163.465, Public indecency;

(pp) ORS 163.515, Bigamy;

(qq) ORS 163.525, Incest;

(rr) ORS 163.535, Abandonment of a child;

(ss) ORS 163.537, Buying or selling a person under 18 years of age;

(tt) ORS 163.545, Child neglect II;

(uu) ORS 163.547, Child neglect I;

(vv) ORS 163.555, Criminal nonsupport;

(ww) ORS 163.575, Endangering the welfare of a minor;

(xx) ORS 163.670, Using child in display of sexually explicit conduct;

(yy) ORS 163.673, Dealing sexual condition of children;

(zz) ORS 163.675, Sale sexual condition of children;

(aaa) ORS 163.680, Paying for sexual view of children;

(bbb) ORS 163.684, Encouraging child sexual abuse I;

(ccc) ORS 163.686, Encouraging child sexual abuse II;

(ddd) ORS 163.687, Encouraging child sexual abuse III;

(eee) ORS 163.688, Possession of materials depicting sexually explicit conduct of a child I;

(fff) ORS 163.689, Possession of materials depicting sexually explicit conduct of a child II;

(ggg) ORS 163.693, Failure to report child pornography;

(hhh) ORS 163.700, Invasion of personal privacy;

(iii) ORS 163.732, Stalking;

(jjj) ORS 163.750, Violating court's stalking protective order;

(kkk) ORS 164.057, Aggravated theft I;

(lll) ORS 164.055, Theft I;

(mmm) ORS 164.075, Theft by extortion;

(nnn) ORS 164.085, Theft by deception;

ADMINISTRATIVE RULES

- (ooo) ORS 164.125, Theft of services;
(ppp) ORS 164.135, Unauthorized use of a vehicle;
(qqq) ORS 164.225, Burglary I;
(rrr) ORS 164.215, Burglary II;
(sss) ORS 164.315, Arson II;
(ttt) ORS 164.325, Arson I;
(uuu) ORS 164.377, Computer crime;
(vvv) ORS 164.395, Robbery III;
(www) ORS 164.405, Robbery II;
(xxx) ORS 164.415, Robbery I
(yyy) ORS 165.013, Forgery I;
(zzz) ORS 165.022, Criminal possession of a forged instrument I;
(aaaa) ORS 165.055, Fraudulent use of a credit card;
(bbbb) ORS 165.065, Negotiating a bad check;
(cccc) ORS 165.581, Cellular counterfeiting I;
(dddd) ORS 165.800, Identity theft;
(eeee) ORS 166.005, Treason;
(ffff) ORS 166.085, Abuse of corpse II;
(gggg) ORS 166.087, Abuse of corpse I;
(hhhh) ORS 166.155, Intimidation II;
(iiii) ORS 166.165, Intimidation I;
(jjjj) ORS 166.220, Unlawful use of weapon;
(kkkk) ORS 166.270, Possession of weapons by certain felons;
(llll) ORS 166.272, Unlawful possession of machine guns, certain short-barreled firearms and firearm silencers;
(mmmm) ORS 166.275, Possession of weapons by inmates of institutions;
(nnnn) ORS 166.429, Firearms used in felony;
(oooo) ORS 166.720, Racketeering activity unlawful;
(pppp) ORS 167.012, Promoting prostitution;
(qqqq) ORS 167.017, Compelling prostitution;
(rrrr) ORS 167.062, Sadomasochistic abuse or sexual conduct in live show;
(ssss) ORS 167.065, Furnishing obscene materials to minors;
(tttt) ORS 167.070, Sending obscene materials to minors;
(uuuu) ORS 167.075, Exhibiting an obscene performance to a minor;
(vvvv) ORS 167.080, Displaying obscene materials to minors;
(wwww) ORS 167.087, Disseminating obscene material;
(xxxx) ORS 167.212, Tampering with drug records;
(yyyy) ORS 167.262, Adult using minor in commission of controlled substance offense;
(zzzz) ORS 167.315, Animal abuse II;
(aaaaa) ORS 167.320, Animal abuse I;
(bbbbb) ORS 167.322, Aggravated animal abuse I;
(ccccc) ORS 167.333, Sexual assault of animal;
(ddddd) ORS 181.599, Failure to report as sex offender;
(eeeee) ORS 433.010, Spreading disease (willfully) prohibited;
(fffff) ORS 475.525, Sale of drug paraphernalia prohibited;
(ggggg) ORS 475.805, Providing hypodermic device to minor prohibited;
(hhhhh) ORS 475.840, Prohibited acts generally (regarding drug crimes);
(iiiiii) ORS 475.846, Unlawful manufacture of heroin;
(jjjjj) ORS 475.848, Unlawful manufacture of heroin within 1,000 feet of school;
(kkkkk) ORS 475.850, Unlawful delivery of heroin;
(lllll) ORS 475.852, Unlawful delivery of heroin within 1,000 feet of school;
(mmmmm) ORS 475.854, Unlawful possession of heroin;
(nnnnn) ORS 475.856, Unlawful manufacture of marijuana;
(ooooo) ORS 475.858, Unlawful manufacture of marijuana within 1,000 feet of school;
(ppppp) ORS 475.860, Unlawful delivery of marijuana;
(qqqqq) ORS 475.862, Unlawful delivery of marijuana within 1,000 feet of school;
(rrrrr) ORS 475.864, Unlawful possession of marijuana;
(sssss) ORS 475.866, Unlawful manufacture of 3,4-methylenedioxymethamphetamine;
(ttttt) ORS 475.868, Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 feet of school;
(uuuuu) ORS 475.870, Unlawful delivery of 3,4-methylenedioxymethamphetamine;
(vvvvv) ORS 475.872, Unlawful delivery of 3,4-methylenedioxymethamphetamine within 1,000 feet of school;
(wwwww) ORS 475.874, Unlawful possession of 3,4-methylenedioxymethamphetamine;
(xxxxx) ORS 475.876, Unlawful manufacture of cocaine;
(yyyyy) ORS 475.878, Unlawful manufacture of cocaine within 1,000 feet of school;
(zzzzz) ORS 475.880, Unlawful delivery of cocaine;
(aaaaa) ORS 475.882, Unlawful delivery of cocaine within 1,000 feet of school;
(bbbbb) ORS 475.884, Unlawful possession of cocaine;
(ccccc) ORS 475.886, Unlawful manufacture of methamphetamine;
(ddddd) ORS 475.888, Unlawful manufacture of methamphetamine within 1,000 feet of school;
(eeeee) ORS 475.890, Unlawful delivery of methamphetamine;
(fffff) ORS 475.892, Unlawful delivery of methamphetamine within 1,000 feet of school;
(ggggg) ORS 475.894, Unlawful possession of methamphetamine;
(hhhhh) ORS 475.904, Unlawful delivery of controlled substance within 1,000 feet of school;
(iiiiii) ORS 475.906, Penalties for distribution to minors;
(jjjjj) ORS 475.910, Application of controlled substance to the body of another person;
(kkkkk) ORS 475.914, Prohibited acts for registrants (with the State Board of Pharmacy);
(lllll) ORS 677.080, Prohibited acts (regarding the practice of medicine);
(mmmmm) ORS 685.990, Penalties (pertaining to naturopathic medicine);
(nnnnn) Any federal crime;
(ooooo) Any U.S. military crime;
(ppppp) Any unclassified felony defined in Oregon Revised Statutes not listed elsewhere in this rule;
(qqqqq) Any other felony in Oregon Revised Statutes not listed elsewhere in this rule that is serious and indicates behavior that poses a threat or jeopardizes the safety of vulnerable persons, as determined by the AD;
(rrrrr) Any felony in a jurisdiction outside Oregon that is not the substantial equivalent of any of the Oregon crimes listed in this section but that is serious and indicates behavior that poses a threat or jeopardizes the safety of vulnerable persons, as determined by the AD
(sssss) Any crime of attempt, solicitation, or conspiracy to commit a crime listed in this section pursuant to ORS 161.405, 161.435, or 161.450, including any crime based on criminal liability for conduct of another pursuant to ORS 161.155
(ttttt) Any crime in any other jurisdiction that is the substantial equivalent of any of the Oregon crimes listed in section (1) as determined by the AD
(uuuuu) Any crime that is no longer codified in Oregon or other jurisdiction but that is the substantial equivalent of any of the crimes listed in section (1) as determined by the AD
(2) Ten-Year Review. The crimes listed in this section are crimes that require that a fitness determination be completed if the date of conviction is within ten years of the date the DHS Criminal History Request form was signed or the date the Department conducted a criminal history check due to imminent risk.
(a) ORS 133.076 Failure to appear on criminal citation
(b) ORS 162.015, Bribe giving;
(c) ORS 162.025, Bribe receiving;
(d) ORS 162.065, Perjury;
(e) ORS 162.075, False swearing;
(f) ORS 162.117, Public investment fraud;
(g) ORS 162.145, Escape III;
(h) ORS 162.175, Unauthorized departure;
(i) ORS 162.185, Supplying contraband;
(j) ORS 162.195, Failure to appear II;
(k) ORS 162.205, Failure to appear I;
(l) ORS 162.247, Interfering with a peace officer;
(m) ORS 162.265, Bribing a witness;
(n) ORS 162.275, Bribe receiving by a witness;
(o) ORS 162.295, Tampering with physical evidence;
(p) ORS 162.305, Tampering with public records;
(q) ORS 162.315, Resisting arrest;
(r) ORS 162.335, Compounding;
(s) ORS 162.355, Simulating legal process;
(t) ORS 162.365, Criminal impersonation;
(u) ORS 162.367, Criminal impersonation of peace officer;

ADMINISTRATIVE RULES

- (v) ORS 162.369, Possession of false law enforcement identification card;
- (w) ORS 162.375, Initiating a false report;
- (x) ORS 162.385, Giving false information to police officer for a citation;
- (y) ORS 162.405, Official misconduct II;
- (z) ORS 162.415, Official misconduct I;
- (aa) ORS 162.425, Misuse of confidential information;
- (bb) ORS 163.195, Recklessly endangering another person;
- (cc) ORS 163.212, Unlawful use of an electrical stun gun, tear gas, or mace II;
- (dd) ORS 163.245, Custodial interference II;
- (ee) ORS 163.467, Private indecency;
- (ff) ORS 164.043, Theft III;
- (gg) ORS 164.045, Theft II;
- (hh) ORS 164.095, Theft by receiving;
- (ii) ORS 164.140, Criminal possession of rented or leased personal property;
- (jj) ORS 164.162, Mail theft or receipt of stolen mail;
- (kk) ORS 164.235, Possession of a burglary tool or theft device;
- (ll) ORS 164.255, Criminal trespass I;
- (mm) ORS 164.265, Criminal trespass while in possession of firearm;
- (nn) ORS 164.272, Unlawful entry into motor vehicle;
- (oo) ORS 164.354, Criminal mischief II;
- (pp) ORS 164.365, Criminal mischief I;
- (qq) ORS 164.369, Interfering with police animal;
- (rr) ORS 165.007, Forgery II;
- (ss) ORS 165.017, Criminal possession of a forged instrument II;
- (tt) ORS 165.032, Criminal possession of a forgery device;
- (uu) ORS 165.037, Criminal simulation;
- (vv) ORS 165.042, Fraudulently obtaining a signature;
- (ww) ORS 165.070, Possessing fraudulent communications device;
- (xx) ORS 165.074, Unlawful factoring of credit card transaction;
- (yy) ORS 165.080, Falsifying business records;
- (zz) ORS 165.085, Sports bribery;
- (aaa) ORS 165.090, Sports bribe receiving;
- (bbb) ORS 165.095, Misapplication of entrusted property;
- (ccc) ORS 165.100, Issuing a false financial statement;
- (ddd) ORS 165.102, Obtaining execution of documents by deception;
- (eee) ORS 165.540, Obtaining contents of communication;
- (fff) ORS 165.543, Interception of communications;
- (ggg) ORS 165.570, Improper use of 9-1-1 emergency reporting system;
- (hhh) ORS 165.572, Interference with making a report;
- (iii) ORS 165.577, Cellular counterfeiting III;
- (jii) ORS 165.579, Cellular counterfeiting II;
- (kkk) ORS 165.692, Making false claim for health care payment;
- (lll) ORS 166.015, Riot;
- (mmm) ORS 166.023, Disorderly conduct I;
- (nnn) ORS 166.025, Disorderly conduct II;
- (ooo) ORS 166.065, Harassment;
- (ppp) ORS 166.076, Abuse of a memorial to the dead;
- (qqq) ORS 166.090, Telephonic harassment;
- (rrr) ORS 166.116, Interfering with public transportation;
- (sss) ORS 166.180, Negligently wounding another;
- (ttt) ORS 166.190, Pointing firearm at another;
- (uuu) ORS 166.240, Carrying of concealed weapon;
- (vvv) ORS 166.250, Unlawful possession of firearms;
- (www) ORS 166.370, Possession of firearm or dangerous weapon in public building or court facility; exceptions; discharging firearm at school;
- (xxx) ORS 166.382, Possession of destructive device prohibited;
- (yyy) ORS 166.384, Unlawful manufacture of destructive device;
- (zzz) ORS 166.470, Limitations and conditions for sales of firearms;
- (aaaa) ORS 166.480, Sale or gift of explosives to children;
- (bbbb) ORS 166.649, Throwing an object off an overpass II;
- (cccc) ORS 166.651, Throwing an object off an overpass I;
- (dddd) ORS 166.660, Unlawful paramilitary activity;
- (eeee) ORS 167.007, Prostitution;
- (ffff) ORS 167.090, Publicly displaying nudity or sex for advertising purposes;
- (gggg) ORS 167.222, Frequenting a place where controlled substances are used;
- (hhhh) ORS 167.325, Animal neglect II;
- (iiii) ORS 167.330, Animal neglect I;
- (jjjj) ORS 167.355, Involvement in animal fighting;
- (kkkk) ORS 167.365, Dogfighting;
- (llll) ORS 167.370, Participation in dogfighting;
- (mmmm) ORS 167.820, Concealing the birth of an infant;
- (nnnn) ORS 192.865, Criminal penalty (pertaining to Address Confidentiality Program);
- (oooo) ORS 411.630, Unlawfully obtaining public assistance;
- (pppp) ORS 411.675, Submitting wrongful claim or payment (e.g., public assistance);
- (qqqq) ORS 411.840, Unlawfully obtaining or disposing of food stamp benefits;
- (rrrr) ORS 417.990, Penalty for placement of children in violation of compact;
- (ssss) ORS 418.130, Unauthorized use and custody of records of temporary assistance for needy families program;
- (tttt) ORS 418.140, Sharing assistance prohibited;
- (uuuu) ORS 418.250, Supervision of child-caring agencies;
- (vvvv) ORS 418.327, Licensing of certain schools and organizations offering residential programs;
- (wwww) ORS 418.630, Operate uncertified foster home;
- (xxxx) ORS 471.410, Providing liquor to persons under 21 or to intoxicated persons; allowing consumption by minor on property;
- (yyyy) ORS 475.990, Commercial drug offense;
- (zzzz) ORS 475.912, Unlawful delivery of imitation controlled substance;
- (aaaaa) ORS 475.916, Prohibited acts involving records and fraud;
- (bbbbb) ORS 475.950, Failure to report precursor substances transaction;
- (ccccc) ORS 475.955, Failure to report missing precursor substances;
- (ddddd) ORS 475.960, Illegally selling drug equipment;
- (eeeee) ORS 475.965, Providing false information on precursor substances report;
- (ffffff) ORS 657A.280, Failure to certify child care facility;
- (ggggg) ORS 803.230, Forging, altering or unlawfully producing or using title or registration;
- (hhhhh) ORS 807.620, Giving false information to police officer;
- (iiiiii) ORS 811.060, Vehicular assault of bicyclist or pedestrian;
- (jjjjj) ORS 811.140, Reckless driving;
- (kkkkk) ORS 811.540, Fleeing or attempting to elude police officer;
- (lllll) ORS 811.700, Failure to perform duties of driver when property is damaged;
- (mmmmm) ORS 811.705, Failure to perform duties of driver to injured persons;
- (nnnnn) ORS 819.300, Possession of a stolen vehicle;
- (ooooo) ORS 830.475, Failure to perform the duties of an operator (boat);
- (ppppp) Any unclassified misdemeanor defined in Oregon Revised Statutes not listed elsewhere in this rule;
- (qqqqq) Any other misdemeanor in Oregon Revised Statutes not listed elsewhere in this rule that is serious and indicates behavior that poses a threat or jeopardizes the safety of vulnerable persons, as determined by the AD;
- (rrrrr) Any misdemeanor in a jurisdiction outside Oregon that is not the substantial equivalent of any of the Oregon crimes listed in section (2) but that is serious and indicates behavior that poses a threat or jeopardizes the safety of vulnerable persons, as determined by the AD. If a misdemeanor in a jurisdiction outside Oregon is similar to a violation in Oregon, then it cannot be considered potentially disqualifying under this section.
- (sssss) Any crime of attempt, solicitation or conspiracy to commit a crime listed in this section pursuant to ORS 161.405 or 161.435, including any conviction based on criminal liability for conduct of another pursuant to ORS 161.155;
- (ttttt) Any crime in any other jurisdiction which is the substantial equivalent of any of the Oregon crimes listed in section (2) as determined by the AD;
- (uuuuu) Any crime which is no longer codified in Oregon, but which is the substantial equivalent of any of the crimes listed in section (2) as determined by the AD;
- (3) Five-Year Review. The crimes listed in this section are crimes which require that a fitness determination be completed if the date of conviction is within five years of the date the DHS Criminal History Request form was signed or the date the Department conducted a criminal history check due to imminent risk.
- (a) ORS 162.085, Unsworn falsification;
- (b) ORS 162.235, Obstructing governmental or judicial administration;

ADMINISTRATIVE RULES

- (c) ORS 164.245, Criminal trespass II;
- (d) ORS 164.335, Reckless burning;
- (e) ORS 164.345, Criminal mischief III;
- (f) ORS 165.555, Unlawful telephone solicitation of contributions for charitable purposes;
- (g) ORS 166.075, Abuse of venerated objects;
- (h) ORS 166.095, Misconduct with emergency telephone calls;
- (i) ORS 167.340, Animal abandonment;
- (j) ORS 811.182, Criminal driving while suspended or revoked;
- (k) ORS 813.010, Driving under the influence of intoxicants (DUII);
- (L) ORS 830.315, Reckless operation of a boat;
- (m) ORS 830.325, Operating boat while under influence of intoxicating liquor or controlled substance;
- (n) ORS 830.730, False information to peace officer or State Marine Board;
- (o) Any conviction for attempt, solicitation or conspiracy to commit a crime listed in this section pursuant to ORS 161.405 or 161.435, including any conviction based on criminal liability for conduct of another pursuant to ORS 161.155;

(p) Any crime in any other jurisdiction which is the substantial equivalent of any of the Oregon crimes listed in section (3) as determined by the AD;

(q) Any crime which is no longer codified in Oregon, but which is the substantial equivalent of any of the crimes listed in section (3) as determined by the AD.

(4) Evaluation Based On Oregon Laws. Evaluations of crimes may be based on Oregon laws and laws in other jurisdictions in effect at the time of the fitness determination, regardless of the jurisdiction in which the conviction occurred.

(5) Juvenile Records. Under no circumstances shall a SI be denied under these rules due to the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 through 419A.262.

(6) Adult Records. Under no circumstances shall an SI be denied under these rules due to the existence or contents of an adult record that has been set aside pursuant to ORS 137.225.

Stat. Auth.: ORS 181.537, 409.050
Stats. Implemented: ORS 181.534, 181.537, 409.010
Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0280, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09

407-007-0290

Other Potentially Disqualifying Conditions

The following are potentially disqualifying conditions:

(1) False Statement. A “false statement” by the SI to the QE, AD, or Department, including provision of materially false information, false information regarding criminal history, or failure to disclose information regarding criminal history.

(2) Sex Offender. The SI is a registered sex offender in Oregon or any other jurisdiction. There is a rebuttable presumption that an SI is likely to engage in conduct that would pose a significant risk to vulnerable individuals if the SI has been designated a predatory sex offender as provided in ORS 181.585 or found to be a sexually violent dangerous offender under ORS 144.635 (or similar statutes in other jurisdictions).

(3) Warrants. An outstanding warrant against the SI for any crime in any jurisdiction.

(4) Deferred Sentence, Diversion Program. The SI has a deferred sentence, conditional discharge, or is participating in a diversion program for any potentially disqualifying crime.

(5) Probation, Parole, or Post-Supervision. The SI is currently on probation, parole, or post-prison supervision for any crime, regardless of the original conviction date (or date of guilty or no contest plea if there is no conviction date).

(6) Parole or Probation Violation. The SI is found in violation of post-prison supervision, parole, or probation for any crime regardless of the original conviction date (or date of guilty or no contest plea if there is no conviction date) within five years or less from the date the DHS Criminal History Request form was signed or the date the Department conducted a criminal history check due to imminent danger.

(7) Unresolved Arrests, Charges or Indictments. An unresolved arrest, charge, or a pending indictment, for any crime in any jurisdiction.

(8) Juvenile Adjudication. Adjudication in a juvenile court, finding that the SI was responsible for a potentially disqualifying crime that would result in a conviction if committed by an adult.

(9) Guilty Except For Insanity. A finding of “guilty except for insanity,” “guilty except by reason of insanity,” “not guilty by reason of insanity,”

ty,” “responsible except for insanity,” or similarly worded disposition regarding a potentially disqualifying crime.

(10) Child Protective Services In Certain Department Programs. Child protective services reports that show behavior or conduct by the SI that would pose a risk to or jeopardize the safety of vulnerable individuals. This potentially disqualifying condition only applies when Department administrative rules specifically require a protective services background check as part of the application process including but not limited to child foster homes, adoptive families, licensed private child caring agencies, or child care providers.

Stat. Auth.: ORS 181.537, 409.050
Stats. Implemented: ORS 181.534, 181.537, 409.010
Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0290, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09

407-007-0320

Fitness Determinations

(1) Preliminary Fitness Determination. A preliminary fitness determination is required to determine if an SI may work, volunteer, be employed, or otherwise perform in positions prior to a final fitness determination. The Department or QE may not allow an SI to work, volunteer, or otherwise perform in positions covered by these rules prior to the completion of a preliminary fitness determination.

(a) DHS Criminal History Request Form Completed. A DHS Criminal History Request form must have been completed by the SI and reviewed by the AD or CP.

(b) Probationary Status Not Allowed by Program Rules. If probationary status is not allowed by program rules, then a preliminary fitness determination is not required, and the QE may not allow an SI to work, volunteer, or otherwise perform in positions covered by these rules prior to the completion of the final fitness determination.

(c) Preliminary Fitness Determination Outcomes. After review of the DHS Criminal History Request form, the AD or CP shall make one of the following determinations:

(A) Probationary status. Probationary status is applicable only during the timeframe prior to a final fitness determination. An SI may be hired or accepted into a position on a preliminary basis and allowed to participate in training, orientation, and work activities of volunteering, employment, or other positions covered by these rules, under the one of the following circumstances:

(i) If there is no indication of a potentially disqualifying crime or condition on the DHS Criminal History Request form and the AD or CP have no reason to believe the SI has potentially disqualifying history.

(ii) When the SI discloses convictions or arrests for a potentially disqualifying crime, or any other potentially disqualifying condition, the SI may be hired on a preliminary basis only after the completion of a weighing test by an AD. The SI may be placed on probationary status only if, based on information available at the time, the AD determines that more likely than not that the SI poses no potential threat to vulnerable individuals.

(B) No hiring allowed. The AD may not place an SI on probationary status if the local AD or Department determines that:

(i) The SI may pose a potential threat to vulnerable individuals;

(ii) The SI is currently involved in contesting a criminal history check under these or other Department criminal history check rules; or

(iii) The SI has previously been denied under these rules or other Department criminal history check rules.

(iv) This prohibition against hiring may only be waived by the Department.

(d) Active Supervision. An SI who is on probationary status shall be actively supervised at all times by an individual who has been approved without restrictions pursuant to these rules or previous Department criminal history check rules.

(A) At all times the individual providing active supervision shall follow all of these conditions:

(i) Be in the same building as the SI or, if outdoors of QE buildings or any location off the QE property, be within line-of-sight and within hearing, except as provided in subsection (1)(d)(B) of this rule;

(ii) Know where the SI is and what the SI is doing; and

(iii) Periodically observe the actions of the SI.

(B) A client of the Department, an adult client’s adult relation, or a child’s parent or guardian, may provide active supervision without a criminal history check:

(i) The client may actively supervise a homecare worker, personal care services provider, or independent provider if the client makes an informed decision to employ the provider. Someone related to the client

ADMINISTRATIVE RULES

may also provide active supervision if the relative has been approved by the AD.

(ii) A child's parent or guardian has the responsibility for providing active supervision in the case of child care providers. The supervision is not required to be performed by someone in the same building as the child.

(e) Exemption From Active Supervision. An SI who was approved without restrictions within the previous 24 months through a documented criminal history check pursuant to these rules or prior Department criminal history check rules may function on probationary status without active supervision. Twenty-four months is calculated from date of previous approval to the date of hire in the new position. This exemption is not allowed in any of the following situations:

(A) If the SI cannot provide documented proof that he or she worked continuously under the previous approval for at least one year.

(B) If there is evidence of criminal activity within the previous 24 months.

(C) If, as determined by the AD or the Department, the job duties in the new position are so substantially different from the previous position that the previous fitness determination is inadequate for the current position.

(f) Revocation. Revocation of probationary status is not subject to hearing or appeal. The QE or the Department may immediately revoke probationary status based on any of the following reasons:

(A) There is any indication of falsification of application.

(B) The SI fails to disclose convictions for any potentially disqualifying crimes, any arrests that did not result in convictions, or any out of state arrests or convictions.

(C) The QE or Department determines that probationary status is not appropriate, based on the application, criminal history, position duties, or program rules.

(g) Hiring or Placement Not Required. Nothing in this rule is intended to require that an SI who is eligible for probationary status be hired or accepted into a position covered by these rules on a preliminary basis or be allowed to participate in training, orientation, and work activities of volunteering, employment, or other positions covered by these rules.

(2) Final Fitness Determination. The AD shall conduct a final fitness determination after all necessary criminal history checks have been completed. The AD may obtain and consider additional information as necessary to complete the final fitness determination.

(a) Final Fitness Determination Outcomes. The AD may make one of the following fitness determinations:

(A) Approved. The AD may approve an SI if:

(i) The SI has no potentially disqualifying crimes or potentially disqualifying conditions; or

(ii) The SI has potentially disqualifying crimes or potentially disqualifying conditions and, after a weighing test, the AD determines that more likely than not that the SI poses no risk to vulnerable individuals.

(B) Approved With Restrictions. The AD may approve an SI with restrictions if the AD determines that more likely than not that the SI poses no risk to the physical, emotional or financial well-being of vulnerable individuals, if certain restrictions are placed on the SI. Such restrictions may include but are not limited to restrictions to one or more specific clients, job duties, or environments. A new criminal history check and fitness determination shall be completed on the SI before removing a restriction.

(C) Denied. The AD shall deny an SI whom it determines, after a weighing test, more likely than not poses a risk to the physical, emotional or financial well-being of vulnerable individuals.

(b) Fitness Determination By the Department.

(A) The Department shall complete a fitness determinations for any SI for whom a national or state-specific criminal history check is completed.

(B) The Department may make the fitness determination for any new DHS Criminal History Request form received regarding an SI with the following history:

(i) The SI has previously been denied under these rules or other Department criminal history check rules; or

(ii) The SI has a history of previous fitness determinations requiring weighing tests which were completed by the Department.

(C) If after conducting a criminal history check the Department determines that, based on the presence of a potentially disqualifying crime or condition, there is a potential for imminent danger to vulnerable individuals, the Department may make a fitness determination.

(D) The Department shall conduct a fitness determination if requested by a QE when the QE is temporarily unable to provide an AD to conduct a fitness determination.

(E) If an AD requests technical assistance, the Department may provide technical assistance or make the fitness determination.

(F) If the Department has reason to believe a fitness determination has not been conducted in compliance with these rules, the Department may repeat the criminal history check and conduct a fitness determination.

(G) The Department may review fitness determinations made by local ADs and make a new fitness determination at its discretion.

(H) The Department may conduct the fitness determination if the QE or AD is under investigation regarding compliance with these rules.

(c) Department Decision. A QE, including its ADs and CPs, may not overturn a fitness determination made by the Department.

(3) Closed Case.

(a) Incomplete Application. If the SI discontinues the application or fails to cooperate with the criminal history check process, the application is considered incomplete and will be closed. Discontinuance or failure to cooperate includes but is not limited to the following circumstances:

(A) The SI refuses to be fingerprinted when required by these rules.

(B) The SI fails to respond within a stated period of time to a request for corrections to the application, fingerprints or provide any other information necessary to conduct a criminal history check and there is not enough information available to make a fitness determination.

(C) The SI withdraws the application, leaves the position prior to completion of the check, or cannot be located or contacted by the QE or Department.

(D) The SI is determined to be ineligible for the position for reasons other than the criminal history check.

(b) No Hearing Rights. When the application is closed without a final fitness determination, there is no right to contesting the closure.

(4) Notice to SI. Upon completion of a final fitness determination, the Department or AD making the decision shall provide written notice to the SI. The notice shall:

(a) Format. Be in a format approved by the Department;

(b) Appeal Rights. If denied or approved with restrictions, include information regarding appeal rights and the notice becoming a final order in the event of a withdrawal or failure to appear at the hearing; and

(c) Timely Delivery. Be mailed or hand-delivered to the SI as soon as possible, but no later than 14 calendar days after the decision. The effective date of action shall be recorded on the form.

(5) Termination Following Denial or Closed Case. When an SI is denied or a case is closed, the SI shall not be allowed to work, volunteer, be employed, or otherwise perform in positions covered by these rules. A denial or closed case applies only to the position and application in question. A denial or closed case shall result in immediate dismissal.

(6) Documentation. Preliminary and final fitness determinations must be documented in writing, including any details as needed including but not limited to the weighing test, restrictions in a restricted approval, the potentially disqualifying crimes or convictions in a denial, or the reasons for a closed case.

(7) No Binding Precedent. The Department or AD shall make new fitness determinations for each application. The outcome of previous fitness determinations does not ensure the same outcome of a new fitness determination.

Stat. Auth.: ORS 181.537, 409.050

Stats. Implemented: ORS 181.537, 409.010

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0320, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09

407-007-0330

Contesting a Fitness Determination

(1) Fitness Determinations to Contest. A final fitness determination of denied or approved with restrictions is considered an adverse outcome. An SI with an adverse outcome may contest that fitness determination.

(2) Work Pending Appeal Prohibited. If an SI is denied, the SI may not hold the position, provide services or be employed, licensed, certified, or registered; or otherwise perform in positions covered by these rules. An SI appealing a restricted approval may only work under the terms of the restriction during the appeal.

(3) Employment Not Guaranteed. If an adverse outcome is changed at any time during the appeal process, the change does not guarantee employment or placement.

(4) History Disputed. If an SI wishes to challenge the accuracy or completeness of information provided by the OSP, the FBI, or other agencies reporting information to the Department, the SI may appeal to the entity providing the information. Such challenges are not subject to the Department's appeal process.

ADMINISTRATIVE RULES

(5) Legal Representation. An SI may represent himself or herself or have a legal representative during the appeal process. The SI may not be represented by a lay person. In this rule, the term "SI" shall be considered to include the SI's legal representative.

(6) Challenging the Fitness Determination. An SI who wishes to challenge an adverse fitness determination may appeal the determination by requesting a contested case hearing. The appeal process is conducted in accordance with ORS 183.411 to 183.497 and the Attorney General's Uniform and Model Rules of Procedure, "Office of Administrative Hearings," OAR 137-003-0501 to 137-003-0700. The SI must be notified of the opportunity for appeal on a form available from the Department.

(a) Appeal. To request a contested case hearing, the SI shall complete and sign the hearing request form. The form is provided to the SI at the time of the notice of denial and is also available by contacting the BCU.

(b) Deadline for Appeal. The completed and signed form must be received by the Department no later than 45 days after the notice of the fitness determination is signed by the AD.

(c) Untimely Appeal. In the event an appeal is not timely, the Department will determine, based on a written statement from the SI and available information, if there is good cause to proceed with the appeal.

(d) Hearing on Timeliness. The Department may refer an untimely request to the Office of Administrative Hearings (OAH) for a hearing on the issue of timeliness.

(7) Informal Administrative Review.

(a) Department Conducts Review. When an SI requests a contested case hearing, the Department may conduct an informal administrative review before referring the appeal to OAH.

(b) Participation. The SI must participate in the informal administrative review. Participation may include but is not limited to providing additional information or additional documents requested by the BCU within a specified amount of time.

(8) Criminal History Check. The Department may conduct additional criminal history checks during the appeal process to update or verify the SI's criminal history.

(9) Contested Case Hearing.

(a) Procedural Documents and Exhibits. The Department shall provide to the administrative law judge and the SI a complete copy of available information. The notice of contested case and prehearing summary shall be mailed by certified mail through the U.S. Postal Service. All other documents may be mailed by regular first class mail.

(b) Public Attendance. The informal conference and hearing are not open to the public.

(c) New Fitness Determination. The administrative law judge shall make a new fitness determination based on evidence and the contested case hearing record.

(d) Coordination with Licensure or Certification Hearing. A hearing pursuant to these rules may be conducted in conjunction with a licensure or certification hearing for the SI.

(10) Proposed and Final Orders.

(a) Notice of Fitness Determination as Final Order. In the following situations, the notice of fitness determination issued is final as if the SI never requested a hearing:

(A) Failure to request a hearing in the time allotted in this rule. No other document will be issued after the notice of fitness determination.

(B) Withdrawal of the request for hearing at any time during the appeal process.

(b) Informal Disposition. The Department may make an informal disposition based on the informal administrative review. The Department shall issue a final order and new notice of fitness determination. If the resulting fitness determination is an adverse outcome, the appeal shall proceed to contested case hearing.

(c) Dismissal Order.

(A) The SI may withdraw a hearing request verbally or in writing at any time before the issuance of a final order. A dismissal order due to the withdrawal is effective the date the withdrawal is received by the Department or the OAH. The SI may cancel the withdrawal in writing up to 14 calendar days after the date of withdrawal.

(B) The Department shall dismiss a hearing request when the SI fails to participate in the informal administrative review. Failure to participate in the informal administrative review shall result in termination of hearing rights. The order is effective on the due date for participation in the informal administrative review. The Department will review a good cause request to reinstate hearing rights if received in writing by the Department within 14 days.

(C) The Department shall dismiss a hearing request when the SI fails to appear at the time and place specified for the contested case hearing. The order is effective on the date scheduled for the hearing. The Department will review a good cause request to reinstate hearing rights if received in writing by the Department within 14 days.

(d) Order After Hearing. After a hearing, the administrative law judge issues a proposed and final order.

(A) If no written exceptions are received by the Department within 14 calendar days after the service of the proposed and final order, the proposed and final order becomes the final order.

(B) If timely written exceptions to the proposed and final order are received by the Department, the Department Director or the Director's designee shall consider the exceptions and serve a final order, or request a written response or a revised proposed and final order from the administrative law judge.

(e) Reconsideration and Rehearing. Final orders after a contested case hearing are subject to reconsideration or rehearing petitions within 60 calendar days after the order is served, pursuant to OAR 137-003-0675.

(f) Results to QE. The Department may provide the QE with the results of the appeal.

Stat. Auth.: ORS 181.537, 409.050

Stats. Implemented: ORS 181.534, 181.537, 183.341, 409.010

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0330, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09

407-007-0340

Record Keeping, Confidentiality

(1) LEDS Reports. All LEDS reports are confidential and shall be maintained by the AD in accordance with applicable OSP requirements in ORS chapter 181 and the rules adopted pursuant thereto (see OAR chapter 257, division 15).

(a) LEDS Access. LEDS reports are confidential and may only be shared with another AD if there is a need to know consistent with these rules.

(b) SI Access. The LEDS report and photocopies of the LEDS report shall not be shown or given to the SI.

(2) National (FBI) Information. The results of a national criminal history check provided by the FBI or the OSP are confidential and may not be disseminated by the Department with following exceptions:

(a) SI Access. If a fingerprint-based criminal history check was conducted on the SI, the SI shall be provided a copy of the records if requested.

(b) Contested Case Hearing Exhibits. The state and national criminal offender information shall be provided as exhibits during the contested case hearing.

(3) Department Forms and Other Documentation. All completed DHS Criminal History Request forms, other criminal history information, and other records collected or developed during the criminal history check process shall be kept confidential and disseminated only on a need-to-know basis.

(4) Retention. All criminal history check documents shall be retained and destroyed in accordance with records retention schedules published by Oregon State Archives and in accordance with federal law. The Department may not re-create notices of fitness determinations to replace destroyed or lost originals.

Stat. Auth.: ORS 181.537, 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0340, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09

407-007-0350

Immunity from Liability

(1) Fitness Determination. The Department, QE, AD, or CP, acting within the course and scope of employment, have immunity from any civil liability that might otherwise be incurred or imposed for determining, in accordance with ORS 181.537 that an SI is fit or not fit to hold a position, provide services, or be employed, licensed, certified, or registered.

(2) Hiring. The Department, QE, AD, or CP, acting within the course and scope of employment, and an employer or employer's agent are not liable for the failure to hire a prospective employee or the decision to discharge an employee on the basis of the QE's decision if they in good faith comply with:

(a) ORS 181.537; and

(b) The decision of the QE or employee of the QE acting within the course and scope of employment.

ADMINISTRATIVE RULES

(3) Dissemination of Information. No employee of the state, a business, or an organization, acting within the course or scope of employment, is liable for defamation, invasion of privacy, negligence, or any other civil claim in connection with the lawful dissemination of information lawfully obtained under ORS 181.537.

Stat. Auth.: ORS 181.537, 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0350, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09

407-007-0355

Agreements With Other Entities

The Department and the Oregon State Board of Nursing (Board) shall enter into an interagency agreement to share the results of national criminal history checks conducted pursuant to these rules on SIs who are subject to criminal history check by both the Department and the Board.

Stat. Auth.: ORS 181.537, 409.050

Stats. Implemented: ORS 181.534, 181.537, 678.153, 409.010

Hist.: DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09

Department of Human Services, Children, Adults and Families Division: Child Welfare Programs Chapter 413

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 5-2009(Temp)

Filed with Sec. of State: 3-31-2009

Certified to be Effective: 3-31-09 thru 9-27-09

Notice Publication Date:

Rules Amended: 413-070-0900, 413-070-0905, 413-070-0915, 413-070-0917, 413-070-0920, 413-070-0925, 413-070-0930, 413-070-0935, 413-070-0937, 413-070-0940, 413-070-0945, 413-070-0955, 413-070-0960, 413-070-0965, 413-070-0970, 413-070-0980

Rules Suspended: 413-070-0910, 413-070-0950, 413-070-0981

Subject: OAR 413-070-0900, 413-070-0905, 413-070-0915, 413-070-0917, 413-070-0920, 413-070-0925, 413-070-0930, 413-070-0935, 413-070-0937, 413-070-0940, 413-070-0945, 413-070-0955, 413-070-0960, 413-070-0965, 413-070-0970, and 413-070-0980 about the Department's Guardianship Assistance Program are being amended, and OAR 413-070-0910, 413-070-0950, and 413-070-0981 about the Department's Guardianship Assistance Program are being suspended, to comply with the requirements of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008. The Department had administered its Guardianship Assistance Program as a demonstration project approved by the federal Department of Health and Human Services under a waiver allowed by Section 1130 of the Social Security Act (Title IV-E). The Department cannot claim federal financial participation for relative guardianships established after September 30, 2008 and prior to submission of an approved state Title IV-E plan necessitating these rule amendments and suspensions. These rules are also being amended to correct and update these rules to be consistent with Department policy and practice, remove language referring to the demonstrations project and waiver program, and remove language that does not need to appear in administrative rule.

OAR 413-070-0900 about the purpose of OAR 413-070-0900 to 413-070-0982 is being amended to restate that the purpose of these rules is to put forth the Department criteria on eligibility for a subsidized guardianship as a permanency planning option for a child in substitute care.

OAR 413-070-0905 about the definitions used in OAR 413-070-0900 to 413-070-0982 is being amended to restate that "guardianship assistance" means financial or medical benefits to a guardian for costs associated with the needs of the child under guardianship and that benefits may be in the form of cash, Medicaid coverage, non-

recurring legal costs incurred in establishing the guardianship, or Title XIX Personal Care payments.

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

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

OAR 413-070-0917 about the additional Guardianship Assistance Program eligibility requirements for a child in the care and custody of a tribe is being amended to state that a foster home certified by a tribe meets the Department's foster home licensing requirements; and that a participating tribe agrees to document how continued placement with the current caregiver in a guardianship is in the best interests of the child; and that if the tribe reestablishes custody of a child formerly in a guardianship placement, the tribe must notify within 30 days and provide a copy of the court order terminating the guardianship to the Department's Central Office Adoption Services Unit.

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

ADMINISTRATIVE RULES

guardianship placement with the current caregiver is approved by the participating tribe.

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

OAR 413-070-0930 about the income and payment standards and medical benefits in the Guardianship Assistance Program is being amended to state that the guardianship assistance payment can be no greater than the Department's foster care maintenance rate under OAR 413-090-0000 to 413-090-0500 based upon the age of the child; to restate the guardian must be the designated payee for any of the child's benefits except child support and tribal dividend payments; and to restate that the child's benefit income does not include tribal dividend payments. This rule is also being amended to restate that a child residing outside of Oregon may receive guardianship assistance benefits based on the basic foster care maintenance rate of the child's state of residence and state that as long as the payment can be identified as a program payment and is kept separate from other money in the guardian's possession a guardianship assistance payment is inalienable and not assignable or transferable, and exempt from execution, levy, attachment, garnishment, and other legal process under the laws of Oregon. This rule is also being amended to state that a guardianship assistance benefit payment does not automatically increase and a guardian may request an increase due to the age of the child, cost of living increases, or other legislatively approved increases to the basic foster care maintenance payment; and that any retroactive increase may only be commencing on the first day of the month in which the increase was requested. This rule is also being amended to state that the Department may adjust guardianship assistance benefits when the child's income used to calculate the basic guardianship assistance monthly benefit payment changes and that a child eligible for Guardianship Assistance Program benefits is eligible for medical benefits under OAR 413-100-0400 to 413-100-0610.

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

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

OAR 413-070-0940 about when the Department suspends or terminates Guardianship Assistance Program benefits is being amended to restate that the Department terminates or suspends benefits

when a child is placed into substitute care with no plan for the child to return to the care of the guardian and when a child is incarcerated for more than three months. This rule is also being retitled "Suspension or Termination of Guardianship Assistance Benefits" to better reflect the rule's content.

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

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

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

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

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

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

OAR 413-070-0980 about what happens when legislative or executive branch actions make it necessary for the Department to reduce Guardianship Assistance Program benefit levels is being amended to restate the Department sends recipients notice ten days before the effective date of any reduction and that the notice will include the amount or percentage reduction in the benefits, the effective date of the reduction, and the reason for the reduction. This rule is also being amended to restate that any reduction in the benefits applies uniformly to every recipient and does not constitute a change in circumstances warranting a review of the benefit amount under OAR 413-070-0930.

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

Rules Coordinator: Annette Tesch—(503) 945-6067

ADMINISTRATIVE RULES

413-070-0900

Purpose

The purpose of these rules (OAR 413-070-0900 to 413-070-0982) is to set forth criteria used to determine eligibility for a subsidized guardianship as a permanency planning option for a child in substitute care.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09

413-070-0905

Definitions

As used in these rules (OAR 413-070-0900 to 413-070-0982), "guardianship assistance" means financial or medical benefits to a guardian for costs associated with the needs of the child under guardianship. Benefits may be in the form of cash, Medicaid coverage, nonrecurring legal costs incurred in establishing the guardianship, or Title XIX Personal Care payments.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09

413-070-0910

Values

(1) The protection and safety of a child are always the first priorities. Services are child centered and family focused.

(2) The Department supports permanency for children and recognizes that sometimes neither family reunification nor termination of parental rights and adoption best serve the permanency needs of the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: Title IV-E, Title IV-B, PL 103-432

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; Suspended by CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09

413-070-0915

Eligibility; Child

In the Guardianship Assistance Program:

(1) A child is eligible to participate if:

(a) The Department determines other permanency options, including return to a parent or adoption, are not in the child's best interest; and

(b) A county mental health or developmental disability system does not provide the child's substitute care or Title XIX maintenance payment.

(2) A child eligible for the Guardianship Assistance Program remains eligible for the program when removed from the guardianship, if the child meets one of the following:

(a) The child is removed from the guardianship placement and placed in foster care. The Department reviews continued eligibility for Title IV-E foster care based on the child's deprivation of parental support and the child's financial circumstances. The guardian's income is not considered during this review, nor is the guardian obligated to pay child support upon the child's return to substitute care. Eligibility for Title IV-E benefits may be reestablished based on the child's original removal from the parental or relative home if the child continues to be deprived of parental support; the child meets personal financial eligibility criteria; and all court-related findings related to an initial removal are met.

(b) The child previously was determined eligible for the Guardianship Assistance Program and subsequently placed in foster care, but then is removed from foster care and returns to the guardian. The child remains eligible for the Guardianship Assistance Program without regard to whether or not the child is deprived of parental support at the time of the child's return to the guardian's care and without regard to the child's eligibility status while in foster care.

(c) A child moving from guardianship assistance to adoption remains eligible for Title IV-E adoption assistance.

(3) The Department does not reestablish the dependency of a child placed into guardianship unless the Department determines there is cause for removal from the guardian's home due to abuse or neglect or would otherwise reestablish dependency for reasons such as a change in the guardian's circumstances making the guardian unable to care for the child or the death of the guardian.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04

thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09

413-070-0917

Eligibility; Participation by a Tribe

In addition to the other Guardianship Assistance Program criteria under these rules (OAR 413-070-0900 to 413-070-0982), the following requirements apply to a child in the care and custody of a tribe:

(1) A child eligible for benefits under Title IV-E in the legal care and custody of a tribe having a Title IV-E agreement with the Department may participate in the Guardianship Assistance Program.

(2) A child of any age in the legal care and custody of a tribe and in a related certified foster home may participate in the Guardianship Assistance Program.

(3) A foster home certified by a tribe and meeting the standards of the tribe for a licensed foster home meets the Department's foster home licensing requirements.

(4) For a guardianship authorized by a tribe for child in the tribe's care and custody, a participating tribe agrees that the tribe must make a separate visit to the home to conduct a specialized guardianship study of the Department's design and document how continued placement with the current caregiver in a guardianship is in the best interests of the child and meets the child's needs for safety and permanency.

(5) A participating tribe agrees that if the tribe reestablishes custody of a child formerly in a guardianship placement established under these rules, the tribe must notify within 30 days and provide a copy of the court order terminating the guardianship to the Department's Central Office Adoption Services Unit.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09

413-070-0920

Guardianship Placement

The Department or a participating tribe may consider a legal guardianship as a permanent plan for a child under all of the following conditions:

(1) The child has been in the Department's or the participating tribe's legal custody for a minimum of:

(a) Six months, if the prospective guardian is a relative; or

(b) Twelve months, if the prospective guardian is not a relative.

(2) The child is in foster care and eligible for a Title IV-E foster care payment, however receipt of the payment is not required.

(3) The child has a stable and positive relationship with a prospective guardian and has lived for the past six contiguous months in the home of the prospective guardian.

(4) Each sibling in the same sibling group placement is eligible, providing at least one sibling meets all eligibility criteria under this rule, regardless of the timing of each individual placement.

(5) The prospective guardian of the child is a relative or, if the prospective guardian is not a relative, the child is 12 years of age or older. The Department waives the age requirement for the members of a sibling group placed with a non-relative prospective guardian if at least one sibling is 12 years of age or older and meets all other subsidized guardianship criteria under this rule.

(6) The child cannot safely return home. This requirement is met when:

(a) Reunification with a parent of the child is not possible within a reasonable timeframe; and

(b) The Department determines through a Branch Permanency/Adoption Council Committee review that adoption is not an appropriate plan for that child (see Child Welfare Policy I-F.2, "Determining the Appropriateness of Adoption as a Permanency Plan for a Child (OAR 413-110-0300 to 413-110-0360) and Child Welfare Policy I-F.3.2.1, "Termination of Parental Rights" (413-110-0200 to 413-110-0252)).

(7) The Department and the prospective guardian agree, and the Department documents in the child's case record, that the child and the prospective guardian can maintain a stable relationship and function effectively without Department supervision.

(8) A Department or participating Tribe's Permanency/Adoption Council Committee formally assesses the placement and finds that continuation of the placement is in the child's best interests because the placement supports the safety, permanency, and well-being of the child.

(9) The child does not require the ongoing services of a Department case manager because:

ADMINISTRATIVE RULES

(a) The child has no ongoing need requiring Department services or funding (such as a need covered by insurance);

(b) The child has a need, but it does not require continued Department services or funding; or

(c) The child has a need that can be met through a community or other resource and the guardian agrees to access or continue to use that resource.

(10) Each legal parent consents to the guardianship placement or has been given adequate notice under the law.

(11) The Department consult with the child, if 14 years of age or older, regarding the guardianship placement.

(12) A court guardianship order terminates the order for Department or tribal care, custody, and supervision; or, if a child has been committed permanently to the Department, the court guardianship order sets aside or modifies the order of permanent commitment, relieving the Department of responsibility for the child.

(13) The child is a legal resident of, an immigrant to, or citizen of the United States, and is under the care of a caregiver residing in this country legally.

(14) If the child is a Title IV-E eligible Indian child, as defined by the Indian Child Welfare Act (ICWA), and in the care and custody of the Department, the plan for guardianship placement with the current caregiver is approved by the participating tribe.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09

413-070-0925

Eligibility; Guardian

The Department may approve a guardian for Guardianship Assistance Program benefits when the guardian meets all of the following requirements:

(1) Be a certified foster parent under Child Welfare Policy II-B.1 "Certification Standards for Foster Parents, Relative Caregivers, and Pre-Adoptive Parents", OAR 413-200-0301 to 413-200-0396, currently providing care to a child being considered for guardianship. The foster parent must:

(a) Have a strong commitment to the child;

(b) Provide a safe and suitable placement for the child; and

(c) Meet Department standards for ongoing care of the child as determined by a family study or specialized guardianship assessment.

(2) Be a caregiver who demonstrates the commitment and ability necessary to provide a safe, permanent home for the child for at least the past six contiguous months as verified through a guardianship assessment.

(3) Require no significant ongoing casework services at the time the guardianship is established and demonstrate an ability to safeguard the welfare of the child, including protection from any individual or situation that brought the child into the care and custody of the Department.

(4) Have a means of financial support and connections to community resources.

(5) Agree to comply with all of the following requirements of the Department of Justice, Division of Child Support (DCS):

(a) Submitting an application for child support services in connection with each of the child's parents.

(b) Assigning to the Department, upon obtaining the right to receive child support, the right to receive:

(A) All current support payments; and

(B) Any support payment accruing before the child is placed with the guardian.

(c) Cooperating with DCS and the Department as required by the rules of the Child Support Program.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09

413-070-0930

Income and Payment Standards and Medical Benefits; Guardianship Assistance Program

In the Guardianship Assistance Program:

(1) When guardianship assistance is authorized, the guardianship assistance payment amount may be no greater than the foster care maintenance rate under Child Welfare Policy I-E.5.1 "Maintenance and Treatment

Payments", OAR 413-090-0000 to 413-090-0500 based on the age of the child.

(2) The guardianship assistance payment is established and paid as follows:

(a) The Department considers all sources of income, except child support and tribal dividend payments, available to the child when determining the monthly assistance rate.

(b) The guardian must be the designated payee for any benefits the child receives other than child support and tribal dividend payments, except that the guardian must assign to the Department benefits received irregularly by the guardian to avoid adjustments in the Guardianship Assistance Program benefits.

(c) The guardianship assistance payment is calculated by taking the difference between the child's benefit income, which does not include child support and tribal dividend payments, and the most recent payment for foster care maintenance. For example, if the child receives Social Security benefits, that income is deducted from the foster care maintenance rate when determining the amount of the guardianship assistance payment.

(d) The guardianship assistance monthly benefit is contingent upon the guardian's continued compliance with the requirements of the Division of Child Support (see OAR 413-070-0925). The Department may terminate or suspend guardianship assistance benefits effective the date the Department determines the guardian has failed to comply with this subsection.

(3) A child residing outside the state of Oregon may receive guardianship assistance benefits based on the basic foster care maintenance rate in the child's state of residence.

(4) The effective date of guardianship assistance services is the later of the date all parties have signed the guardianship assistance agreement (see OAR 413-070-0935) or the date of the court order of guardianship.

(5) When a child receiving guardianship assistance benefits is placed in substitute care, the Department evaluates the change in circumstances and adjusts the guardianship assistance benefits as appropriate. If the guardian is involved in the child's treatment, and the plan is for the child to return to the guardian's home, the guardian may ask to have the guardianship assistance benefits suspended, continued, or adjusted to reflect current expenses. If the child returns to the care of the guardian, the Department reviews the guardianship assistance benefits and adjusts the benefits as appropriate.

(6) A guardianship assistance payment to a legal guardian who was a Department certified foster parent for the child prior to becoming a court-designated guardian is inalienable, not assignable or transferable, and exempt from execution, levy, attachment, garnishment, and other legal process under the laws of Oregon, as long as the payment can be identified as a program payment and is kept separate from other money in the guardian's possession.

(7) The guardianship assistance benefit payment does not automatically increase. A guardian may request an increase in the child's payment up to the current foster care maintenance rate based on the age of the child, cost of living increases, or other legislatively approved increases to the basic foster care maintenance payment. A retroactive guardianship assistance benefit payment increase may only be authorized for the period commencing the first day of the month in which the increase request is made.

(8) The Department may adjust the guardianship assistance benefits when the child's income used to calculate the basic guardianship assistance monthly benefit payment changes.

(9) A child eligible for Guardianship Assistance Program benefits is eligible for medical benefits under Child Welfare Policy I-E.6.2 "Title XIX and General Assistance Medical Eligibility", OAR 413-100-0400 to 413-100-0610.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09

413-070-0935

Guardianship Agreement

In the Guardianship Assistance Program:

(1) Before a guardian may receive guardianship assistance benefits, there must be a written guardianship assistance agreement between the Department and the guardian for the financial support of the child in question. The agreement must state all of the following:

(a) The amount of the guardianship assistance subsidy and manner in which the benefits will be provided.

ADMINISTRATIVE RULES

(b) The manner in which the benefits may be adjusted periodically in consultation with the guardian, based on the changed circumstances of the guardian or needs of the child.

(c) The additional services and assistance for which the child and guardian are eligible under the agreement and the procedure by which the guardian may apply for additional services.

(d) The Department pays for nonrecurring expenses associated with obtaining legal guardianship of the child to the extent the total of these expenses does not exceed \$1,500.

(e) The agreement remains in effect without regard to the state of residency of the guardian.

(f) That the guardian understands:

(A) No retroactive foster care maintenance payment increase may be authorized;

(B) An increase in the foster care maintenance payment due to the child's change in age is effective the first day of the month in which the request for increased benefits is made; and

(C) The Department may review and adjust accordingly a child's personal care needs at the Department's discretion.

(g) That in the event a legislative or executive branch action affecting the Department's budgeting or spending authority makes it necessary for the Department to implement budget reductions to the Guardianship Assistance Program these reductions may result in reduced guardianship assistance benefits.

(h) The guardian must submit an application for child support enforcement services for each of the child's parents.

(i) The guardian agrees to cooperate with child enforcement services under OAR 413-070-0925(5).

(j) The guardian understands guardianship assistance monthly benefits are contingent upon the guardian's cooperation with the requirements under OAR 413-070-0925(5).

(k) The guardian understands that Guardianship Assistance Program benefits may be terminated or suspended under OAR 413-070-0930 for failure to comply with 413-070-0925(5), or under 413-070-0940.

(l) That each child for whom the Department is providing guardianship assistance benefits remains eligible for medical assistance once the guardianship is established.

(m) The guardian agrees to comply with the Guardianship Assistance Program reporting requirements under OAR 413-070-0955.

(2) The Department must provide the guardian with a copy of the guardianship agreement.

(3) The Department may review each guardianship agreement at the Department's discretion.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09

413-070-0937

Court Order of Guardianship

When the Department determines that guardianship is the appropriate placement for a child, the Department establishes a guardianship under ORS 419B.365 or 419B.366 and as provided under 419B.367 to 419B.369.

(1) The Department will not pursue a court order establishing a guardianship until an application is approved by the Department's Central Office Adoption Services Unit.

(2) The caregiver is ineligible for foster care maintenance payments once the guardianship is effective and the Department's custody of the child is terminated by court order.

(3) The Department will not approve guardianship assistance if the court establishes guardianship and orders the Department to continue supervision of the child or guardian.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09

413-070-0940

Suspension or Termination of Guardianship Assistance Benefits

In the Guardianship Assistance Program:

(1) The guardianship appointment and guardianship assistance monthly benefits and services continue without court involvement. The Department terminates or suspends guardianship assistance benefits on the day when any one of the following occurs:

(a) The child reaches age 18 or is emancipated, whichever comes first;

(b) Child custody or guardianship is awarded to another individual;

(c) The child dies;

(d) The child marries;

(e) The child is adopted;

(f) The child is placed in substitute care with no plan for the child to return to the care of the guardian; or

(g) The guardian dies or terminates the guardianship.

(2) The Department may terminate or suspend guardianship assistance payment when any one of the following occurs:

(a) The child is incarcerated for more than three months;

(b) The child is out of the home for more than a 30-day period or is no longer living in the home; or

(c) The guardian is no longer legally responsible for the financial support of the child or the child is no longer receiving financial support from the guardian.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09

413-070-0945

Annual Reviews of Eligibility and Reports to the Court

In the Guardianship Assistance Program:

(1) The Department may review eligibility for guardianship assistance on at least an annual basis.

(2) The guardian, within 30 days after each annual anniversary of the court appointment of guardianship, must file a written report with the court and submit a copy of the report to the Department's Central Office Adoption Services Unit.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 19-2003(Temp), f. & cert. ef. 1-23-03 thru 6-20-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09

413-070-0950

Eligibility Retention

A child eligible for guardianship assistance may remain eligible, if removed from the guardianship, according to the following provisions:

(1) If a child eligible for guardianship assistance is removed from the guardianship placement and placed in foster care, the Department reviews continued eligibility for Title IV-E foster care based on the child's deprivation of parental support and the child's financial circumstances. The guardian's income is not considered during this review, nor is the guardian obligated to pay child support upon the child's return to substitute care. Eligibility for Title IV-E benefits may be re-established based on the child's original removal from the parental or relative home if the child continues to be deprived of parental support; the child meets personal financial eligibility criteria; and all court-related findings related to an initial removal are met.

(2) A child previously determined eligible for Guardianship Assistance who subsequently is placed in foster care but is then removed from foster care remains eligible for Guardianship Assistance without regard to whether the child is deprived of parental support at the time of child's return to the guardian's care and without regard to the child's eligibility status while in foster care.

(3) A child moving from Guardianship Assistance to adoption remains eligible for Title IV-E adoption assistance.

(4) The Department does not re-establish the dependency of a child placed into guardianship under this demonstration project unless the Department determines there is cause for removal from the guardian's home due to abuse or neglect or unless the Department would otherwise re-establish dependency for reasons unrelated to the expiration of the waiver or the termination of this demonstration, such as a change in the care giver's circumstances that leaves the care giver unable to care for the child.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; Suspended by CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09

ADMINISTRATIVE RULES

413-070-0955

Changes That Must be Reported

A guardian receiving Guardianship Assistance Program benefits must report any of the following changes to the Department's Central Office Adoption Services Unit within ten days of occurrence. The report may be made orally or in writing:

(1) A change in circumstances indicates that there is no longer a need for guardianship assistance, including but not limited to:

(a) The child's:

(A) Absence for longer than 30 days from or the child is not currently living in the guardian's home;

(B) Adoption;

(C) Death;

(D) Emancipation;

(E) Incarceration for more than three consecutive months;

(F) Marriage; or

(G) Placement in substitute care with no plan for the child to return to the care of the guardian.

(b) Custody or guardianship of the child is granted to another individual.

(2) The guardian:

(a) Has a change of address;

(b) Is no longer legally responsible for the financial support of the child or the child is no longer receiving financial support from the guardian; or

(c) Is planning to move out of the state of Oregon.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09

413-070-0960

Special Payments; Vendor Attorney and Legal Expenses

In the Guardianship Assistance Program:

(1) The Department may pay for some costs incurred by the guardian in the establishment of a guardianship of a child under Child Welfare Policy I-E.5.5 "Payments for Providing Direct Client Legal Services", OAR 413-090-0500 to 413-090-0550.

(2) The Department may authorize payment for reimbursement of or payment for the cost to publish notice to absent parents of the Department's intent to establish guardianship of a child.

(3) The Department may not authorize payment for legal services provided:

(a) In connection with a contested case; or

(b) To defend or retain guardianship upon challenge by another party once a guardianship is established.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09

413-070-0965

Application Requirements

In the Guardianship Assistance Program:

(1) A guardianship assistance applicant must complete and sign an application, and return the application to the Department branch office providing case management for review and eligibility determination.

(2) A guardian is not required to apply for the Guardianship Assistance Program and applying is voluntary.

(3) An applicant may withdraw an application at any time.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09

413-070-0970

Guardianship; Social and Support Services

(1) The Department provides a range of services to a caregiver before a guardianship is established. The Department provides an orientation to the prospective guardian and prospective guardian's family to assure that each family member understands the benefits and responsibilities of each individual in the guardianship. The orientation includes biological and legal parents when possible, particularly when intra- and inter-familial tensions

between a birth parent and a prospective guardian affect the well-being of the child, prospective guardian, or prospective guardian's family.

(2) A guardian and the child in the guardianship have access to local Department services after establishment of the guardianship as do adoptive parents, including access to the Oregon Post Adoption Resource Center or other contracted resource center, and crisis intervention services

(3) Upon the establishment of a guardianship, the caseworker must conduct an exit conference with the guardian, guardian's family, and the child and ensure the guardian and guardian's family have contact information for social and support services. The caseworker must advise the guardian family to call Intake Screening to request services in the county in which the family resides. The caseworker must explain that requesting services does not place the guardianship in jeopardy.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09

413-070-0980

Budgetary Reductions of Guardianship Assistance

(1) If a legislative or executive branch action makes it necessary for the Department to reduce Guardianship Assistance Program benefits, the Department sends notification to each recipient of Guardianship Assistance Program benefits ten days before the effective date of any reduction about the following:

(a) The amount or percentage of the guardianship assistance benefit reduction;

(b) The effective date of the reduced guardianship assistance benefit amount; and

(c) The reason for the reduction.

(2) Any reduction to Guardianship Assistance Program benefits:

(a) Applies uniformly to every recipient of Guardianship Assistance Program benefits.

(b) Does not constitute a change in circumstances warranting a review of the recipient's Guardianship Assistance Program benefits under OAR 413-070-0930.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 19-2003(Temp), f. & cert. ef. 1-23-03 thru 6-20-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09

413-070-0981

Rate Changes

(1) Effective February 1, 2003, the monthly payments payable under all Guardianship Assistance agreements in effect on January 31, 2003, are reduced as follows:

(a) A 7.5 percent reduction to the base rate of Guardianship Assistance payments is applied uniformly to all recipients of Guardianship Assistance. Oregon's new monthly basic rates are:

(A) Child's Age — 0-5 — 6-12 — 13-18;

(B) Base rate — \$350 — \$364 — \$449.

(b) The Personal Care Rate portion of Guardianship Assistance, which provides payment for additional support and supervision of the child, is reduced by ten percent to \$4.15 per hour.

(2) Effective November 1, 2003, the monthly payments payable under all Guardianship Assistance agreements in effect on October 31, 2003, are changed as follows:

(a) An 8.108 percent increase to the base rate of Guardianship Assistance payments is applied uniformly to all recipients of Guardianship Assistance. Oregon's new monthly basic rates are:

(A) For children under six years of age — \$378.

(B) For children who have reached six years of age but are under the age of 13 — \$393.

(C) For children who have reached 13 years of age but are under the age of 19 — \$485.

(b) A 2.444 percent increase to the Personal Care Rate portion of Guardianship Assistance, which provides payment for additional support and supervision of the eligible child. This rate is increased to \$4.61 per hour.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 20-2003(Temp), f. 1-31-03, cert. ef. 2-1-03 thru 7-30-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 36-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04; Suspended by CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09

ADMINISTRATIVE RULES

**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 5-2009

Filed with Sec. of State: 4-1-2009

Certified to be Effective: 4-1-09

Notice Publication Date: 2-1-2009

Rules Amended: 461-001-0000, 461-110-0350, 461-110-0370, 461-120-0125, 461-135-1175, 461-135-1230, 461-135-1250, 461-140-0040, 461-145-0455, 461-145-0460, 461-145-0580, 461-160-0060, 461-160-0410, 461-160-0550, 461-160-0551, 461-165-0060, 461-165-0180, 461-165-0410, 461-165-0420, 461-170-0011, 461-170-0101, 461-170-0102, 461-170-0103, 461-170-0104, 461-170-0150, 461-170-0160, 461-175-0280, 461-180-0006, 461-180-0070

Rules Repealed: 461-120-0125(T), 461-135-1250(T), 461-160-0550(T), 461-160-0551(T), 461-165-0060(T)

Subject: OAR 461-001-0000 about Definitions for Chapter 461 is being amended to define the term "branch office".

OAR 461-110-0350 about the composition of filing groups in the Employment Related Day Care (ERDC) program is being amended to clarify that the term spouse includes persons who are not legally married to each other, but represent themselves to the community as being married or as domestic partners and they share living expenses and household duties.

OAR 461-110-0370 about Food Stamp (FS) program filing groups is being amended to revise who may form a separate filing group, who must be included, and who may be included in the filing group. The rule is being amended to state an individual who is elderly, blind, or has a disability and lives in federally subsidized housing may form a separate filing group. The rule is also being amended to state that a spouse in the same facility as a resident of an alcohol or drug treatment program may be in a separate filing group, but the child of a resident must be in the same filing group. The rule is also being amended to state that residents of commercial boarding houses and ineligible students are excluded from the FS filing group.

OAR 461-120-0125 about the alien status eligibility requirements for all programs except Refugee is being amended to extend the eligibility time frame for Afghani Special Immigrants for Food Stamp (FS) benefits from September 30, 2008 to September 30, 2009. This rule is also being amended to make the changes in the temporary rule permanent.

OAR 461-135-1175 about the Senior Farm Direct Nutrition Program (SFDNP) is being amended to state that to be eligible for SFDNP the Department must receive the client's letter of interest no later than September 15 of the given year.

OAR 461-135-1230 about benefits in the Temporary Assistance - Domestic Violence Survivors (TA-DVS) program is being amended to state that payments are used to address certain specific needs related to the client's domestic violence situation and are not used for ongoing or recurrent needs. This rule is also being amended to update the description of how payments are issued.

OAR 461-135-1250 about specific client eligibility and participation requirements in the Post-TANF program is being amended to make permanent a temporary rule providing that effective February 1, 2009 the monthly Post-TANF benefit amount will be \$100.00 (reduced from \$150.00). This rule is also being amended to state that a client is no longer eligible for Post-TANF benefits when the client does not meet federal JOBS participation requirements due to loss of employment, reduced work hours and the client chooses not to participate in required JOBS activities, or reduced JOBS activity hours without good cause that when combined with work hours does not meet the federal JOBS participation requirements.

OAR 461-140-0040 about determining the availability of a client's income is being amended to indicate that in the Employment Related

Day Care (ERDC) program income is considered not available to the client when the client is a victim of domestic violence, the income is controlled by the client's abuser, and the abuser is not in the client's filing group.

OAR 461-145-0455 about federal Reception and Placement Grants and how they are treated in the Department's public assistance, medical and Food Stamp (FS) programs is being amended to state that in the FS program the Department treats these grants as unearned income when paid directly to a FS household and an excluded in-kind payment when paid directly to a provider.

OAR 461-145-0460 about how client funds from the sale of a resource are treated in the Department's public assistance, medical, and Food Stamp (FS) programs is being amended to restate how the Department treats income received on a regular basis from the sale of a home in the FS program.

OAR 461-145-0580 about how Veterans Benefits are treated in the Department's public assistance, medical, and Food Stamp (FS) programs is being amended to state that in the FS program the Department treats Aid and Attendance payments as unearned income and remaining benefits are counted unless excluded by another rule.

OAR 461-160-0060 about the use of rounding when calculating benefit amounts in the Department's programs is being amended to simplify the rounding calculations when determining Food Stamp eligibility and benefit amounts to the minimum federal requirements.

OAR 461-160-0410 about the treatment of income and income deductions in the Food Stamp (FS) program when a group includes ineligible or disqualified members is being amended to treat all qualified non-citizens the same regardless of whether they meet the alien status requirements of the FS program.

OAR 461-160-0550 about income deductions for non-SSI OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) clients in the community when no children are in the household group is being amended to make permanent a temporary rule change indicating that when adjusted income of the applicant is less than the one-person standard, the countable income used in determining adjustable income of an ineligible spouse is the difference between the SSI standard for an individual and that for a couple.

OAR 461-160-0551 about income deductions for non-SSI OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) clients in the community when children are in the household group is being amended to make permanent a temporary rule change that removed language that requires the rule to be updated and changed every year when federal SSI program standards change.

OAR 461-165-0060 about the minimum benefit amount in the Refugee, Food Stamp (FS), and Temporary Assistance to Needy Families (TANF) programs is being amended to make permanent a temporary rule change stating that in the FS program eligible one- and two-person benefit groups receive a minimum monthly FS allotment of eight percent of the Thrifty Food Plan (TFP) for a one-person household, as determined annually by the United States Department of Agriculture, Food and Nutrition Service.

OAR 461-165-0180 about eligibility for payment as a child care provider through the Department's self sufficiency programs is being amended to restate the eligibility requirements for child care providers. This rule is being amended to restate: when the Department must approve a child care provider to receive payment, when ineligibility for payment may result, what the provider must submit to the Department, the requirements the provider must meet, what each subject individual must do, and what each provider must do. This rule is also being amended to state that all subject individuals must allow the Department to conduct criminal history checks through the Oregon State Police and the Federal Bureau of Investigation, and that to be approved the subject individual cannot have a history indicating substantial risk to the well-being to children in the care of the provider. This rule is also being amended to state that certified foster parents must obtain written approval from their certifi-

ADMINISTRATIVE RULES

er or certifier's supervisor to become a child care provider eligible to be paid by the Department.

OAR 461-165-0410 about criminal history disqualifying a child-care provider from receiving payments from the self sufficiency programs of the Department is being amended to state that a subject individual charged with or arrested for certain violent, drug, or sexual crimes is presumed likely to engage in conduct posing a significant risk to a client, the Department, or a vulnerable individual and that this presumption may result in a child care provider being found ineligible to receive payment from the Department. This rule is also being amended to correct cross-references to other rules.

OAR 461-165-0420 about child protective service histories disqualifying a child-care provider from receiving payments from the self sufficiency programs of the Department is being amended to state: what information the Department may use to determine if a child care provider may be ineligible to receive payment from the Department, that a provider's failure to disclose all requested information results in a finding of failed, and that the Department may find a provider eligible for payment even when there is a potentially disqualifying history of behavior if the behavior is unlikely to be repeated and children's well being is not jeopardized. This rule is also being amended to correct an inaccurate cross-reference to another rule.

OAR 461-170-0011 about changes a client must report to the Department is being amended to state that a client in the Employment Related Day Care (ERDC) program who is not participating in the Simplified Reporting System (SRS) must report changes within ten days of occurrence and that the changes that must be reported are a change in: child care provider, employment status, mailing address or residence, membership of the filing group, source of income expected to continue. This rule is also being amended to state that when a client in the Employment Related Day Care (ERDC) program is in the Simplified Reporting System (SRS) must report changes by the tenth day of the month following the month of occurrence and that the changes that must be reported are monthly income exceeding the Food Stamp countable income limit, a change in mailing address, a change in child care provider, loss of employment, or the spouse of the caretaker moves in; and when an ERDC case without a companion FS case may continue to follow the SRS reporting requirements.

OAR 461-170-0101 about the Simplified Reporting System (SRS) for the Employment Related Day Care (ERDC) and Food Stamp (FS) programs is being amended to clarify that ERDC and FS companion cases may participate in SRS.

OAR 461-170-0102 about the Interim Change Report that clients in the Simplified Reporting System (SRS) are required to submit is being amended to indicate that there is no mandatory six month report form required when the household has no earned income and all adult members are elderly or have a disability. This rule also is being amended to state this rule also applies to Employment Related Day Care (ERDC) clients when a client's case is also a companion Food Stamp (FS) case.

OAR 461-170-0103 about what actions result from changes in household circumstances reported by clients assigned to the Simplified Reporting System (SRS) is being amended to extend the rule to Employment Related Day Care (ERDC) clients when a client's case is also a companion Food Stamp (FS) case.

OAR 461-170-0104 about the effect on a client's benefits when a client assigned to SRS does not submit a complete Interim Change Report is being amended to extend this rule to Employment Related Day Care (ERDC) clients when a client's case is also a companion Food Stamp (FS) case.

OAR 461-170-0150 about Anticipating with Periodic Review (APR) for clients in the Employment Related Day Care (ERDC) program is being amended to allow for an increased length of the APR certification periods.

OAR 461-170-0160 about when a re-application form is considered complete or not received from a client in the Employment Related

Day Care (ERDC) program is being amended to state that ERDC clients must submit a re-application form at the end of the Anticipating with Periodic Review (APR) certification period, before eligibility can be determined and a new APR certification period can be established.

OAR 461-175-0280 about the type of notice sent to a client when the client fails to submit a required report and the consequences to the client of not submitting that report when the client is participating in Anticipating with Periodic Review (APR), the Monthly Reporting System (MRS), or the Simplified Reporting System (SRS) is being amended to state that a client failing to submit in a timely manner a required Interim Change Report or Employment Related Day Care (ERDC) re-application form is sent a continuing benefit decision notice.

OAR 461-180-0006 about the effective date of benefit amounts due to changes in household circumstances for Employment Related Day Care (ERDC) and Food Stamp (FS) program clients in the Semiannual Reporting System (SRS) is being amended to state the correct name for SRS is the Simplified Reporting System, state that this rule applies to ERDC and FS clients, and clarify the effective date for a decrease in benefits.

OAR 461-180-0070 about the effective date for an initial month of benefits is being amended to clarify the rule is not limited to cash benefits. This rule is also being amended to state how to determine the effective starting date for benefits for all ERDC clients, not just ERDC-BAS clients.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-001-0000

Definitions for Chapter 461

Defined terms are often italicized throughout this chapter of rules. If a defined term is accompanied by a cross-reference to a rule defining the term, subsequent usages of that term in the same rule refer to the same definition cross-referenced earlier in the rule. In this chapter of rules, unless the context indicates otherwise:

(1) A reference to Division, Adult and Family Services Division (or AFS), Senior and Disabled Services Division (or SDS), or any other agency formerly part of the Department of Human Services shall be taken to mean the Department of Human Services (DHS), except that the rule in which reference occurs only regulates programs covered by Chapter 461 of the Oregon Administrative Rules.

(2) A reference to an Administrator of an agency mentioned in section (1) means the Director of DHS.

(3) "Address Confidentiality Program" (ACP) means a program of the Oregon Department of Justice, which provides a substitute mailing address and mail forwarding service for ACP participants who are victims of domestic violence, sexual assault, or stalking.

(4) "Adjusted income" means the amount determined by subtracting income deductions from countable income (see OAR 461-140-0010). Specific rules on the deductions are found in division 461-160.

(5) "Adoption assistance" means financial assistance provided to families adopting children with special needs. Adoption assistance may be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272, 94 Stat. 500 (1980)). State adoption assistance is authorized by ORS 418.330 to 418.335.

(6) "Assets" mean income and resources.

(7) "Basic decision notice" means a *decision notice* mailed no later than the date of action given in the notice.

(8) "Branch office" means any Department or AAA (Area Agency on Aging) office serving a program covered by this chapter of rules.

(9) "Budgeting" means the process of calculating the benefit level.

(10) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine *eligibility* and benefit level for the payment month.

(11) "Cafeteria plan" means a written benefit plan offered by an employer in which:

(a) All participants are employees; and

(b) Participants can choose, cafeteria-style, from a menu of two or more cash or qualified benefits. In this context, qualified benefits are benefits other than cash that the Internal Revenue Services does not consider part of an employee's gross income. Qualified benefits include, but are not limited to:

ADMINISTRATIVE RULES

(A) Accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);

(B) Group term life insurance plans (up to \$50,000);

(C) Dependent care assistance plans; and

(D) Certain stock bonus plans under section 401(k)(2) of the Internal Revenue Code (but not 401(k)(1) plans).

(12) "Capital asset" means property that contributes toward earning self-employment income, including self-employment income from a microenterprise, either directly or indirectly. A capital asset generally has a useful life of over one year and a value, alone or in combination, of \$100 or more.

(13) "Caretaker" means an individual who is responsible for the care, control, and supervision of a child. The status of caretaker ends once the individual no longer exercises care, control, and supervision of the child for 30 days.

(14) "Caretaker relative" means a *caretaker* who meets the requirements of one of the following subsections:

(a) Is one of the following relatives of the *dependent child*:

(A) Any blood relative, including those of half-blood, and including first cousins, nephews, or nieces, and individuals of preceding generations as denoted by prefixes of grand, great, or great-great.

(B) Stepfather, stepmother, stepbrother, and stepsister.

(C) An individual who legally adopts the child and any individual related to the individual adopting the child, either naturally or through adoption.

(b) Is or was a spouse of an individual listed in subsection (a) of this section.

(c) Met the definition of *caretaker relative* under subsection (a) or (b) of this section before the child was adopted (notwithstanding the child's subsequent adoption).

(15) "Certification period" means the period for which a client is certified eligible for a program.

(16) "Child" includes natural, step, and adoptive children. The term child does not include an unborn.

(a) In the ERDC program, a child need not have a biological or legal relationship to the caretaker but must be in the care and custody of the caretaker, must meet the citizenship or alien status requirements of OAR 461-120-0110, and must be:

(A) Under the age of 18; or

(B) Under the age of 19 and in secondary school or vocational training at least half time.

(b) In the GA, GAM, and OSIP programs, a child is an individual under the age of 18.

(c) In the OHP program, child means an individual, including a minor parent, under the age of 19.

(d) In the OSIPM and QMB programs, child means an unmarried individual living with a parent who is:

(A) Under the age of 18; or

(B) Under the age of 22 and attending full time secondary, post secondary or vocational-technical training designed to prepare the individual for employment.

(17) "Community based care" is any of the following:

(a) Adult foster care — Room and board and 24 hour care and services for the elderly or for disabled people 18 years of age or older. The care is contracted to be provided in a home for five or fewer clients.

(b) Assisted living facility — A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.

(c) In-home Services — People living in their home receiving services determined necessary by the Department.

(d) Residential care facility — A facility that provides residential care in one or more buildings on contiguous property for six or more individuals who have physical disabilities or are socially dependent.

(e) Specialized living facility — Identifiable services designed to meet the needs of individuals in specific target groups which exist as the result of a problem, condition or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.

(f) Independent choices — In-Home Services program wherein the participant is given cash benefits to purchase self-directed personal assistance services or goods and services provided pursuant to a written service plan (see OAR 411-030-0020).

(18) "Continuing benefit decision notice" means a *decision notice* that informs the client of the right to continued benefits and is mailed in time to be received by the date benefits are, or would be, received.

(19) "Countable" means that an available asset (either income or a resource) is not excluded and may be considered by some programs to determine eligibility.

(20) "Custodial parents" mean parents who have physical custody of a child. Custodial parents may be receiving benefits as dependent children or as caretaker relatives for their own children.

(21) "Decision notice" means a written notice of a decision by the Department regarding an individual's eligibility for benefits in a program.

(22) "Department" means the Department of Human Services (DHS).

(23) "Dependent child", in the EXT, MAA, MAF, REF, REFM, and TANF programs, means the following:

(a) An individual who is not a caretaker relative of a child in the household, is unmarried or married but separated, and is under the age of 18, or 18 years of age and a full time student in secondary school or the equivalent level of vocational or technical training; or

(b) A minor parent whose parents have chosen to apply for benefits for the minor parent. This does not apply to a minor parent who is married and living with his or her spouse.

(24) "Disability" means:

(a) In the FS program, see OAR 461-001-0015.

(b) In the REF, SFPSS, TA-DVS, and TANF programs, for purposes other than determining eligibility:

(A) An individual with a physical or mental impairment that substantially limits the individual's ability to meet the requirements of the program; or

(B) An individual with a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or who is regarded as having such an impairment as defined by the Americans with Disabilities Act (42 USC 12102; 28 CFR 35.104).

(25) "Domestic violence" means the occurrence of one or more of the following acts between family members, intimate partners, or household members:

(a) Attempting to cause or intentionally, knowingly or recklessly causing physical injury or emotional, mental or verbal abuse.

(b) Intentionally, knowingly or recklessly placing another in fear of imminent serious physical injury.

(c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.

(d) Using coercive or controlling behavior.

(26) "Domestic violence shelters" are public or private nonprofit residential facilities providing services to victims of domestic violence. If the facility serves other people, a portion must be used solely for victims of domestic violence.

(27) "Eligibility" means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.

(28) "Equity value" means fair market value minus encumbrances.

(29) "Fair market value" means the amount an item is worth on the open market.

(30) "Family stability" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means the characteristics of a family that support healthy child development, including parental mental health, drug and alcohol free environment, stable relationships, and a supportive, flexible, and nurturing home environment.

(31) "Family stability activity" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means an action or set of actions taken by the client, as specified in a case plan, intended to promote the ability of one or both parents to achieve or maintain family stability.

(32) "Financial institution" means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.

(33) "HPN" means a health plan new/noncategorical client eligible under OHP-OPU.

(34) "Income producing property" means any real or personal property that generates income for the financial group. Examples of income producing property are:

(a) Livestock, poultry, and other animals.

(b) Farmland, rental homes (including a room or other space in the home or on the property of a member of the financial group), vacation homes, condominiums.

(35) "Initial month" of eligibility means any of the following:

(a) In all programs, the first month a *benefit group* (see OAR 461-110-0750) is eligible for a program benefit in Oregon after a period during which the group is not eligible.

ADMINISTRATIVE RULES

(b) In all programs except the FS program, the first month a benefit group is eligible for a program benefit after there has been a break in the program benefit of at least one full calendar month. If benefits are suspended for one month, that is not considered a break.

(c) In the FS program:

(A) The first month for which the benefit group is certified following any period during which they were not certified to participate, except for migrant and *seasonal farm workers* (see OAR 461-001-0015).

(B) For *migrant and seasonal farmworkers*, the first month for which the benefit group is certified following any period of one month or more during which they were not certified to participate.

(d) In the OHP program, the first month of a redetermination or recertification period.

(e) For a new applicant to the GA, GAM, OSIP, or OSIPM program living in a nonstandard living arrangement, for the purposes of calculating the correct divisor in OAR 461-140-0296, the month in which the client would have been eligible had it not been for the disqualifying transfer of assets.

(36) "In-kind income" means income in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).

(37) "Legally married" means a marriage uniting a man and a woman according to the provisions of either:

(a) The statutes of the state where the marriage occurred;

(b) The common law of the state in which the man and woman previously resided while meeting the requirements for common law marriage in that state; or

(c) The laws of a country in which the man and woman previously resided while meeting the requirements for legal or cultural marriage in that country.

(38) "Life estate" means the right to property limited to the lifetime of the individual holding it or the lifetime of some other individual. In general, a life estate enables the owner of the life estate to possess, use, and obtain profits from property during the lifetime of a designated individual while actual ownership of the property is held by another individual. A life estate is created when an individual owns property and then transfers ownership to another individual while retaining, for the rest of his or her life, certain rights to that property. In addition, a life estate is established when a member of the financial group (see OAR 461-110-0530) purchases a life estate interest in the home of another individual.

(39) "Lodger" means a member of the *household group* (see OAR 461-110-0210) who:

(a) Is not a member of the filing group; and

(b) Pays the filing group for room and board.

(40) "Long term care" means the system through which the Department provides a broad range of social and health services to eligible adults who are aged, blind, or have disabilities for extended periods of time. This includes nursing homes and state hospitals (Eastern Oregon and Oregon State Hospitals).

(41) "Lump-sum income" means income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment. Lump-sum income includes:

(a) Retroactive benefits covering more than one month, whether received in a single payment or several payments.

(b) Income from inheritance, gifts, winnings, and personal injury claims.

(42) "Marriage" means the union of a man and a woman who are *legally married*.

(43) "Microenterprise" means a sole proprietorship, partnership, or family business with fewer than five employees and capital needs no greater than \$35,000.

(44) "Minor parent", in the ERDC, EXT, MAA, MAF, REF, REFM, and TANF programs, means a parent under the age of 18.

(45) "Nonstandard living arrangement" is defined as follows:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs, a client is considered to be in a *nonstandard living* arrangement when the client is applying for or receiving services in any of the following locations:

(A) A nursing facility.

(B) An intermediate care facility for the mentally retarded (ICF/MR).

(C) A psychiatric institution, if the individual is not yet 21 years of age or has reached the age of 65.

(D) A community based care (see section (16) of this rule) setting.

(b) In all programs except GA, GAM, OSIP, OSIPM, and QMB, a nonstandard living arrangement means each of the following locations:

(A) Foster care.

(B) Residential Care facility.

(C) Drug or alcohol residential treatment facility.

(D) Homeless or *domestic violence* shelter.

(E) Lodging house if paying for room and board.

(F) Correctional facility.

(G) Medical institution.

(46) "Ongoing month" means one of the following:

(a) For all programs except FS and OHP, any month following the initial month of eligibility, if there is no break in the program benefit of one or more calendar months.

(b) For the FS and OHP programs, any month in the certification period following the initial month of eligibility.

(47) "Parent" means the biological or legal (step or adoptive) mother or father of an individual or unborn child.

(a) If the mother lives with a male and either she or the male claims that he is the father of the child or unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.

(b) A stepparent relationship exists if:

(A) The individual is legally married to the child's biological or adoptive parent; and

(B) The marriage has not been terminated by legal separation, divorce, or death.

(c) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a parent if both of the following are true:

(A) The child lives with the biological parent; and

(B) The legal parent (the adoptive parent) has given up care, control, and supervision of the child.

(48) "Payment month" means, for all programs except EA, the calendar month for which benefits are issued.

(49) "Payment period" means, for EA, the 30-day period starting with the date the first payment is issued and ending on the 30th day after the date the payment is issued.

(50) "Periodic income" means income received on a regular basis less often than monthly.

(51) "Primary person" for all programs except FS, means the filing group member who is responsible for providing information necessary to determine eligibility and calculate benefits. The primary person for individual programs is as follows:

(a) For EXT, MAA, MAF, and TANF, the parent or caretaker relative.

(b) For ERDC, the caretaker.

(c) For FS, see OAR 461-001-0015.

(d) For GA, GAM, OSIP, OSIPM, and QMB, the client or client's spouse.

(e) For OHP, REF, and REFM, the applicant, caretaker, caretaker relative, or parent.

(52) "Qualified Partnership Policy" means a long term care insurance policy meeting the requirements of OAR 836-052-0531 that was either:

(a) Issued while the client was a resident in Oregon on January 1, 2008 or later; or

(b) Issued in another state while the client was a resident of that state on or after the effective date of that state's federally approved State Plan Amendment to issue qualified partnership policies.

(53) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as real property.

(54) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.

(55) "Safe homes" mean private homes that provide a few nights lodging to victims of domestic violence. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.

(56) "Shelter costs" mean, in all programs except the Food Stamp program, housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or non-basic telephone charges. In the Food Stamp program, see OAR 461-160-0420.

(57) "Shelter in kind" means an agency or person outside the *financial group* (see OAR 461-110-0530) provides the shelter of the financial group, or makes a payment to a third party for some or all of the shelter costs of the financial group. Shelter-in-kind does not include temporary shelter provided by a domestic violence shelter, homeless shelter, or residential alcohol and drug treatment facilities or situations where no shelter is being provided, such as sleeping in a doorway, park, or bus station.

(58) "Sibling" means the brother or sister of an individual. "Blood related" means they share at least one biological or adoptive parent. "Step"

ADMINISTRATIVE RULES

means they are not related by blood, but are related by the marriage of their parents.

(59) "Spousal support" means income paid (voluntarily, per court order, or per administrative order) by a separated or divorced spouse to a member of the *financial group* (see OAR 461-110-0530).

(60) "Spouse" means an individual who is legally married to another individual. In the ERDC and FS programs, spouse includes an individual who is not legally married to another, but is presenting themselves to the community as the husband or wife by:

(a) Representing themselves as husband and wife to relatives, friends, neighbors, or tradespeople; and

(b) Sharing living expenses or household duties.

(61) "Stable income" means income that is the same amount each time it is received.

(62) "Standard living arrangement" means a location that does not qualify as a nonstandard living arrangement.

(63) "Teen parent" means, for TANF and JOBS, a parent under the age of 20 who has not completed a high school diploma or GED.

(64) "Timely continuing benefit decision notice" means a decision notice that informs the client of the right to continued benefits and is mailed no later than the time requirements in OAR 461-175-0050.

(65) "Trust funds" mean money, securities, or similar property held by a person or institution for the benefit of another person.

(66) "USDA meal reimbursements" mean cash reimbursements made by the Oregon Department of Education for family day-care providers who serve snacks and meals to children in their care.

(67) "Variable income" means earned or unearned income that is not always received in the same amount each month.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.006, 412.014, 412.049, 414.042
Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.006, 412.014, 412.049, 414.042
Hist.: AFS 28-1978, f. & ef. 7-13-78; AFS 54-1984, f. 12-28-84, ef. 1-1-85; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; 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 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 15-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; 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 5-2009, f. & cert. ef. 4-1-09

461-110-0350

Filing Group; ERDC

In the ERDC program:

(1) The filing group consists of the following applicants and household group members, even if they do not meet nonfinancial eligibility requirements:

(a) The *caretaker* (see OAR 461-001-0000) of the child for whom ERDC benefits are requested, except this does not apply to a child care provider caring for the child of an individual:

(A) Who is a member of a National Guard or U.S. Armed Forces Reserve unit; and

(B) Who has been called to active duty away from the child's home for more than 30 days.

(b) An unmarried child and any sibling, under age 18 or under the age of 19 and attending secondary school or vocational training at least half time, in the care and custody of the caretaker. A foster child is included if the caretaker wants to include the child in the need group (see OAR 461-001-0000).

(c) Any parent of a child required to be in the filing group.

(d) Any parent of an unborn, if the sibling of the unborn is required to be in the filing group.

(e) *The spouse* (see OAR 461-001-0000) of the *caretaker*. This includes two individuals not legally married to each other, but presenting themselves to the community as being domestic partners by:

(A) Representing themselves as domestic partners to friends, relatives, neighbors, tradespeople, and others; and

(B) Sharing living expenses and household duties.

(2) A minor parent may form a separate filing group with his or her dependent child or children when the minor parent applies as the caretaker.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060
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 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 32-2003(Temp), f. & cert. ef. 12-17-03 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09

461-110-0370

Filing Group; FS

In the Food Stamp program:

(1) Except as provided in this rule, the filing group is composed of members of a *household group* (see OAR 461-110-0210) who customarily purchase and prepare meals together.

(2) Except as provided in sections (3) and (8) of this rule, the following individuals, if in the same household group, must be in the same filing group, even if they do not customarily purchase and prepare meals together:

(a) Each spouse (see OAR 461-001-0000).

(b) A parent (see OAR 461-001-0000) and his or her child under age 22 living with the parent.

(c) A *household group* member and child under age 18 who lives with and is under *parental control* of that household group member. For the purposes of this subsection, parental control means the adult is responsible for the care, control, and supervision of the child or the child is financially dependent on the adult.

(3) Notwithstanding sections (1) and (2) of this rule:

(a) An individual is excluded from the filing group if, during the month the group applied for food stamps, the individual received food stamp benefits or SSI benefits through the state of California that included food stamp benefits. This exclusion applies only in the initial month and, if necessary to meet notice requirements, in the month following the initial month. This exclusion does not apply to an individual who was the head of household in the prior household.

(b) An *elderly* (see OAR 461-001-0015) individual and his or her spouse may be considered a separate filing group from others with whom the elderly individual purchases and prepares meals, if:

(A) The elderly individual is unable to purchase or prepare food because of a permanent and severe disabling condition; and

(B) The combined income of the other members of the household group does not exceed the following limit: [Table not included. See ED. NOTE.]

(4) A paid live-in attendant and the attendant's minor child may choose not to be in the filing group with the recipient of the services provided, unless required by section (2) of this rule to be in the same filing group.

(5) An individual in foster care, the individual's spouse, and each child under age 22 living with the individual are not eligible to participate in the FS program independently of the care or service provider's filing group, but may be included in the provider's filing group if the provider applies for benefits.

(6) Notwithstanding section (2) of this rule, the following household group members may form a separate filing group from other members of the *household group*:

(a) A resident of an alcohol or drug treatment and rehabilitation program certified by the Department for which an employee of the facility is the authorized representative (see OAR 461-135-0550). A resident's spouse in the same facility may be in a separate filing group, but a child of a resident must be in the same filing group as the resident.

(b) A resident in group living (see OAR 461-001-0015).

(c) A resident of a public or private non-profit homeless or domestic violence shelter (see OAR 461-135-0510).

(d) An individual who is a resident of federally subsidized housing for the elderly, an individual with a disability, or blind recipient of benefits under Title I, II, X, XIV, or XVI of the Social Security Act.

(7) A member of the household group who pays the filing group for room and board (lodger) is treated as follows:

(a) A lodger cannot participate in the FS program independently of the household group when the lodger pays a reasonable amount for room and board. A reasonable amount is:

(A) An amount that equals or exceeds the Thrifty Food Plan for the individual and anyone in that individual's filing group (see OAR 461-155-0190(2)), if more than two meals per day are provided; or

(B) An amount that equals or exceeds two-thirds of the Thrifty Food Plan for the individual and anyone in the individual's filing group, if two or fewer meals per day are provided.

(b) A lodger may participate in the FS program independently of the household group when the lodger pays less than a reasonable amount for room and board.

(8) The following household group members are excluded from the filing group:

(a) A resident of a commercial boarding house.

(b) An ineligible student, as defined in OAR 461-135-0570.

(9) A household member may be in two filing groups if the member:

(a) Is a resident of a domestic violence shelter (see OAR 461-001-0000) or safe home (see OAR 461-001-0000); and

ADMINISTRATIVE RULES

(b) Recently left the household containing the individual abuser.

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

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816, 411.825

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; 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 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 34-1996, 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 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2001, F. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; 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 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 5-2009, f. & cert. ef. 4-1-09

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).

(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 United States Immigration and Naturalization Service.

(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) 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:

(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.

(f) Afghan aliens granted special immigrant status (SIV) under section 101(a)(27) of the Immigration and Nationality Act. Such individuals meet the alien status requirements for a maximum of six months as follows:

(A) If the individual enters the United States with the special immigrant status, the month that the individual enters the United States counts as the first month.

(B) If the individual is granted special immigrant status after they have already entered the United States, then the month in which the special immigrant status was granted counts as the first month.

(4) In the BCCM, MAA, MAF, OHP, OSIPM, QMB, and SAC programs, a qualified non-citizen meets the alien status requirements if he or she satisfies one of the following situations:

(a) Was a qualified non-citizen before August 22, 1996.

(b) Physically entered the United States before August 22, 1996, and was continuously present in the United States between August 22, 1996, and the date qualified 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) 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.

(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.

(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.

ADMINISTRATIVE RULES

(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) 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:

(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.

(e) Afghan aliens granted special immigrant status (SIV) under section 101(a)(27) of the Immigration and Nationality Act. Such individuals meet the alien status requirements for a maximum of six months as follows:

(A) If the individual enters the United States with the special immigrant status, the month that the individual enters the United States counts as the first month.

(B) If the individual is granted special immigrant status after they have already entered the United States, then the month in which the special immigrant status was granted counts as the first month.

(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) 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:

(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.

(g) Afghan aliens granted special immigrant status (SIV) under section 101(a)(27) of the Immigration and Nationality Act. Such individuals meet the alien status requirements for a maximum of six months as follows:

(A) If the individual enters the United States with the special immigrant status, the month that the individual enters the United States counts as the first month.

(B) If the individual is granted special immigrant status after they have already entered the United States, then the month in which the special immigrant status was granted counts as the first month.

(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

ADMINISTRATIVE RULES

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

461-135-1175

Senior Farm Direct Nutrition Program

(1) The Senior Farm Direct Nutrition Program (SFDNP) provides farm direct checks to low income individuals.

(2) An individual is eligible for SFDNP if the individual meets all of the following eligibility criteria on April 1 of the calendar year in which benefits are sought:

(a) Has countable income (see OAR 461-001-0000) less than 135 percent of the Federal Poverty Level as listed in OAR 461-155-0295.

(b) Receives Medicaid or Food Stamp benefits.

(c) Is homeless or resides in their own home or rental property.

(d) Is age 60 or older.

(3) This program is funded by a grant from the United States Department of Agriculture. The Department determines the allotment amount on an annual basis, based on the grant allocation received from the United States Department of Agriculture and the number of eligible individuals.

(4) The Department may not issue more than one SFDNP allotment per participant, per year.

(5) SFDNP begins June 1 each year and ends on October 31 each year. In order to qualify for the program, the Department must receive the applicant's letter of interest by September 15 of the year in question.

(6) See OAR 461-145-0190 to determine the treatment of this benefit in the eligibility process for other programs.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070

Stats. Implemented: ORS 410.070, 411.060, 411.070

Hist.: SSP 8-2006, f. & cert. ef. 6-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 5-2009, f. & cert. ef. 4-1-09

461-135-1230

Benefits; TA-DVS

In the TA-DVS program:

(1) A client may receive benefits of the program for 90 days from the date the client was found eligible. A client may receive benefits simultaneously from the TA-DVS and TANF programs. A client may receive benefits under the TA-DVS program not to exceed \$1,200 during the 90-day period of eligibility.

(2) TA-DVS benefits address a specific crisis situation or episode of need related to the client's *domestic violence* (see OAR 461-001-0000) situation (such as securing new or temporary housing, payment of security deposit, first month's rent, moving expenses, furniture, and clothing replacement). TA-DVS benefits are not utilized to meet current ongoing or recurrent needs expected to continue beyond 90 days and are not used for the following items even if the client believes the item would contribute to the client's safety:

(a) Payment of attorney or other legal fees;

(b) Payment of a fine or other penalty;

(c) Payment of outstanding or past due costs such as rent or utilities when the client does not intend to stay in the residence or the need for the payment was not related to the current domestic violence situation;

(d) Payment of a pet fee (unless the pet is a service animal, and only when the service status has been verified by a medical or counseling professional);

(e) Payment for relocation of household or personal belongings from another state;

(f) Purchase of a car (including making car payments) or recreational vehicle, including a travel trailer;

(g) Purchase of a firearm or other weapon;

(h) Purchase of new furniture unless --

(A) The new furniture is not available through a community resource;

(B) A less costly alternative for acquiring the new furniture is not available;

(C) The old furniture was left behind when the client fled domestic violence; and

(D) The new furniture is essential to setting up a household (such as beds, dressers, a dining room table and chairs, a couch).

(i) Purchase of a non-essential item such as a television or computer, or service such as cable, satellite, internet, even if such an item or service was left behind when the client fled the domestic violence situation; or

(j) Purchase of a pet or guard animal.

(3) If a client submits an application meeting all eligibility criteria set forth in OAR 461-135-1215 and 461-135-1225 less than 12 months after the commencement of a 90-day period of eligibility, that application must be jointly staffed and approved or denied by the Department's field and central offices.

(4) The client and the Department prepare a case plan that identifies activities necessary to enhance the client's safety. The case plan specifies the payments the Department makes to meet the client's needs for shelter and food and for relocation or other services that will enhance the client's safety.

(5) A client's available liquid resources may be considered when developing the case plan.

(6) A payment issued for an item in the client's case plan is issued as a dual-payee or vendor-pay check unless the use of a dual-payee or vendor-pay check is likely to put the client at risk of harm.

Stat. Auth.: ORS 411.060, 411.070, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.117, 412.049

Hist.: AFS 9-1999, f. & cert. ef. 7-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 5-2009, f. & cert. ef. 4-1-09

461-135-1250

Specific Requirements: Post-TANF

(1) This rule explains specific requirements for the Post-TANF program. Through January 31, 2009, the Post-TANF program provides \$150 per month per qualifying adult in aid for 12 consecutive months or until the household income exceeds 250 percent of the Federal Poverty Level (FPL), whichever comes first, as long as the client meets *JOBS federally required participation rates* (see OAR 461-001-0025) in combined unsubsidized paid work and JOBS activities.

(2) Effective February 1, 2009, the Post-TANF program provides \$100 per month per qualifying adult in aid for 12 consecutive months or until the household income exceeds 250 percent of the FPL, whichever comes first, as long as the client meets *JOBS federally required participation rates* in combined unsubsidized paid work and JOBS activities.

(3) To enroll in the Post-TANF program, a client must:

(a) Have obtained unsubsidized paid employment;

(b) Have become ineligible for the Pre-TANF, TANF or SFPSS programs due to earnings; and

ADMINISTRATIVE RULES

(c) Be a Work Eligible Individual as defined by federal regulations.
(4) To remain eligible for the monthly Post-TANF payment, the client must meet the requirements of all of the following subsections:

(a) Meet all TANF eligibility requirements, except the client need not meet the following requirements:

(A) OAR 461-120-0310 and 461-120-0340 (child support assignment and cooperation);

(B) OAR 461-120-0330 (pursuing assets);

(C) OAR 461-125-0010 (deprivation);

(D) OAR 461-155-0030 (income limits); and

(E) OAR 461-160-0015 (resource limits).

(b) Report and meet the monthly JOBS federal participation requirements with unsubsidized paid work and, if necessary, other JOBS activities.

(c) Provide the Department with employer-produced documents of paid, unsubsidized work hours within 45 days after Pre-TANF, TANF, or SFPSS has ended.

(d) The client must also provide employer-produced documents of paid, unsubsidized work hours each time requested by the Department or no later than the last day of the sixth month following the date the client provides the verification of work hours in accordance with subsection (c) of this section.

(e) Report all changes in residency and household group (see OAR 461-110-0210) affecting Post-TANF eligibility within 10 days of the occurrence.

(f) Changes reported for another program that affect Post-TANF eligibility are considered reported for Post-TANF.

(5) A client failing to comply with subsection (3)(c) of this rule but then providing documents after 45 days is eligible for Post-TANF payments only in the month the local Department office receives the documents and the months thereafter.

(6) Household income for the Post-TANF program is calculated in accordance with all TANF financial rules.

(7) Each parent (see OAR 461-001-0000) of a two-parent family is entitled to a monthly Post-TANF payment if both parents meet all Post-TANF enrollment and eligibility requirements.

(8) Monthly payments in the Post-TANF program begin the month after the last regular TANF benefit payment; or for Pre-TANF clients, the month after the Department verifies that the client meets TANF eligibility requirements.

(9) A client in the Post-TANF program is entitled to support services in accordance with OAR 461-190-0241. Additional support services may be granted with manager approval.

(10) A client is no longer eligible for a Post-TANF payment when the client does not meet JOBS federal participation requirements due to:

(a) Loss of employment;

(b) A reduction in work hours, and the client chooses not to participate in required JOBS activities offered by the Department; or

(c) A reduction in JOBS activity hours without good cause (see OAR 461-130-0327) that when combined with work hours does not meet the JOBS federally required participation rates.

Stat. Auth.: ORS 411.060, 411.070, 412.006, 412.049 & 412.124

Stats. Implemented: ORS 411.060, 411.070, 412.006, 412.009, 412.049, 412.124

Hist.: 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 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

461-140-0040

Determining Availability of Income

(1) This rule describes the date income is considered available, what amount of income is considered available, and situations in which income is considered unavailable.

(2) Income is considered available the date it is received or the date a member of the financial group (see OAR 461-110-0530) has a legal right to the payment and the legal ability to make it available, whichever is earlier, except as follows:

(a) Income usually paid monthly or on some other regular payment schedule is considered available on the regular payment date if the date of payment is changed because of a holiday or weekend.

(b) Income withheld or diverted at the request of an individual is considered available on the date the income would have been paid without the withholding or diversion.

(c) An advance or draw of earned income is considered available on the date it is received.

(d) Income that is averaged, annualized, converted, or prorated is considered available throughout the period for which the calculation applies.

(e) A payment due to a member of the financial group, but paid to a third party for a household expense, is considered available when the third party receives the payment.

(f) In prospective budgeting, income is available in the month the income is expected to be received (see OAR 461-150-0020).

(3) The following income is considered available even if not received:

(a) Deemed income.

(b) In the ERDC, GA, GAM, MAA, MAF, OHP, OSIP, OSIPM, QMB, REF, REFM, and TANF programs, the portion of a payment from an assistance program, such as public assistance, unemployment compensation, or social security, withheld to repay an overpayment.

(c) In the FS program, the portion of a payment from the TANF program counted as disqualifying income under OAR 461-145-0105.

(4) The amount of income considered available is the gross before deductions, such as garnishments, taxes, or other payroll deductions including flexible spending accounts.

(5) The following income is not considered available:

(a) Wages withheld by an employer in violation of the law.

(b) Income received by another person who does not pay the client his or her share.

(c) Income received by a member of the financial group after he or she has left the household.

(d) Moneys withheld from or returned to the source of the income to repay an overpayment from that source unless the repayment is countable:

(A) In the FS program, under OAR 461-145-0105; or

(B) In the ERDC, GA, GAM, MAA, MAF, OHP, OSIP, OSIPM, QMB, REF, REFM, and TANF programs, under subsection (3)(b) of this rule.

(e) For a client who is not self-employed, income required to be expended on an ongoing, monthly basis on an expense necessary to produce the income, such as supplies or rental of work space.

(f) Income received by the financial group but intended and used for the care of someone not in the financial group as follows:

(A) If the income is intended both for someone in the financial group and someone not in the financial group, the portion of the income intended for the care of the individual not in the financial group is considered unavailable.

(B) If the portion intended for the care of the individual not in the financial group cannot readily be identified, the income is prorated evenly among the individuals for whom the income is intended. The prorated share intended for the care of the individual not in the financial group is then considered unavailable.

(g) In the ERDC, FS, MAA, MAF, OHP, REF, REFM, and TANF programs, income controlled by the client's abuser if the client is a victim of domestic violence (see OAR 461-001-0000), the client's abuser controls the income and will not make the money available to the filing group, and the abuser is not in the client's filing group.

(h) In the OSIP, OSIPM, and QMB programs, unearned income not received because a payment was reduced to cover expenses incurred by a member of the financial group to secure the payment. For example, if a retroactive check is received from a benefit program other than SSI, legal fees connected with the claim are subtracted. Or, if payment is received for damages received as a result of an accident the amount of legal, medical or other expenses incurred by a member of the financial group to secure the payment are subtracted.

(i) In the REFM program, any income used for medical or medical-related purposes.

(6) The availability of lump-sum income is covered in OAR 461-140-0120.

Stat. Auth.: ORS 409.050, 411.060, 411.816, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.117, 411.816, 412.049, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; 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 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 1-2005(Temp), f. & cert. ef. 2-1-05 thru 6-30-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 5-2005(Temp), f. & cert. ef. 4-1-05 thru 6-30-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 5-2009, f. & cert. ef. 4-1-09

461-145-0455

Resettlement and Placement (R&P) Grants

(1) A Reception and Placement (R&P) grant is a payment made by the United States Department of State through a national refugee resettlement agency to a local resettlement agency, refugee sponsor, or refugee. An R&P

ADMINISTRATIVE RULES

grant is provided to the resettlement agency to help with the costs of initial resettlement of a refugee in the United States. The resettlement agency provides a part of this grant to the refugee, usually in the refugee's first month after arrival, for the refugee's initial resettlement needs and not for ongoing living expenses.

(2) In the ERDC, REF, REFM, and TANF programs, an R&P grant is excluded from consideration as income or a resource for purposes of determining program eligibility or benefit levels, except as provided in OAR 461-140-0070.

(3) In the FS program, any amount paid directly to a FS household from an R&P grant is counted as unearned income. For an in-kind payment made directly to a provider by the resettlement agency, see OAR 461-145-0280.

(4) In the GA, MAA, MAF, OHP, OSIP, OSIPM, and QMB programs, an R&P grant determined to be available to the refugee case is considered unearned income.

Stat. Auth.: ORS 411.060, 411.116, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.116, 411.816, 412.006, 412.049
Hist.: AFS 1-2001(Temp), f. & cert. ef. 1-30-01 thru 3-31-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 5-2009, f. & cert. ef. 4-1-09

461-145-0460

Sale of a Resource

(1) In the ERDC and EXT programs, all proceeds from the sale of a resource are excluded as income and as a resource.

(2) In the MAA, MAF, REF, REFM, SAC, and TANF programs:

(a) Proceeds from the sale of an excluded resource to the extent reinvested in another excluded resource are excluded as income and as a resource.

(b) All proceeds from the sale of the resource are counted as unearned income, unless excluded in subsection (a) of this section.

(3) In all programs except the ERDC, EXT, MAA, MAF, REF, REFM, SAC, and TANF programs, proceeds from the sale of a resource are treated as follows:

(a) Proceeds from the sale of a resource (other than a home) received on a monthly or other periodic basis are counted as unearned income. Proceeds received on a lump sum basis are treated as follows:

(A) If the proceeds are from the sale of an excluded resource, the amount reinvested in another excluded resource is excluded, and the remainder is counted as a resource.

(B) The proceeds from all other sales are counted as a resource. If the proceeds put the benefit group (see OAR 461-110-0750) over the resource limit, the proceeds are counted as periodic or lump sum income (see OAR 461-140-0110 and 461-140-0120).

(b) For all clients except those eligible for OSIPM under OAR 461-135-0771, the proceeds from the sale of the home of the financial group (see OAR 461-110-0530) are excluded for three months if the financial group intends to use the proceeds to buy another home.

(c) For clients eligible for OSIPM under OAR 461-135-0771, the proceeds from the sale of the financial group's home are excluded for 12 months if the financial group intends to use them to buy another home.

(d) The proceeds from the sale of a home that are not reinvested in another home are

(A) In all programs except the FS program, counted as a resource, except that in the GA and GAM programs, if the proceeds put the benefit group over the resource limit, they are counted as periodic or lump sum income.

(B) In the FS program, treated as lump-sum income (see OAR 461-001-0000) under OAR 461-140-0120.

(e) In the FS program:

(A) Interest received monthly or on another periodic basis from the sale of a home is counted as unearned income.

(B) If a self-employed client sells a work-related asset, including equipment and inventory, the proceeds of the sale are treated as self-employment income (see OAR 461-145-0910).

(4) Costs of the type excluded under OAR 461-145-0920 are subtracted from proceeds counted as income under this rule.

Stat. Auth.: ORS 411.060, 411.070, 411.700, 411.816, 412.049, 414.042
Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 412.049, 414.042
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-2001, f. & cert. ef. 6-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 5-2009, f. & cert. ef. 4-1-09

461-145-0580

Veterans' Benefits

(1) Veterans' benefits, other than the educational and training and rehabilitation program benefits, are treated as follows:

(a) Except as specified in sections (2) and (5) of this rule, monthly payments are counted as unearned income.

(b) Other payments are counted as periodic or lump sum income (see OAR 461-140-0110 and 461-140-0120).

(2) Veterans' benefits that include aid-and-attendance payments are treated as follows:

(a) For OSIP and OSIPM clients receiving long term care or Title XIX waived services:

(A) When determining eligibility, the entire veterans' benefit payment is excluded.

(B) When calculating monthly benefits or patient liability, the entire veterans' benefit payment is counted as unearned income.

(C) Payments for services not covered by the Department's programs are excluded.

(D) If the client receives a payment covering a previous period of eligibility, the client is required to turn over to the Department the full amount of the payment up to the cost of institutional and home- or community-based waived care provided to the client during the months covered by the payment. A client's failure to reimburse the Department in this instance constitutes an overpayment of public assistance in accordance with OAR 461-195-0501 and 461-195-0521 and ORS 411.640 and 411.690. Any excess veterans' benefit payment made to the client is counted as lump-sum or periodic income.

(b) For all other clients not covered under subsection (a) of this section:

(A) In the FS program, the aid-and-attendance payments are counted as unearned income. The remaining benefits are counted unless excluded under another rule or another section of this rule.

(B) In the OHP and QMB programs, the aid-and-attendance payments are excluded. The remaining benefits are counted unless excluded under another rule or another section of this rule.

(C) Reimbursements paid to the client for costs and services already paid for by the Department are third-party resources and may be recovered from the client as an overpayment of public assistance pursuant to OAR 461-195-0501, 461-195-0521, and 461-195-0551. Any unrecovered third-party resource or payment above the actual cost is counted as lump-sum or periodic income (see OAR 461-140-0110 and 461-140-0120).

(3) Educational benefits from the United States Veterans Administration are treated in accordance with OAR 461-145-0150.

(4) A subsistence allowance from a training and rehabilitation program of the United States Veterans Administration is treated:

(a) In the Food Stamp program, as earned income (see OAR 461-145-0130).

(b) In all other programs, as unearned income.

(5) The following payments are excluded:

(a) Payments under 38 USC 1805 to biological children of Vietnam veterans who are born with spina bifida.

(b) Payments under 38 USC 1815 to children with birth defects born to female Vietnam veterans.

Stat. Auth.: ORS 411.060, 411.816, 412.049, 414.042
Stats. Implemented: ORS 411.060, 411.620, 411.640, 411.690, 411.700, 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 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 5-2009, f. & cert. ef. 4-1-09

461-160-0060

Use of Rounding in Calculating Benefit Amount

(1) In the REF and TANF programs, a benefit amount not a whole number of dollars is rounded down to the next lower whole dollar.

(2) In the ERDC program, total countable income is rounded down to the next lower whole dollar. The benefit figures are not rounded.

(3) In the GA, GAM, OHP, OSIP, OSIPM and QMB programs, rounding is not used.

(4) In the FS program:

(a) Except as provided in subsection (b) of this section, when income and deductions are calculated, a figure ending with less than 50 cents is rounded to the next lower dollar and a figure ending with 50 cents or more is rounded to the next higher dollar.

(b) After multiplying the adjusted income by 30 percent, any amount from 1 to 99 cents is rounded up to the next higher dollar.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 411.060, 411.816, 412.014, 412.049, 414.042
Stats. Implemented: ORS 411.060, 411.816, 412.014, 412.049, 414.042
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 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 10-2002, f. & cert. ef. 7-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 5-2009, f. & cert. ef. 4-1-09

461-160-0410

Use of Income and Income Deductions When There Are Ineligible or Disqualified Group Members; FS

When a member of the financial group (see OAR 461-110-0530) is not in the need group (see OAR 461-110-0630), benefits in the Food Stamp program are calculated as follows:

(1) If the member is a qualified non-citizen (see OAR 461-120-0125(1)(a)-(g)) who does not meet the alien status requirements, the following procedure is used:

(a) Benefits are calculated as if the qualified non-citizen is eligible, except that a TANF grant received by the filing group (see OAR 461-110-0370) is prorated per section (3) of this rule.

(b) Benefits are then calculated as if the qualified non-citizen is not a member of the filing group, except that a TANF grant received by the filing group is prorated per section (3) of this rule. Any income received by another member of the filing group from the qualified non-citizen is counted as income of the financial group. No expenses paid by the qualified non-citizen are deducted from gross income.

(c) The household's benefits are the lesser of the amounts calculated in subsections (a) and (b) of this section.

(2) The process described in sections (3) and (4) of this rule is used if the member is:

(a) A non-citizen but not a qualified non-citizen;

(b) Disqualified for failing to obtain or provide a Social Security Number; or

(c) Unwilling to disclose alien status.

(3) If the member is in a group described in section (2) of this rule:

(a) The member's countable (see OAR 461-001-0000) income is prorated among the members in the financial group.

(b) The pro rata share of each individual not in the need group is excluded.

(c) The rest of the prorated income is countable income for the financial group.

(4) An ineligible or disqualified member covered by section (2) of this rule is entitled to all income deductions for which the member qualifies. When paid by the member, or billed to the member and unpaid, deductions for shelter, child support, and dependent care are calculated as follows:

(a) The deductions, except deductions for the utility standard, are prorated among the members of the financial group.

(b) The prorated share of the members of the need group is deducted.

(c) The deduction for the utility standard is made in accordance with OAR 461-160-0420.

(5) The countable income of the following financial group members, subject to allowable deductions, is used to determine benefits:

(a) A client disqualified for failure to comply with the requirements of the OFSET program or because of an intentional program violation.

(b) A client:

(A) Fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the client is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the client is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or

(B) Violating a condition of probation or parole imposed under a federal or state law.

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, 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 12-2000(Temp), f. 5-1-00, cert. ef. 5-1-00 thru 9-30-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 10-2001(Temp), f. 6-29-01, cert. ef. 7-1-01 thru 10-1-01; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 6-2002(Temp), f. & cert. ef. 4-1-02 thru 6-30-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09

461-160-0550

Income Deductions; Non-SSI OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) in the Community When There Are No Children in the Household Group

(1) For purposes of this rule:

(a) Ineligible person means an individual who is not eligible to receive either SSI or TANF benefits.

(b) Child means a natural or adopted child of an individual or a natural or adopted child of either member of a married couple.

(2) This rule is used to determine adjusted income (see OAR 461-001-0000) for all clients in the OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) programs who:

(a) Live in the community;

(b) Are not assumed eligible (see OAR 461-135-0010);

(c) Do not receive Title XIX waived services; and

(d) Have no children in the household group (see OAR 461-110-0210).

(3) To determine adjusted income for clients described in section (2) of this rule, deductions from the countable (see OAR 461-001-0000) income of the financial group (see OAR 461-110-0530) are made in the following order:

(a) One standard deduction of \$20 from unearned income. This deduction may be taken from earned income if the client has less than \$20 in unearned income.

(b) One standard earned income deduction of:

(A) \$65 for OSIP-AD, OSIP-OAA, OSIPM-AD, and OSIPM-OAA clients who are not blind; or

(B) \$85 for OSIP-AB and OSIPM-AB clients who are blind.

(c) An income deduction for documented impairment-related work expenses or blind work expenses.

(d) One half of the remaining earned income.

(e) Deductions under a plan for self-support.

(4) If the applicant has an ineligible spouse, he or she must first be financially eligible as an individual. Compare the adjusted income of the applicant (using the deductions in section (3) of this rule) to the one-person non-SSI OSIP and OSIPM adjusted income standard. If the applicant is over the one person standard, the applicant is financially ineligible. If the adjusted income of the applicant is less than the one person standard and the countable income of the ineligible spouse is:

(a) Greater than the difference between the SSI standard for an individual and that for a couple, then combine the countable income of the applicant and the ineligible spouse, and take the deductions as described in section (3) of this rule and compare the resulting adjusted income to the two-person non-SSI OSIP and OSIPM adjusted income standard. If the resulting adjusted income is equal to or greater than the two-person non-SSI OSIP and OSIPM adjusted income standard, then the applicant is not financially eligible.

(b) Equal to or less than the difference between the SSI standard for an individual and that for a couple, consider the income of the applicant only. As previously calculated in this section, the adjusted income of the applicant is less than the one-person non-SSI OSIP and OSIPM adjusted income standard and so the applicant is financially eligible as an individual.

Stat. Auth.: ORS 411.060, 411.070 & 414.042

Stats. Implemented: ORS 411.060, 411.070 & 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; 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

461-160-0551

Income Deductions; Non-SSI OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) in the Community When There Are Children in the Household Group

(1) For purposes of this rule:

(a) Ineligible person means an individual who is not eligible to receive either SSI or TANF benefits.

(b) Child means a natural or adopted child of an individual or a natural or adopted child of either member of a married couple.

(2) This rule is used to determine adjusted income (see OAR 461-001-0000) for clients in the OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) programs who:

(a) Live in the community;

(b) Are not assumed eligible (see OAR 461-135-0010);

(c) Do not receive Title XIX waived services; and

(d) Have children in the household group (see OAR 461-110-0210).

(3) To determine adjusted income for clients described in section (2) of this rule, deductions from the countable (see OAR 461-001-0000)

ADMINISTRATIVE RULES

income of the financial group (see OAR 461-110-0530) are made in the following order:

(a) An allocation as described below:

(A) When an adult is applying, the applicant must first be financially eligible as an individual. Compare the applicant's adjusted income (using the deductions in subsections (b) through (f) of this section) to the one-person non-SSI OSIP and OSIPM adjusted income standard. If the adjusted income of the applicant is greater than the one person standard, the applicant is financially ineligible. If the applicant is financially eligible as an individual, income is allocated (see paragraph (C) of this subsection) from an ineligible spouse of the client to each ineligible child of the couple. If the remaining countable income of the ineligible spouse is equal to or less than the difference between the SSI Standard for a couple and the SSI Standard for an individual, there is no deeming to the applicant. As calculated above, the individual is under the one-person non-SSI OSIP and OSIPM adjusted income standard.

(B) When a child is applying:

(i) Income from ineligible parents is first allocated to each ineligible child in the household.

(ii) Second, the remaining income from subparagraph (i) of this paragraph is reduced as provided in subsections (b) through (f) of this section.

(iii) Third, the remaining income is reduced by the non-SSI OSIP and OSIPM adjusted income standard of the:

(I) Couple if both parents live with the child; or

(II) Individual if only one ineligible parent lives with the child.

(iv) Fourth, the remainder is deemed equally to each child applicant in the household.

(v) The income deemed to the child is added to the other income of the child and deductions are taken as described in subsections (b) through (f) of this section to calculate the child's adjusted income.

(C) The maximum amount of each allocation under paragraphs (A) and (B) of this subsection is the difference between the couple and the individual SSI Standard. The allocation for paragraphs (A) and (B) of this subsection is reduced by the other countable income of each ineligible child.

(b) One standard deduction of \$20 from unearned income. This deduction may be taken from earned income if the client has less than \$20 in unearned income.

(c) One standard earned income deduction of:

(A) \$65 for clients in the OSIP-AD, OSIP-OAA, OSIPM-AD, and OSIPM-OAA programs; or

(B) \$85 for clients in the OSIP-AB and OSIPM-AB programs.

(d) An income deduction for documented impairment-related work expenses or blind work expenses.

(e) One half of the remaining earned income.

(f) Deductions under a plan for self-support for clients in the OSIP-AB, OSIP-AD, OSIPM-AB, and OSIPM-AD programs.

Stat. Auth.: ORS 411.060, 411.070, 414.042

Stats. Implemented: ORS 411.060, 411.070, 414.042

Hist.: SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; 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

461-165-0060

Minimum Benefit Amount; FS, REF, TANF

(1) In the FS program:

(a) A benefit group (see OAR 461-110-0750) is not eligible for benefits in the initial month (see OAR 461-001-0000) if the allotment is less than eight percent of the Thrifty Food Plan (TFP) as determined annually by Food and Nutrition Services (FNS).

(b) In an ongoing month (see OAR 461-001-0000), benefits are issued as follows:

(A) An eligible one- or two-person benefit group receives a minimum monthly allotment of eight percent of the TFP for one person as determined annually by FNS.

(B) An eligible benefit group of three or more persons receives the calculated benefit except that a group whose calculated benefit is \$1, \$3, or \$5 receives instead an allotment of \$2, \$4, or \$6 respectively. A group that is categorically eligible (see OAR 461-135-0505) may be eligible for zero benefits (\$0) for the certification period (see OAR 461-001-0000).

(2) Except as provided in section (3) of this rule, in the REF and TANF programs, benefits are not issued if the monthly benefit is less than \$10. Individuals who do not receive a cash payment because the monthly benefit is less than \$10 may be eligible for medical benefits.

(3) The \$10 requirement in section (2) of this rule does not apply to:

(a) Special payments, such as one-time special needs, emergency assistance, supplements, or a benefit reduced from \$10 or more to under \$10 due to the recovery of an overpayment.

(b) Dual payee payments made in money management cases if the monthly benefit amount is \$10 or more.

(c) Wage supplements issued to JOBS Plus participants.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.049

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 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 19-2004(Temp), f. 7-30-04, cert. ef. 8-1-04 thru 9-30-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 24-2008(Temp), f. & cert. ef. 11-6-08 thru 5-5-09; SSP 5-2009, f. & cert. ef. 4-1-09

461-165-0180

Eligibility of Child Care Providers

(1) The Department must approve a child care provider to receive payment for child care if information available to the Department provides no basis for denying eligibility unless --

(a) The provider previously was denied and subsequently was not determined to be eligible; or

(b) The Department determines, following a preliminary or final fitness determination (see OAR 407-007-0320) or Child Protective Service (CPS) records checks, that the provider or other subject individual (see OAR 407-007-0210(21)(a)(G)) is not eligible for payment.

(2) Ineligibility for payment may result from any of the following:

(a) A finding of "denied". A provider may be denied under OAR 461-165-0410 and 461-165-0420. If, after conducting a weighing test as described in OAR 407-007-0210, the Department finds substantial risk to the health or safety of a child in the care of the provider, the provider must be denied and is ineligible for payment. A provider who has been denied has the right to a hearing under OAR 407-007-0330.

(b) A finding of "failed". A provider may be failed if the Department determines, based on a specific eligibility requirement and evidence, that a provider does not meet the eligibility requirements of this rule. A provider with a status of "failed" may reapply at any time by providing the required documents and information to the Department for review. If the documents and information show that the provider meets the eligibility requirements, the Department may approve the provider for payment back to the first of the month the eligibility requirement is met provided there is no other basis for ineligibility.

(c) The Department has referred an overpayment against the provider for collection and the claim is unsatisfied.

(3) The provider must submit a completed Department Listing Form (DHS 7494) to the Department. The provider and each individual identified under section (4) of this rule is considered a subject individual and must complete and sign the authorization for a records check and, if necessary, an authorization to release information and fingerprint cards. The provider must fully disclose all requested information as part of the records check.

(4) The provider must meet the requirements of either subsection (a) or (b) of this section:

(a) Currently be certified or registered with the Child Care Division (CCD) of the Employment Department under OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, or 414-350-0000 to 414-350-0250 unless legally exempt, and be in compliance with the applicable rules.

(b) Submit the name of each subject individual together with the authorization from the subject individual for a records check through the Criminal History (CH) record system maintained by the Oregon State Police and the Child Protective Service (CPS) record system maintained by the Department, as follows:

(A) The site director of an exempt child care facility and each employee of the facility who may have unsupervised access to a child in care.

(B) The child care provider and each individual the provider uses to supervise a child in his or her absence.

(C) In the case of a provider who provides care for a child in the provider's home--

(i) Each individual 16 years of age or older who lives in the provider's home; and

(ii) Each individual who frequently visits the home of the provider during the hours care is provided and may have unsupervised access to a child in care.

(5) Each subject individual must:

(a) Allow the Department to conduct a national criminal history records check through the Oregon State Police and the Federal Bureau of Investigation as specified in OAR 407-007-0250. The Department may withhold authorization for payment to a provider until the records check is complete.

ADMINISTRATIVE RULES

(b) Provide, in a manner specified by the Department, information required to conduct CH and CPS records checks or determine whether the provider meets health and safety requirements.

(c) Have a history of behavior that indicates no substantial risk to the health or safety of a child in the care of the provider.

(6) Each provider must:

(a) Obtain written approval from their certifier or certifier's supervisor if the provider is also certified as a foster parent.

(b) Be 18 years of age or older and in such physical or mental health as will not affect adversely the ability to meet the needs of safety, health, and well-being of a child in care.

(c) Not be in the same filing group as the child cared for and cannot be the parent (see OAR 461-001-0000) of the child.

(d) Allow the Department to inspect the site of care while child care is provided.

(e) Keep daily attendance records showing the arrival and departure times for each child in care and billing records for each child receiving child care benefits from the Department. The provider must keep the records for a minimum of 12 months and provide the records to the Department upon request.

(f) Be the individual or facility listed as providing the child care. The provider must notify the Department before using someone else to supervise a child on a temporary basis.

(g) Not bill a Department client for an amount collected by the Department to recover an overpayment or an amount paid by the Department to a creditor of the provider because of a lien, garnishment, or other legal process.

(h) Report to the Department within 10 days of occurrence:

(A) Any arrest or involvement with CPS or any other agency providing child protective services of the child care provider, household member, or facility member.

(B) Any change to his or her name or address including where care is provided, and the addition of any individual or employee to the household or facility.

(i) Report suspected child abuse of any child in his or her care to CPS or a law enforcement agency.

(j) Supervise each child in care at all times.

(k) Prevent any individual who behaves in a manner that may harm children from having access to a child in the care of the provider.

(l) Allow the custodial parent of a child in his or her care to have immediate access to the child at all times.

(m) Inform a parent of the need to obtain immunizations for a child.

(n) Take reasonable steps to protect a child in his or her care from the spread of infectious diseases.

(o) Ensure that the facility where care is provided meets all of the following standards, unless the care is provided in the home of the child, except that a provider who provides care in the home of the child must meet only the requirements of paragraph (A) of this subsection:

(A) Each floor level used by a child has two usable exits to the outdoors (a sliding door or window that can be used to evacuate a child is considered a usable exit). If a second floor is used for child care, the provider must have a written plan for evacuating occupants in the event of an emergency.

(B) The facility has safe drinking water.

(C) The facility has a working smoke detector on each floor level and in any area where a child naps.

(D) Each fireplace, space heater, electrical outlet, wood stove, stairway, pool, pond, and any other hazard has a barrier to protect a child.

(E) Any firearm, ammunition, and other dangerous item such as any medicine, drug, cleaning supply, paint, plastic bag, and poisonous and toxic material is kept in a secure place out of a child's reach.

(F) The building, grounds, any toy, equipment, and furniture are maintained in a clean, sanitary, and hazard-free condition.

(G) The facility has a telephone in operating condition.

(p) Complete and submit a new listing form every two years, or sooner at the request of the Department, so that the Department may review the provider's eligibility. This requirement does not apply to a provider registered or licensed by CCD.

(q) Provide evidence of compliance with the Department's administrative rules, upon request of Department staff.

Stat. Auth.: ORS 181.537 & 411.060

Stats. Implemented: ORS 181.537, 411.060 & 411.122

Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 17-1994(Temp), f. & cert. ef. 8-15-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 2-1997, f. 2-27-97, cert. ef. 3-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 12-1997, f. & cert. ef. 8-25-97; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 3-2000, f. 1-31-00,

cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 13-2004, f. 4-29-04, cert. ef. 5-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 6-2005(Temp), f. & cert. ef. 4-25-05 thru 9-30-05; 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 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 5-2009, f. & cert. ef. 4-1-09

461-165-0410

Provider Listing; Disqualifying Criminal History

(1) This rule explains the grounds upon which the Department denies a request by a child care provider to receive child care payments from a self-sufficiency program of the Department based on the records of a subject individual (see OAR 407-007-0210(21)(a)(G)). For the purposes of this rule, the provider and any individual identified under OAR 461-165-0180(4) is considered a subject individual under 407-007-0210(21)(a)(G).

(2) The Department may find a child care provider ineligible for payment when the criminal history of a subject individual indicates behavior that may jeopardize the safety of a child or have a detrimental effect on a child while in the care of the provider, in the following circumstances, the subject individual has:

(a) Been charged with or arrested for a drug-related, sexual, or violent crime listed in OAR 407-007-0280(1). There is a rebuttable presumption that such a subject individual is likely to engage in conduct that would pose a significant risk to a client, the Department, or a vulnerable individual.

(b) Been convicted of two or more crimes listed in OAR 407-007-0280 at any time.

(c) Been convicted of violation of probation and a crime listed in OAR 407-007-0280, at any time that relates to the person's qualification or duties as a child care provider.

(d) Been charged with two or more crimes listed in OAR 407-007-0280 within the past five years.

(e) Three or more arrests, at any time, for crimes listed in OAR 407-007-0280.

(3) The Department may pay for the services of a child care provider even if a subject individual has a potentially disqualifying criminal history, defined by OAR 407-007-0280, only if the Department has determined — based on a weighing test as described in OAR 407-007-0320 and consideration of the information listed in OAR 407-007-0280, 407-007-0290, 407-007-0300, and this rule — that repeated criminal behavior is unlikely and that the provider does not present a danger to a child in the provider's care.

Stat. Auth.: ORS 181.537, 411.060

Stats. Implemented: ORS 181.537, 411.060, 411.122

Hist.: AFS 12-1997, f. & cert. ef. 8-25-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 4-2005, f. & cert. ef. 4-1-05; 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 5-2009, f. & cert. ef. 4-1-09

461-165-0420

Provider Listing; Disqualifying Child Protective Service History

(1) This rule explains the grounds upon which the Department denies the request by a child care provider to receive child care payments from a self-sufficiency program of the Department based on the records of a subject individual (see OAR 407-007-0010). For the purposes of this rule, the provider and any individual identified under OAR 461-165-0180(4) is considered a subject individual under OAR 407-007-0210(27)(a)(G).

(2) The Department may find a child care provider ineligible for payment when the Child Protective Service (CPS) history of a subject individual, based on prior conduct, indicates that a subject individual is likely to engage in conduct that would jeopardize the safety of or have a detrimental effect on a child while in the care of the provider.

(3) To make its determination, the Department may use any available information including the CPS records of the Department, an investigation of a complaint, or information provided by another agency. A single incident may be sufficient history for denial of eligibility.

(4) If the Department obtains information of a potentially disqualifying nature with respect to a subject individual, as described in OAR 461-165-0180(4), the Department may request additional information to determine the provider's ability to provide care and must conduct a weighing test under OAR 407-007-0320. Any additional information obtained must be reviewed by the Criminal Records Unit (CRU) for determination of eligibility.

(5) Failure to respond to a request for information results in a finding of "failed" (see OAR 461-165-0180). The provider or subject individual must disclose fully all requested information as part of the records check.

(6) The Department may pay for the services of a child care provider even if a subject individual has a potentially disqualifying history of behavior if the Department determines, based on a fitness determination made under OAR 407-007-0320, that repeated behavior is unlikely and that the

ADMINISTRATIVE RULES

presence of the individual likely would not jeopardize the safety of a child in the provider's care based on:

(a) The content and source of the reports, the time elapsed since the reports, and the number of reports and referrals;

(b) The individual's participation in rehabilitation, training, or counseling;

(c) The likelihood of the individual's abuse of drugs or alcohol; and

(d) Any other relevant eligibility requirements or supplemental information under OAR 407-007-0300 or 461-165-0180.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 411.122

Hist.: AFS 12-1997, f. & cert. ef. 8-25-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 5-2009, f. & cert. ef. 4-1-09

461-170-0011

Changes That Must Be Reported

(1) A change in employment status is considered to occur as follows:

(a) For a new job, the change occurs the first day of the new job.

(b) For a job separation, the change occurs on the last day of employment.

(2) A change in source of income is considered to occur as follows:

(a) For earned income, the change occurs upon the receipt by the client of the first paycheck from a new job or the first paycheck reflecting a new rate of pay.

(b) For unearned income, the change occurs the day the client receives the new or changed payment.

(3) A client must report the following changes. The report may be made orally or in writing.

(a) In the BCCM program, a client must report either of the following changes within 10 days of occurrence.

(A) A change in health care coverage.

(B) A change in residence.

(b) In the ERDC program:

(A) A client not participating in SRS in the FS program must report the following changes within 10 days of occurrence.

(i) A change in child care provider.

(ii) A change in employment status.

(iii) A change in mailing address or residence.

(iv) A change in membership of the filing group (see OAR 461-110-0350).

(v) A change in source of income expected to continue.

(B) A client participating in SRS in the FS program must report the following changes by the tenth day of the month following the month of occurrence.

(i) A change in child care provider.

(ii) A change in mailing address.

(iii) Loss of employment.

(iv) Monthly income exceeding the FS countable income limit.

(v) A parent (see OAR 461-001-0000) of a child or unborn or the spouse of the caretaker moves into the residence.

(C) The ERDC case may continue to follow the reporting requirements in paragraph (3)(b)(B) of this rule without a companion FS case in SRS when:

(i) The ERDC case was certified in the fifth or sixth month of the FS certification period (see OAR 461-001-0000); and

(ii) The FS companion case automatically closes because the Interim Change Report (see OAR 461-170-0010) was not received.

(c) In the EXT program, a client must report any of the following changes within 10 days of occurrence.

(A) A change in health care coverage.

(B) A change in name.

(C) A change in pregnancy status of any member of the filing group (see OAR 461-110-0330).

(D) A change in residence.

(E) A member in filing group is no longer a dependent child (see OAR 461-001-0000).

(d) In the FS program:

(A) A client assigned to CRS must report any of the following changes within 10 days of occurrence.

(i) A change in earned income of more than \$100.

(ii) A change in unearned income of more than \$50.

(iii) A change in source of income.

(iv) A change in membership of the filing group (see OAR 461-110-0370) and any resulting change in income.

(v) A change in residence and the shelter costs in the new residence.

(vi) A change in the legal obligation to pay child support.

(vii) When the sum of cash on hand, stocks, bond, and money in a bank or savings institution account reaches or exceeds program resource limits.

(viii) Acquisition or change in ownership of a non-excluded vehicle.

(B) A client assigned to MRS must report any of the following changes within 10 days of occurrence, except for changes in income which must be reported in accordance with the rules related to MRS (OAR 461-170-0010, 461-170-0100, 461-170-0110).

(i) A change in membership of the filing group (see OAR 461-110-0370) and any resulting change in income.

(ii) A change in residence and the shelter costs in the new residence.

(iii) A change in the legal obligation to pay child support.

(iv) Sale or receipt of a resource that causes total resources to exceed program resource limits.

(v) Acquisition or change in ownership of a non-excluded vehicle.

(C) A client assigned to SRS must report any of the following changes by the tenth day of the month following the month of occurrence.

(i) Monthly income exceeding the countable income limit in the FS program.

(ii) A change in mailing address.

(D) A client assigned to TBA is not required to report any changes.

(e) In the GA, GAM, OSIP, OSIPM, and QMB programs, a client must report all changes that may affect eligibility within 10 days of occurrence, including any of the following changes. A client assigned to MRS also must report changes in income in accordance with the rules related to MRS (see OAR 461-170-0010, 461-170-0100, 461-170-0110).

(A) A change in employment status.

(B) A change in health care coverage.

(C) A change in membership of the household group (see OAR 461-110-0210).

(D) A change in marital status.

(E) A change in residence.

(F) A change in resources.

(G) A change in source or amount of income.

(f) In the MAA, MAF, REF, SAC, SFPSS, and TANF programs, clients assigned to CRS must report any of the following changes within 10 days of occurrence.

(A) Acquisition or change in ownership of a non-excluded vehicle.

(B) A change in earned income more than \$100.

(C) A change in employment status.

(D) A change in membership of the household group (see OAR 461-110-0210).

(E) A change in mailing address or residence.

(F) A change in pregnancy status of any member of the filing group.

(G) A change in source of income.

(H) A change in unearned income more than \$50.

(I) A change in who pays the shelter costs if the costs will be paid by a non-custodial parent.

(J) Sale or receipt of a resource that causes total resources to exceed program resource limits.

(g) In the MAA, REF, SFPSS, and TANF programs, a client assigned to MRS must report any of the following changes within 10 days of occurrence, except for changes in income, which must be reported in accordance with the rules related to MRS (see OAR 461-170-0010, 461-170-0100, 461-170-0110).

(A) Acquisition or change in ownership of non-excluded vehicles.

(B) A change in membership of the household group (see OAR 461-110-0210).

(C) A change in mailing address or residence.

(D) A change in pregnancy status of any member of the filing group.

(E) A change in who pays the shelter costs if the costs will be paid by a non-custodial parent.

(F) Sale or receipt of a resource that causes total resources to exceed program resource limits.

(h) In the OHP program, a client must report any of the following changes within 10 days of occurrence.

(A) A change in availability of employer-sponsored health insurance.

(B) A change in health care coverage.

(C) A change in mailing address or residence.

(D) A change in name.

(E) A change in pregnancy status of any member of the filing group (see OAR 461-110-0400).

(i) In the REFM program, clients must report the following changes within 10 days of occurrence.

ADMINISTRATIVE RULES

(A) A change in membership of the household group (see OAR 461-110-0210).

(B) A change in residence.

Stat. Auth.: ORS 411.060, 411.816, 412.049, 414.042

Stats. Implemented: ORS 411.060, 411.105, 411.816, 412.014, 412.049, 414.042

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 24-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; 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 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 23-2008, f. & cert. ef. 10-1-08; Renumbered from 461-170-0015, 461-170-0020, 461-170-0025, 461-170-0030, 461-170-0035 by SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09

461-170-0101

Simplified Reporting System (SRS); ERDC, FS

In the ERDC and FS programs:

(1) OAR 461-170-0101 to 461-170-0104 establish and explain the Simplified Reporting System (SRS).

(2) A client certified to receive FS program benefits for less than six months may not participate in SRS.

(3) A filing group (see OAR 461-110-0370) may not participate in SRS and is removed from SRS if the group includes an individual in the Monthly Reporting System (MRS) for another program.

Stat. Auth.: ORS 411.060, 411.816

Stats. Implemented: ORS 411.060, 411.816

Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09

461-170-0102

Required Reports for the Simplified Reporting System (SRS) — Interim Change Report; ERDC, FS

In the ERDC and FS programs:

(1) During the sixth month of a certification period (see OAR 461-001-0000), a client participating in SRS and certified for benefits for longer than six months must submit to the Department, on a form designated by the Department, an Interim Change Report of household circumstances, unless the household has no earned income and each adult member is elderly (see OAR 461-001-0015) or an individual with a disability (see OAR 461-001-0015).

(2) The required Interim Change Report form is considered complete when it is received by the Department by the last day of the sixth month of the certification period and:

(a) The client completely and accurately answers all questions necessary to determine eligibility and benefit amounts;

(b) The client provides all required verification; and

(c) The form contains the signature of the primary person (see OAR 461-001-0015) or the authorized representative (see OAR 461-115-0090).

Stat. Auth.: ORS 411.060, 411.816

Stats. Implemented: ORS 411.060, 411.816

Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09

461-170-0103

Actions Resulting From Changes in Household Circumstances; Simplified Reporting System (SRS); ERDC, FS

In the ERDC and FS programs, benefits may be changed for a client using SRS — based on information obtained other than through the Interim Change Report — only as follows:

(1) The benefit level will be increased if the information demonstrates the client is eligible for greater benefits.

(2) The benefits will be closed or reduced if any of the following subsections apply:

(a) The household requests a closure of benefits.

(b) The action is based on information that is verified upon receipt.

Information is considered *verified upon receipt* if:

(A) It is not questionable and the person making the report has first-hand knowledge of the information reported; or

(B) Verification is provided with the reported change in accordance with OAR 461-115-0651.

(c) The client reports information that results in loss of eligibility.

(d) The client reports *financial group* income exceeding the FS program countable income limit.

(3) The Department acts on information reported through computer matches when the Interim Change Report is processed, when the client is recertified, or when the monthly match with the Department of Corrections indicates a member is incarcerated.

Stat. Auth.: ORS 411.060, 411.816

Stats. Implemented: ORS 411.060, 411.816

Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 5-2009, f. & cert. ef. 4-1-09

461-170-0104

Failure to Submit Interim Change Report; Simplified Reporting System (SRS); ERDC, FS

In the ERDC and FS programs:

(1) If the Department does not receive a complete Interim Change Report by the last day of the sixth month of the certification period, benefits for the seventh month of the certification period are suspended. If the Interim Change Report is not received during the month of suspension, the client is ineligible for that month.

(2) If a completed Interim Change Report is received by the last day of the seventh month, it is used to determine eligibility and benefit level for the seventh and remaining months of the certification period.

Stat. Auth.: ORS 411.060, 411.816

Stats. Implemented: ORS 411.060, 411.816

Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 5-2009, f. & cert. ef. 4-1-09

461-170-0150

Anticipating With Periodic Review (APR); ERDC

In the ERDC program:

(1) All clients use Anticipating with Periodic Review (APR).

(2) The length of the APR certification period is as follows:

(a) If the child care need occurs within one calendar month, the APR period will consist of that month only.

(b) If the child care need occurs within two consecutive calendar months, the APR period will consist of those two months only.

(c) When income can be reasonably anticipated for three months or more, the APR period can be up to six months.

(d) A case with companion FS program benefits and participating in SRS may have an APR certification period of up to 12 months.

(3) The Department recalculates the anticipated income over the remaining months when a client reports income changes between eligibility periods that, after the application of OAR 461-150-0049, would cause a substantial change in the copayment.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 10-1993, f. & cert. ef. 6-1-93; AFS 13-1993(Temp), f. & cert. ef. 7-1-93; AFS 21-1993, f. & cert. ef. 10-12-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09

461-170-0160

When a Re-application Form is Considered Complete or Not Received; ERDC

In the ERDC program:

(1) At the end of the Anticipating with Periodic Review (APR) certification period (see OAR 461-170-0150), a client must complete and return to a Department branch office (see OAR 461-001-0000) a re-application form before a new APR certification period can be established.

(2) A re-application form is considered complete when it is received by a Department branch office by the last day of the last month in the APR certification period and:

(a) The client answers, completely and accurately, all questions necessary to determine a copay amount for the following APR certification period;

(b) The client provides all required verification; and

(c) The form contains the signature of the primary person (see OAR 461-001-0000) or the authorized representative (see OAR 461-115-0090).

ADMINISTRATIVE RULES

(3) When a Department branch office receives a completed re-application form by the deadline in section (2) of this rule, the form is used to:

- (a) Determine eligibility for ERDC benefits;
- (b) Establish the ERDC benefit copay amount for the next APR certification period; and
- (c) Establish the next APR certification period as beginning on the first day of the month following the last month of the previous APR certification period.

(4) When a Department branch office does not receive a completed re-application form on or before the deadline in section (2) of this rule, the case is closed effective the last day of the last month of the APR certification period.

(5) If the re-application form is received after the deadline in section (2) of this rule, it is treated as a new application in accordance with OAR 461-115-0050.

Stat. Auth.: ORS 411.060, 411.105, 411.111
Stats. Implemented: ORS 411.060, 411.105, 411.111
Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09

461-175-0280

Notice Situation; Failure to Submit Report for APR, MRS, SRS, or ERDC Re-application

(1) In the MAA, MAF, REF, and TANF programs, the Department sends a *continuing benefit* decision notice (see OAR 461-001-0000) when the benefit group (see OAR 461-110-0750) fails to return the Monthly Change Report by the tenth day of the payment month (see OAR 461-001-0000). The notice informs the *benefit group* that:

(a) The report was not received by the Department by the tenth day of the *payment month*.

(b) The benefit group must provide the report by the end of the payment month to receive benefits for the payment month.

(c) The *benefit group* will not receive the earned income deductions.

(d) If the report is not received by the Department by the last day of the payment month, benefits will be closed effective the last day of the budget month (see OAR 461-001-0000).

(2) In the ERDC program, the Department sends a continuing benefit decision notice:

(a) To close benefits when the benefit group fails to return the re-application form. The case is closed on the last day of the last month of the Anticipating with Periodic Review (APR) certification period; and

(b) When the Interim Change Report is not returned in a timely manner (see section (4) of this rule).

(3) For an FS program client in the Monthly Reporting System (MRS), the Department sends a continuing benefit decision notice when the benefit group fails to return the Monthly Change Report by the 10th day of the payment month. The notice informs the benefit group that:

(a) The report was not received by the Department by the 10th day of the payment month.

(b) The benefit group has until the end of the payment month, to provide the report to receive benefits for the payment month.

(c) If the report is not received by the Department by the last day of the payment month, benefits will be suspended effective the last day of the *budget month*.

(d) The case will remain in suspended status for a month and then be closed.

(4) In the ERDC and FS programs, the Department sends a continuing benefit decision notice when a benefit group in Simplified Reporting System (SRS) fails to return the Interim Change Report by the 10th day of the sixth month of the certification period. The notice informs the benefit group that:

(a) The report was not received by the Department by the 10th day of the sixth month in the certification period.

(b) The benefit group has until the end of the sixth month of the certification period to provide the report to receive benefits for the seventh month of the certification period.

(c) If the report is not received by the Department by the last day of the sixth month of the certification period, benefits will be suspended effective the last day of the sixth month.

(d) The case will remain in suspended status for a month and then be closed.

(5) In the GA, GAM, OSIP, and OSIPM programs, the Department does not send a notice if a client fails to provide a Monthly Change Report.

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 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f.

& cert. ef. 2-1-94; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09

461-180-0006

Effective Dates; Changes in the Simplified Reporting System (SRS); ERDC, FS

In the ERDC and FS programs:

(1) The effective date of a change based on an Interim Change Report is:

- (a) The first day of the seventh month of the certification period; or
- (b) If the change causes benefits to close, the last day of the sixth month of the certification period.

(2) The effective date of a change not based on an Interim Change Report is as follows:

(a) For a change resulting in an increase in benefits, the effective date is determined in accordance with OAR 461-180-0010 and 461-180-0020.

(b) For a change resulting in a decrease in benefits, the effective date for reducing benefits is the first of the month following the month in which the decision notice period ends.

(c) For a change resulting in a closure of benefits, the effective date is the last day of the month in which the notice period ends.

Stat. Auth.: ORS 411.060, 411.816

Stats. Implemented: ORS 411.060, 411.816

Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 5-2009, f. & cert. ef. 4-1-09

461-180-0070

Effective Dates; Initial Month Cash Benefits

(1) In the EA program, the effective date for opening the case is the day benefits are issued to the benefit group (see OAR 461-110-0750). For a *benefit group* whose only eligible child is an unborn, the effective date cannot be earlier than the first day of the calendar month preceding the month in which the due date falls.

(2) In the ERDC program, the effective date for starting benefits is one of the following:

(a) The first day of the month in which the request for benefits is made, as long as:

(A) All eligibility requirements are met in that month; and

(B) Verification is provided within the application processing timeframes.

(b) If all eligibility requirements are not met in the month of request, the effective date is the first day of the month in which they are met, if verification is provided within the application processing timeframes.

(c) For a benefit group that received TANF program benefits within the 30 days before applying for ERDC program benefits, the effective date is the first of the month following closure of their TANF program benefits.

(3) In the GA program, the effective date for the initial month (see OAR 461-001-0000) of benefits is whichever of the following occurs first:

(a) The day all eligibility requirements are met and verified.

(b) The 45th day from the date the client requests benefits, if all eligibility requirements were met, but the Department did not receive documentation until after the 45th day.

(4) In the OSIP program, the effective date for the initial month of benefits is whichever of the following occurs first:

(a) The date the client requests benefits, if he or she was eligible as of that date.

(b) The date all eligibility requirements are met.

(5) In the REF and TANF programs, the effective date for the initial month of benefits is as follows:

(a) For a client in the Pre-TANF program, it is the later of the following:

(A) The day the Pre-TANF program ends.

(B) The 30th day following the date the client requests benefits, if the Department does not receive required verification until after the 30th day.

(b) For a client not in the Pre-TANF program (see OAR 461-135-0475), it is the day the client meets and verifies all eligibility requirements.

(c) In the TANF program, if the only eligible child is an unborn, it may not be earlier than the first day of the calendar month preceding the month in which the due date falls.

(d) For a provider-direct child care payment (see OAR 461-165-0190), it is the first of the month in which TANF program benefits begin.

(e) For a JOBS support service payment, it is the date the client meets all eligibility requirements in OAR 461-190-0211.

(6) For TANF program recipients moving to the SFPSS program, the effective date for the initial month of SFPSS program benefits is:

(a) Except as provided in subsection (b) of this section, the first of the month following the day all eligibility requirements are met and verified.

ADMINISTRATIVE RULES

(b) If the day all eligibility requirements are met and verified falls after the compute deadline, the initial month of SFPSS program benefits will be the first of the month following the month after compute deadline. For purposes of this rule, the “compute deadline” means the Department computer system monthly deadline after which changes will not take effect until the month following the first of the next month.

Stat. Auth.: ORS 411.060, 411.070, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; 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 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; CWP 37-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04; 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 23-2008, f. & cert. ef. 10-1-08; SSP 5-2009, f. & cert. ef. 4-1-09

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

Adm. Order No.: SSP 6-2009(Temp)

Filed with Sec. of State: 4-1-2009

Certified to be Effective: 4-1-09 thru 9-28-09

Notice Publication Date:

Rules Amended: 461-120-0110, 461-135-0010, 461-135-0400, 461-135-0475, 461-155-0190, 461-155-0290, 461-155-0291, 461-155-0295, 461-165-0060, 461-195-0521

Rules Suspended: 461-120-0110(T), 461-135-0400(T)

Subject: Temporary OAR 461-120-0110 about the citizenship and alien status requirements for members of benefit groups is being suspended to remove the temporary rule amendments filed March 11, 2009 with an effective date of April 1, 2009 and restore the permanent language in place before that temporary rule was filed, excepting members of Employment Related Day Care (ERDC) program benefit groups from the rule’s requirements and requiring that ERDC program need and benefit groups include a child needing child care who meets the rule’s requirements.

OAR 461-135-0010 about when a client is assumed eligible for certain medical programs because the client receives or is deemed to receive benefits of another program is being amended to remove the requirement that a newborn child remain a member of the mother’s household through the child’s first birthday to be assumed eligible for medical program benefits.

OAR 461-135-0400 about the specific eligibility requirements of the Employment Related Day Care (ERDC) program is being amended to remove language in the temporary rule amendments filed March 11, 2009 with an effective date of April 1, 2009 stating a caretaker, parent of a child or unborn, or a spouse of a caretaker in the filing group must meet the citizenship or alien status requirements of OAR 461-120-0110. The changes related to restricting eligibility for self-employed clients are retained.

OAR 461-135-0475 about the specific requirements for support service payments (for a client’s current basic living expenses needs) in the Pre-Temporary Assistance for Needy Families (Pre-TANF) program is being amended to reduce the maximum potential monthly expenses covered.

OAR 461-155-0190 about the income and payment (benefit amount) standards in the Food Stamp program is being amended to reflect increases in the Food Stamp Payment Standards (Thrifty Food Plan). The increases are to be effective April 1, 2009 to comply with the passage of the federal American Recovery and Reinvestment Act of 2009.

OAR 461-155-0290, 461-155-0291, and 461-155-0295 about the income standards in the Qualified Medicare Beneficiaries - Basic (QMB-BAS), Qualified Medicare Beneficiaries - Disabled Worker (QMB-DW), Qualified Medicare Beneficiaries - Specified Limited Medicare Beneficiary (QMB-SMB), and Qualified Medicare Beneficiaries - Qualified Individuals (QMB-SMF) programs are being

amended to reflect the annual changes in the income standards based on the federal poverty level.

OAR 461-165-0060 about the minimum benefit amount provided to eligible clients in the Food Stamp (FS) program is being amended to indicate that when the FS benefit allotment for a benefit group (the individuals who receive benefits) would be less than ten dollars a month the benefit group is not eligible to receive benefits in the initial month of benefits.

OAR 461-195-0521 about methods for calculating overpayments (benefits paid to a client in error which the client needs to repay to the Department) in the Food Stamp program is being amended in response to passage of the federal American Recovery and Reinvestment Act of 2009 to state that the difference between the Thrifty Food Plan benefit amount put into place as of April 1, 2009 and the Thrifty Food Plan benefit amount in effect on March 31, 2009 is not included when calculating overpayment amounts.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-120-0110

Citizenship and Alien Status Requirements

(1) To be a member of a benefit group for all programs except CAWEM, ERDC, REF and REFM, a person must:

(a) Be a citizen of the United States;

(b) Meet the alien status requirements in OAR 461-120-0125;

(c) Be a citizen of Puerto Rico, Guam, the Virgin Islands or Saipan, Tinian, Rota or Pagan of the Northern Mariana Islands; or

(d) Be a national from American Samoa or Swains Islands.

(2) The need and benefit groups for ERDC must contain a child who meets the citizenship and alien status requirements of section (1) of this rule.

(3) To be a member of the need and benefit groups for REF and REFM, a person must meet the alien status requirements of OAR 461-120-0120.

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 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 4-2009(Temp), f. 3-11-09, cert. ef. 4-1-09 thru 9-28-09; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 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) Except for a client in a two-parent family for which deprivation is based on unemployment or underemployment of the primary wage earner; a client disqualified for failure to pursue cost-effective, employer-sponsored health insurance as required by OAR 461-120-0345; a client who does not meet the citizenship and alien status requirements set forth in OAR 461-120-0110; and a client who does not meet a citizenship verification requirement set forth in OAR 461-115-0705, the following individuals are assumed eligible for MAA:

(a) A client receiving or eligible to receive TANF cash benefits.

(b) A client whose TANF cash benefits are being paid as wages through the JOBS Plus program.

(c) A client who receives no TANF cash benefits because of failure by the client to comply with the requirements for a recipient of the JOBS program, or a requirement for evaluation or treatment of substance abuse or mental health (OAR 461-135-0085).

(d) A client in the Pre-TANF program (see OAR 461-135-0475).

(e) A child in a *benefit group* (see OAR 461-110-0750) whose grant is affected by a failure to comply with the requirements of OAR 461-120-0340 regarding paternity or child support.

(3) 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.

(4) 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.

(5) 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

ADMINISTRATIVE RULES

benefits is assumed eligible for medical benefits under this section until the end of the month the child turns one year of age.

(6) 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.

(7) 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 OAR 461-001-0000) services if the individual would otherwise be ineligible for OSIPM due to a disqualifying transfer of assets (OAR 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.

(8) A client who receives both benefits under Part A of Medicare and SSI benefits is assumed eligible for the QMB BAS program.

(9) 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

461-135-0400

Specific Requirements; ERDC

(1) The Department makes payments for child care, including care covered by the ERDC program, subject to the provisions of division 165 of this chapter of rules.

(2) To be eligible for ERDC, a *filing group* (see OAR 461-110-0350) must meet the requirements of all of the following subsections:

(a) At least one caretaker (see OAR 461-001-0000) must receive income from employment (other than self-employment), including employment through a work study program.

(b) Must include a child who needs child care.

(c) Must have an allowable child care need as described in OAR 461 160 0040. If there are two adults required to be in the filing group, and one of the adults is unemployed or self-employed, the unemployed or self-employed adult is considered available to provide child care, making the filing group ineligible, except in the following situations:

(A) The unemployed adult is physically or mentally unable to provide adequate child care.

(B) The unemployed adult is unavailable to provide child care while participating in the requirements of a case plan (see OAR 461-001-0025) other than requirements associated with post-secondary education.

(d) Must use a child care provider who meets the requirements in OAR 461 165 0160 and 461-165-0180.

(e) The child needing child care must meet the citizenship or alien status requirements of OAR 461-120-0110.

(3) A filing group is not eligible for a child care payment for more than six calendar months if the filing group is unwilling to obtain a Certificate of Immunization Status for the child.

(4) The child care must be necessary to enable the caretaker to remain employed (other than self-employed).

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

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 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 4-2009(Temp), f. 3-11-09, cert. ef. 4-1-09 thru 9-28-09; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09

461-135-0475

Specific Requirements; Pre-TANF Program

(1) This rule explains specific requirements for the Pre-TANF program. The eligibility criteria of the Pre-TANF program are the same as the TANF program. The purposes of the Pre-TANF program are:

(a) To help individuals find employment or other alternatives;

(b) To assess the employment potential of clients;

(c) To help clients determine the services needed to enhance their employability and their likelihood of becoming self sufficient;

(d) To determine if a needy caretaker relative (see OAR 461-001-0000) has or may have a barrier to employment or to family stability.

(e) To develop an individualized case plan (see OAR 461-001-0025) that establishes goals and identifies suitable activities (see OAR 461-001-0025) that promote family stability and financial independence.

(f) To provide basic living expenses immediately to families in need.

(2) Applicants for the TANF program whose unverified application indicates the client meets the TANF eligibility requirements participate in the Pre-TANF program. Their applications for the TANF program are also considered applications for the Pre-TANF program. The Pre-TANF program is open for not longer than 45 days following the date of request (see OAR 461-115-0030).

(3) Clients in the Pre-TANF program are subject to the requirements of the JOBS program, described in divisions 130 and 190 of this chapter of rules, and they are subject to the requirements of OAR 461-135-0085 pertaining to substance abuse and mental health.

(4) Once a client is found eligible for the Pre-TANF program, the client participates in initial screenings to determine the client's employment strengths and to determine if the client has any barriers to employment or family stability. If the screening indicates that there is or may be a barrier, the needy caretaker relative is referred for an in-depth evaluation by a person with relevant expertise or specialized training. The client and the Department prepare a case plan that specifies the basic living expenses and support service payments the client will receive through the Pre-TANF program and lists the activities of the client. The case plan may be adjusted at any time while the client is in the Pre-TANF program to reflect changing needs.

(5) Clients in the Pre-TANF program receive assistance, listed in the case plan, for basic living expenses, and the Department makes support service payments listed in the case plan, as follows:

(a) The Department will provide the client with basic living expenses necessary to stabilize the household so the client can accomplish the activities in the case plan. Basic living expenses covered by this section are limited to the current need of the client for shelter, utilities, household supplies (other than food), and personal incidentals that the client cannot meet with other, immediately available resources. Payments under this subsection are limited to 100 percent of the payment standard for the benefit group (see OAR 461-155-0030(2)). Payment for "past expenses" is made only when the need of the client cannot be adequately met by a less expensive alternative.

(b) Other support service payments are available to clients in the Pre-TANF program through the JOBS program (see OAR 461-190-0211 and 461-190-0241) in the same manner they are available to a TANF client.

ADMINISTRATIVE RULES

(6) The Pre-TANF program is closed in any of the following circumstances:

(a) The client is unlikely to become employed within 45 days following the date of request, whether due to the employability of the client, the circumstances affecting the family, or other causes.

(b) The client fails without good cause (see OAR 461-130-0327) to comply with a requirement of an employment program or the case plan.

(c) In any circumstance that would make a client ineligible for TANF.

(d) Upon starting a JOBS Plus assignment.

(e) Upon employment and enrollment in the Post-TANF program.

(7) If Pre-TANF benefits are closed pursuant to subsection (6)(a) or (b) of this rule, TANF benefits may be opened if all TANF eligibility requirements are met.

Stat. Auth.: ORS 411.060, 411.070, 412.006, 412.049

Stats. Implemented: ORS 411.060, 411.070, 412.006, 412.049

Hist.: AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; 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 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09

461-155-0190

Income and Payment Standards; FS

(1) The FS Countable and Adjusted Income Limits are as follows: [Table not included. See ED. NOTE.]

(2) The FS Payment Standard (Thrifty Food Plan) is: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816, 411.825

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, 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 15-1998(Temp), f. 9-15-98; cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09

461-155-0290

Income Standard; QMB-BAS

The adjusted income standard for the QMB-BAS program is 100 percent of the 2009 federal poverty level. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 411.070

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 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 2-2007(Temp), f. & cert. ef. 3-1-07 thru 3-31-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 6-2008(Temp), f. 2-29-08, cert. ef. 3-1-08 thru 8-28-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09

461-155-0291

Income Standard; QMB-DW

The adjusted income standard for the QMB-DW program is 200 percent of the 2009 federal poverty level (see OAR 461-155-0290). [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 411.070

Hist.: AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 2-2007(Temp), f. & cert. ef. 3-1-07 thru 3-31-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 6-2008(Temp), f. 2-29-08, cert. ef. 3-1-08 thru 8-28-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09

461-155-0295

Income Standard; QMB-SMB

The *adjusted income standard* for QMB-SMB is 120 percent of the 2009 federal poverty level (see OAR 461-155-0290). [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060 & 411.070

Hist.: AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 19-2002(Temp), f. 12-10-02, cert. ef. 1-1-03 thru 5-31-03; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 4-2006, f. & cert. ef. 3-1-06; SSP 2-2007(Temp), f. & cert. ef. 3-1-07 thru 3-31-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 6-2008(Temp), f. 2-29-08, cert. ef. 3-1-08 thru 8-28-08; SSP 8-2008, f. & cert. ef. 4-1-08; 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

461-165-0060

Minimum Benefit Amount; FS, REF, TANF

(1) In the FS program:

(a) A *benefit group* (see OAR 461-110-0750) is not eligible for benefits in the initial month (see OAR 461-001-0000) if the allotment is less than \$10.

(b) In an ongoing month (see OAR 461-001-0000), benefits are issued as follows:

(A) An eligible one- or two-person benefit group receives a minimum monthly allotment of eight percent of the TFP for one person as determined annually by FNS.

(B) An *eligible benefit group* of three or more persons receives the calculated benefit except that a group whose calculated benefit is \$1, \$3, or \$5 receives instead an allotment of \$2, \$4, or \$6 respectively. A group that is categorically eligible (see OAR 461-135-0505) may be eligible for zero benefits (\$0) for the certification period (see OAR 461-001-0000).

(2) Except as provided in section (3) of this rule, in the REF and TANF programs, benefits are not issued if the monthly benefit is less than \$10. Individuals who do not receive a cash payment because the monthly benefit is less than \$10 may be eligible for medical benefits.

(3) The \$10 requirement in section (2) of this rule does not apply to:

(a) Special payments, such as one-time special needs, emergency assistance, supplements, or a benefit reduced from \$10 or more to under \$10 due to the recovery of an overpayment.

(b) Dual payee payments made in money management cases if the monthly benefit amount is \$10 or more.

(c) Wage supplements issued to JOBS Plus participants.

Stat. Auth.: ORS 411.060, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.049

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 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 19-2004(Temp), f. 7-30-04, cert. ef. 8-1-04 thru 9-30-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 24-2008(Temp), f. & cert. ef. 11-6-08 thru 5-5-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09

461-195-0521

Special Rules for Calculation of Overpayments

This rule contains special rules for calculating an overpayment.

(1) If a client directly receives support that should be, but is not, used to reduce benefits, there is an overpayment for the amount of support the client received directly that should have been used to reduce benefits. This section does not apply if the support received makes the client ineligible for benefits.

(2) When an overpayment occurs due to the failure of a person to reimburse the Department, when required by law, for assistance (including cash medical support) furnished for a need for which that person is compensated by another source, the liability of such person shall be limited to the lesser of the following amounts:

(a) The amount of the payment from the Department; or

(b) The amount by which the aggregate sum of all payments exceeds the maximum amount payable for such need under Department rules.

(3) If a client failed to comply with the requirements of OAR 461-120-0345 relating to medical insurance, an overpayment is calculated according to this section. The client is not included in the need group (see OAR 461-110-0630) during any period in which the client failed to meet a requirement of the OAR 461-120-0345 by withholding information or giving false information. Therefore, there is an overpayment equal to the dif-

ADMINISTRATIVE RULES

ference between the benefits the group received and the reduced amount it would have received had the client been removed from the need group.

(4) If the benefit group was categorically eligible for food stamps, there is no Food Stamp overpayment based on resources, Social Security number, or residency. A Food Stamp overpayment may exist based on incorrect income.

(a) For a group found eligible for food stamps under OAR 461-135-0505(1)(a), (b) or (c), and the actual income made the group ineligible for the related program, the group remains categorically eligible for food stamps. Benefit groups of one or two persons would be entitled to at least \$10 in food stamp benefits.

(b) For a group found eligible for food stamps only under OAR 461-135-0505(1)(d), and the actual income equals or exceeds 185% Federal Poverty Level, the group is no longer categorically eligible and the overpayment is the food stamp benefit amount.

(5) When a client receives benefits in the OSIPM program and does not pay their share of the cost of service (client liability), the overpayment consists of all payments made by the Department on behalf of the client, including but not limited to capitation payments, Medicare Part D payments, all medical expenses for that period, waived service payments (including home-delivered meals and non-medical transportation), Medicare Buy-In (if not concurrently eligible for a Medicare Savings Program such as QMB), and mileage reimbursement.

(6) Credit against an overpayment is allowed as follows:

(a) In the GA, REF, and TANF programs, a credit is allowed for a client's payment for medical services made during the period covered by the overpayment, in an amount not to exceed the Department fee schedule for the service, but credit is not allowed for an elective procedure unless it would have been authorized if requested.

(b) Credit is allowed for an underpayment of benefits.

(c) In the FS program, if the overpayment was caused by unreported earned income, verified child care costs are allowed as a credit to the extent the costs would have been deductible under OAR 461-160-0040 and 461-160-0430.

(7) Benefits paid during the notice period (see OAR 461-175-0050) are included in the calculation of the overpayment if:

(a) The client failed to report changes within the reporting time frame; and

(b) Benefits could have been adjusted in time to prevent the overpayment if the client had reported changes at any time within the reporting time frame.

(8) An overpayment is determined and calculated by assigning unreported income to the applicable budget month without averaging the unreported income. There is a rebuttable presumption that a client's earnings reported in a quarterly earnings report from the Employment Department were received by the client in equal amounts during the months identified in the report.

(9) Earned income deductions are applied in calculating an overpayment except as follows:

(a) In the MAA, MAF, REF, and TANF programs, no earned income deduction (see OAR 461-160-0160 and 461-160-0190) is allowed for a client who, without good cause (see section (10) of this rule), did either of the following:

(A) Failed to report all earned income within the reporting time frame.

(B) Under reported earned income.

(b) In the FS program, no deduction is applied to earned income not timely reported.

(10) For the purposes of section (9) of this rule, good cause means circumstances beyond the client's reasonable control that caused the client to be unable to report income timely and accurately.

(11) When support has been retained by the Department.

(a) In the TANF program, the amount of support (other than cash medical support) retained by the Department as current reimbursement each month is added to other income to determine ineligibility. In the case of a client not eligible for TANF, the overpayment is offset by support retained by the Department as current reimbursement.

(b) In the medical programs, the amount of the cash medical support retained by the Department each month is excluded income and not used to determine eligibility for medical benefits. When a client has incurred a medical overpayment, it is offset by the amount of the cash medical support retained by the Department during each month of the overpayment.

(12) When a client has incurred an overpayment due to both an administrative error (see OAR 461-195-0501) and a client error (see OAR 461-195-0501) in the same month, the client error overpayment is calculated

ed by determining the total overpayment for the month and subtracting from it the portion due to administrative error.

(13) In the medical programs:

(a) There is no overpayment if the client was ineligible for financial assistance but, during the period in question, would have been eligible for EXT or any other medical program.

(b) When an overpayment is caused by administrative error (see OAR 461-195-0501), there is no corresponding overpayment if the client had been eligible to receive medical benefits under EXT, GAM, MAA, MAF, OSIPM, or SAC. In such cases, the overpaid cash benefits are not counted as income in calculating eligibility for EXT, GAM, MAA, MAF, OSIPM, or SAC.

(14) In the Food Stamp program, in compliance with the American Recovery and Reinvestment Act of 2009, effective April 1, 2009, the amount between the normal Thrifty Food Plan (TFP) benefit amount under this section and the increased TFP benefit amount under OAR 461-155-0190 is not counted in the overpayment amount.

Stat. Auth.: ORS 411.060, 411.660, 411.816, 418.100

Stats. Implemented: ORS 411.060, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.816, 418.100

Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09

Rule Caption: Changing OARs regarding the Refugee Case Services Project (RCSP) and New Arrival Employment Services (NAES) programs.

Adm. Order No.: SSP 7-2009

Filed with Sec. of State: 4-1-2009

Certified to be Effective: 4-1-09

Notice Publication Date: 2-1-2009

Rules Amended: 461-193-0000, 461-193-0010, 461-193-0031, 461-193-0042, 461-193-0130, 461-193-0185, 461-193-0190, 461-193-0221, 461-193-0240, 461-193-0246, 461-193-0470, 461-193-0560, 461-193-0650, 461-193-0670, 461-193-0690, 461-193-0890, 461-193-0940, 461-193-0960, 461-193-1200, 461-193-1230

Rules Repealed: 461-193-0001, 461-193-0005, 461-193-0007, 461-193-0016, 461-193-0026, 461-193-0040, 461-193-0046, 461-193-0610, 461-193-0640, 461-193-0660, 461-193-1610

Subject: OAR 461-193-0000 about client rights is being amended to specify that the rule covers rights in the New Arrival Employment Services (NAES) and Refugee Case Services Project (RCSP) programs and revise the descriptions of the rights covered by the rule.

OAR 461-193-0001 about the scope and precedence of Refugee Project rules is being repealed because the other rule changes in this division of rules make this rule unnecessary.

OAR 461-193-0005, an overview of Refugee program projects, is being repealed because the current language discusses Department policy, funding and budgeting decisions and priorities, and other general information not necessary to administering Department programs via administrative rules.

OAR 461-193-0007 about project services delivery requirements is being repealed because its requirements are contractual in nature and appear in contracts between the Department and third-party service providers.

OAR 461-193-0010 about client responsibilities in the New Arrival Employment Services (NAES) and Refugee Case Services Project (RCSP) programs is being amended to revise the required responsibilities of a client and the client's spouse while participating in the RCSP and NAES programs. This rule is also being amended to remove language that appears in other rules, including employment plan requirements.

OAR 461-193-0016 about delegating authority for Refugee program project administration is being repealed because it is not necessary to cover these topics in an administrative rule.

OAR 461-193-0026 about initial orientations for applicants in Refugee program projects is being repealed because the rule covers information the Department may require third-party contractors to

ADMINISTRATIVE RULES

provide to clients and is now covered in the contracts between the Department and the contractors.

OAR 461-193-0031 about the eligibility requirements in the Refugee Case Services Project (RCSP) program is being amended to revise the eligibility requirements for clients in the RCSP program, including: meeting all TANF program eligibility requirements, meeting the alien status requirement, residing in certain Oregon counties, how to determine the first month of residence in the United States, age requirements, the prohibition against being a full-time student, and the treatment of newborn clients.

OAR 461-193-0040 about the responsibilities of employees of Refugee project contractors is being repealed because the rule covers responsibilities the Department may require third-party contractors to require of their staff and is now covered in the contracts between the Department and the contractors.

OAR 461-193-0042 about the employment plan and employment requirements for clients in the New Arrival Employment Services (NAES) and Refugee Case Services Project (RCSP) programs is being amended to revise the requirements of a program employment plan, including how the plan is created, when the plan may be modified, what the plan encompasses, client reporting requirements, complaint resolution, when a plan goes into effect, and how a plan is communicated to a client.

OAR 461-193-0046 about Refugee program employment projects and services is being repealed to remove unnecessary language concerning services the Department may or may not provide.

OAR 461-193-0130 about definitions used in the New Arrival Employment Services (NAES) and Refugee Case Services Project (RCSP) programs is being amended to revise definitions and to remove redundant definitions of terms defined in other Chapter 461 rules.

OAR 461-193-0185 about treatment of client assets (income and resources) in determining eligibility and benefit amounts in the Refugee Case Services Project (RCSP) program is being amended to state that the rules that apply in other programs in Chapter 461 apply in the RCSP program to determine the countable assets of a client.

OAR 461-193-0190 about applying for benefits in the Refugee Case Services Project (RCSP) program is being amended to revise the requirements of the application process for the RCSP program, including the information the applicant must supply, ongoing reporting requirements, when an application is considered complete, and when a new application is not required.

OAR 461-193-0221 about training activities in the New Arrival Employment Services (NAES) and Refugee Case Services Project (RCSP) programs is being amended to state that the training activities are part of the NAES program and to make the rule consistent with current Department policies and practices.

OAR 461-193-0240 about the clients exempt from participating in New Arrival Employment Services (NAES) program activities is being amended to revise the exemptions from NAES participation or disqualification, including pregnancy-related issues, caring for a family member with a disability, being elderly, receiving SSI, undue hardship, and voluntary participation.

OAR 461-193-0246 about employment and training incentive payments in the New Arrival Employment Services (NAES) program is being amended to restate the requirements for a NAES program client to receive an employment or training incentive benefit, and the limitation on the number of incentives a client may receive for each type of incentive.

OAR 461-193-0470 about who makes eligibility decisions in the Refugee Case Services Project (RCSP) program is being amended to state that the State Refugee Coordinator may have a designee make eligibility decisions.

OAR 461-193-0560 about payment standards in the Refugee Case Services Project (RCSP) program is being amended to state that in the RCSP program the cash assistance payment standard amount for

a client is the sum total of the TANF program payment standard plus the TANF program Cooperation Incentive.

OAR 461-193-0610 about the treatment of a client's newborn child in the Refugee Case Services Project (RCSP) program is being repealed because its provisions are now covered by other rules in this division.

OAR 461-193-0640 about client reporting requirements via the monthly client information report (MCIR) is being repealed because its provisions about client reporting requirements are now covered by other rules in this division.

OAR 461-193-0650 about countable income of a client in the Refugee Case Services Project (RCSP) program is being amended to indicate what rules in Chapter 461 are used to determine the treatment of income.

OAR 461-193-0660 about which resources and income are excluded when determining eligibility and benefit levels in the Refugee Case Service Project (RCSP) program is being repealed because its provisions about excluded resources and income are covered in other rules in this chapter of rules.

OAR 461-193-0670 about payment controls in the Refugee Case Services Project (RCSP) program is being amended to state that payment authorizations must be documented on a Department approved form and cross-reference another rule that states the State Refugee Coordinator's designee may make final eligibility determinations.

OAR 461-193-0690 about overpayments to clients in the Refugee Case Services Project (RCSP) program is being amended to state that the State Refugee Coordinator's designee may approve overpayment repayment schedules and indicate that a client's cash repayment of an overpayment to the client must be made according to the procedure determined by the State Refugee program.

OAR 461-193-0890 about good cause for non-cooperation with an employment plan in the New Arrival Employment Services (NAES) and Refugee Case Services Project (RCSP) programs is being amended to revise when a client has good cause for not complying with a requirement of an employment plan, including: exposure to adverse risk, undue hardship, care for a household member with a disability, union and strike issues, religious objections to union membership, transportation issues, issues related to pregnancy, and discriminatory employment practices.

OAR 461-193-0940 about disqualifications and penalties in the New Arrival Employment Services (NAES) and Refugee Case Services Project (RCSP) programs is being amended to state the conditions under which a client may be disqualified from program benefits including for failure to comply with a program requirement and only after being offered re-engagement, and restate the progressive penalties for program disqualification, including a second violation causing removal of a client from the need group and a third violation resulting in loss of cash assistance for the entire case.

OAR 461-193-0960 about a client re-engaging with a program by demonstrating cooperation in the New Arrival Employment Services (NAES) and Refugee Case Services Project (RCSP) programs is being amended to revise its elements, including what is reviewed under the re-engagement process, who may initiate the process, when the process is appropriate, when the process leads to disqualification, and when the process terminates.

OAR 461-193-1200 about the cooperation and participation requirements for clients in the New Arrival Employment Services (NAES) program is being amended to restate these requirements.

OAR 461-193-1230 about how a client can have the Department remove a disqualification in the New Arrival Employment Services (NAES) and Refugee Client Services Project (RCSP) programs is being amended to revise the requirements about how to remove a disqualification and to indicate when a disqualification ends.

OAR 461-193-1310 about client participation requirements in the New Arrival Employment Services (NAES) program is being repealed because its provisions are covered by OAR 461-193-1200.

Rules Coordinator: Annette Tesch—(503) 945-6067

ADMINISTRATIVE RULES

461-193-0000

Client Rights; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

In the New Arrival Employment Services (NAES) and Refugee Case Services Project (RCSP) programs, a client has, in addition to the rights under OAR 461-105-0010, the rights described in this rule. The project worker must explain these rights to the client both orally and in writing. A client has the right to:

- (1) Information about services administered under the program.
- (2) Receive a decision on eligibility promptly and no later than the tenth calendar day from the intake date.
- (3) Refuse social services unless the service is court ordered or related to an employment plan under OAR 461-193-0042.
- (4) Request a staffing under OAR 461-193-0920 within five working days of the date of a *decision notice* (see OAR 461-001-0000) informing a participant that benefits or services are denied, reduced, or ended.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 8-1995(Temp), f. 3-30-95, cert. ef. 4-1-95; AFS 24-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0010

Client Responsibilities; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

In the NAES and RCSP programs, to be eligible for benefits a client and a client's spouse residing in the same household must do all of the following:

- (1) Provide true, complete, and accurate information required to determine eligibility and verify that information, to the extent permitted by the client's physical and mental condition, or authorize the Resettlement Agency to obtain verification.
- (2) Comply with the eligibility requirements of the project.
- (3) Report within ten working days any changes that could affect eligibility for benefits (see OAR 461-170-0011).
- (4) Repay any overpayment of cash assistance benefits.
- (5) Accept social services that are court ordered or related to a case plan.
- (6) Cooperate during a case review by providing the requested information and verification.
- (7) Complete the application process or inform the Resettlement Agency of the decision to withdraw the application for program benefits.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 8-1995(Temp), f. 3-30-95, cert. ef. 4-1-95; AFS 24-1995, f. 9-20-95, cert. ef. 12-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2009, f. & cert. ef. 4-1-09

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 eligibility requirements.
- (2) Meet the alien status requirement under OAR 461-120-0120.
- (3) Reside in Clackamas, Multnomah, or Washington County.
- (4) Have resided in the U.S. for eight months or less, unless an Afghan special immigrant limited to having resided in the U.S. for six 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 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

461-193-0042

Refugee Project Employment Requirements and Employment Plan; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

In the RCSP program:

(1) Except for a client meeting OAR 461-193-0240, each adult client must participate in the NAES program.

(2) Each NAES program client is required to have an employment plan and must be actively engaged in NAES program employment activities as specified in the individual's employment plan.

(3) The job developer and client develop an individualized employment plan agreed to by the client and the job developer.

(a) The job developer uses proven methods for encouraging the full engagement of the client and the development of the employment plan. These proven methods include, but are not limited to, strength-based case management and motivational interviewing.

(b) The employment plan may be modified whenever circumstances change.

(4) The employment plan:

(a) Is individualized and developed with the client and in cooperation with appropriate partner agencies or other professionals.

(b) Identifies client goals and activities to help the client meet those goals.

(A) Activities promote both family stability and financial independence.

(B) Activities help reduce or eliminate barriers to self-sufficiency, employment, job retention, wage enhancement, and full participation in the NAES program.

(C) For a client with a disability (see OAR 461-001-0000), the goal of the employment plan is to promote greater independence. The employment plan may include physical and mental health treatment.

(D) The employment plan includes agreed upon support services needed to enable the client to successfully complete the plan.

(E) The employment plan includes identified accommodations or modifications necessary for the client to successfully complete the employment plan.

(F) Activities are based on information obtained in screenings and evaluations, and are intended to build on client strengths.

(c) A client must inform the job developer of any circumstance that may require a change to the provisions of the employment plan.

(d) A client who disagrees with any provision of an employment plan may seek resolution of the disagreement through the complaint process (see OAR 461-193-0121).

(5) The employment plan is complete and binding when the client is informed of its contents, it is signed by the job developer and client, and the client has been offered a copy of the plan.

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

461-193-0130

Definitions; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

The following definitions apply to rules about the NAES and RCSP programs in Chapter 461:

(1) "Asylee" means a refugee granted asylum under Section 208 of the Immigration and Nationality Act. Most asylees are granted asylum after arriving in the United States. Others are admitted to the United States from another country so that they can join a family member who has already received asylum.

(2) "Case head" means the case member who is responsible for providing information necessary to determine eligibility and calculate benefits, and report income. The case head may be either adult in the case.

(3) "Emancipated youth" means a child determined to be a single case by the U.S. Citizenship and Immigration Services or who has been emancipated legally.

ADMINISTRATIVE RULES

(4) "Family reunification case" means a newly arrived refugee joining a nuclear family member already residing in the United States.

(5) "NAES" means New Arrival Employment Services, the employment component for clients in the RCSP program.

(6) "New arrival" means a refugee who originally resettled in Oregon.

(7) "RCSP" means Refugee Case Services Project, a partnership operated through a contract between the Department's Refugee program and a voluntary agency that resettles newly arrived refugees, to provide case management of cash assistance to a refugee settling in Multnomah, Clackamas, or Washington County.

(8) "Secondary migrant" means a refugee who originally resettled in another state, and was part of another state's Department of State Reception and Placement counts, who has since moved to Oregon.

Stat. Auth.: ORS 411.060, 411.116

Stats. Implemented: ORS 411.060, 411.070, 411.135, 412.006, 412.049, 414.025

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 6-1997, f. 5-28-97, cert. ef. 6-1-97; 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

461-193-0185

Countable Assets; Refugee Case Services Project (RCSP)

In the RCSP program, the rules in divisions 140 and 145 of this chapter of rules determine the treatment of specific assets (see OAR 461-001-0000) for determining eligibility (see OAR 461-001-0000) and benefit amount.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 22-1997, f. & cert. ef. 12-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0190

Applying; Refugee Case Services Project (RCSP)

In the RCSP program:

(1) An application form is readily available to anyone requesting one. The program assists a client unable to complete the application form or gather information necessary to verify eligibility.

(2) If an applicant files an application containing the applicant's name and address, the program must send the applicant a decision notice (see OAR 461-001-0000).

(3) An applicant must file an application, or may amend an application already complete, as a prerequisite to receiving benefits as follows:

(a) Except as provided in section (7) of this rule, an applicant wishing to apply for RCSP program benefits must submit a complete application on a form approved by the RCSP program.

(b) An application is complete when all of the following requirements are met:

(A) All information necessary to determine the individual's eligibility and benefit amount is provided on the application for each individual in the filing group.

(B) The applicant, even if homeless, provides a mailing address.

(C) The application is signed. An individual required but unable to sign the application may sign with a mark, witnessed by another individual.

(D) The application is received by the RCSP program.

(4) To complete the application process, the applicant or authorized representative must complete and sign an application, apply at the appropriate location, provide necessary information to the RCSP program within the time frame required, and meet the interview requirements of OAR 461-115-0230.

(5) If the RCSP program requires additional information to determine eligibility, the client is entitled to a written notice that includes a statement of the specific information needed to determine eligibility and the date by which the client must provide the required information to the program.

(6) An applicant may withdraw an application at any time.

(7) A new application is not required in the following situations:

(a) When the case is closed and reopened during the same calendar month.

(b) When benefits were suspended for one month because of the level of income, and the case is reopened the month following the month of suspension.

(c) To add a newborn child to a *benefit group* (see OAR 461-110-0750), but a parent in the benefit group must re-sign and date the current application.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 22-1997, f. & cert. ef. 12-1-97; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0221

Training Activities; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

(1) NAES program training services are provided in coordination with the RCSP program.

(2) In the NAES program:

(a) Only selected and approved client vocational training is considered a higher service priority than job search, job referral, or job placement activities.

(b) A client in a training program must remain a student in good standing and make satisfactory progress in the program.

(c) A client must agree to attend daily classes and to report absences to the instructor in a timely manner.

(d) Each client must be told of the consequences of poor attendance. Poor attendance in a training program is a noncooperation issue (see OAR 461-193-1190).

(e) Each client is responsible for arranging transportation and child care to attend the training program. Lack of child care or transportation is not a valid barrier to participation in training classes.

(f) The provided training must include monitoring.

(3) The job worker must review the client's progress at the end of each month and when training is completed.

(4) The instructor monitors attendance and informs the job worker of all absences.

(5) The training instructor completes a detailed exit evaluation of each training participant. The evaluation covers the client's motivation to seek employment and to learn English, skills and knowledge gained by the class, barriers removed, and behavior likely to affect employment.

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; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0240

Exemption From Participating; New Arrival Employment Services (NAES)

(1) Participation in the NAES program is limited to RCSP program adult clients.

(2) An adult client is exempt from participation in or disqualification from the NAES program when the requirements of one of the following subsections are met:

(a) In the ninth month of pregnancy or when experiencing medical complications due to pregnancy that prevent participation in the NAES program.

(b) During the first six months after giving birth, except that the client may be required to participate in parenting classes or family stability activities.

(c) Under 20 years of age during the first 16 weeks after giving birth, except that the client may be required to participate in suitable activities with a preference for educational activities, parenting classes, and family stability activities.

(d) A parent providing care for a family member who lives in the home and has a disability (see OAR 461-001-0000).

(e) Sixty-five years of age or older.

(f) Receiving supplemental security income (SSI) from the Social Security Administration.

(g) Participation likely would cause undue hardship or is contrary to the best interest of a child or needy caretaker relative.

(h) Volunteering, except that a client may not be disqualified for conduct that occurred while a volunteer. Volunteering, as used in the NAES program rules, means that a client who is otherwise exempt from participating in the NAES program chooses to participate in an employment program nevertheless.

(3) An adult client is exempt from disqualification from the NAES program when participating more than 10 hours per week during the seventh and eighth months of pregnancy.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 8-1995(Temp), f. 3-30-95, cert. ef. 4-1-95; AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2009, f. & cert. ef. 4-1-09

ADMINISTRATIVE RULES

461-193-0246

Employment and Training Incentives; New Arrival Employment Services (NAES)

In the NAES program, a client is eligible for an employment or training incentive only while active in the NAES program.

(1) To be eligible for an employment incentive, a client must meet one of the following criteria:

(a) The client must successfully complete the first 30-day full-time employment placement. Eligibility for the incentive starts on the 30th day of employment in the full-time job.

(b) The client must successfully complete the first 90-day full-time employment placement. Eligibility for the incentive starts on the 90th day of employment in the full-time job.

(c) The client is employed in at least two part-time jobs concurrently. The part-time jobs must total at least 35 hours per week. Eligibility for the incentive starts on the 30th and 90th day of the job which makes the work week 35 hours per week or more.

(2) To be eligible for a training incentive, a client must meet one of the following criteria:

(a) The client successfully completes a Pre-Employment Training (PET) class, vocational training, or became employed before the training was completed.

(b) The client meets the minimum attendance criteria for training. Minimum attendance criteria are:

(A) Less than four absences (excused or unexcused) from a PET class.

(B) Less than three absences (excused or unexcused) from a vocational training class.

(3) Each client is eligible for only one 30-day and one 90-day employment incentive, regardless of the number of jobs obtained during the client's project eligibility.

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; 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 22-1997, f. & cert. ef. 12-1-97; AFS 13-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 18-2003, f. & cert. ef. 7-1-03; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0470

Eligibility Decision; Refugee Case Services Project (RCSP)

In the RCSP program:

(1) The RCSP program worker determines whether the applicant meets initial eligibility for the RCSP program.

(2) The final determination of eligibility is made by the Department's State Refugee Coordinator or designee.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. 2-1-94; AFS 8-1995(Temp), f. 3-30-95, cert. ef. 4-1-95; AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 2-1996(Temp), f. 1-30-96, cert. ef. 2-1-96; AFS 11-1996, f. 3-27-96, cert. ef. 4-1-96; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0560

Payment Standards; Refugee Case Services Project (RCSP)

In the RCSP program, the cash assistance payment standard amount for a client is the sum total of the TANF payment standard under OAR 461-155-0030(2) plus the Cooperation Incentive under OAR 461-155-0035(2).

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. 2-1-94; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 6-1997, f. 5-28-97, cert. ef. 6-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 25-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 3-2003(Temp), f. & cert. ef. 2-14-03 thru 6-30-03; SSP 18-2003, f. & cert. ef. 7-1-03; SSP 27-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03; SSP 34-2003, f. 12-31-03 cert. ef. 1-1-04; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0650

Countable Income; Refugee Case Services Project (RCSP)

In the RCSP program, the cash assistance payment standard amount for a client is the sum total of the TANF payment standard under OAR 461-155-0030(2) plus the Cooperation Incentive under OAR 461-155-0035(2).

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 22-1997, f. & cert. ef. 12-1-97; AFS 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 5-1-00; Administrative correction 5-22-00; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0670

Payment Controls; Refugee Case Services Project (RCSP)

In the RCSP program:

(1) The RCSP program may withhold cash assistance if the client provided information that is not complete or under question, or the client is in violation of RCSP program policy or federal regulations.

(2) A cash assistance benefit payment must be authorized by the RCSP program provider, approved by a supervisor, and documented on a Department approved project form. The final determination of eligibility is made as described in OAR 461-193-0470.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 8-1995(Temp), f. 3-30-95, cert. ef. 4-1-95; AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0690

Overpayments; Refugee Case Services Project (RCSP)

In the RCSP program:

(1) An overpayment is any cash payment made by the project that exceeds the amount a client is eligible for, and is received by, or on behalf of, that client. An overpayment may result from administrative or client error.

(2) Any overpayment amount is a debt and a delinquent account owed to the State of Oregon and is subject to collection. The project may recover the overpayment amount from the case head (see OAR 461-193-0130) and any adult who was a member of the case at the time of the overpayment. The project may recover an overpayment amount from any of the following sources or from any other source permitted by law:

(a) Reimbursement from the client.

(b) Reduction of ongoing benefits.

(c) The amount of any restoration of benefits otherwise payable to the client (ending a disqualification).

(d) An overpayment not immediately recoverable from a source specified in this section is subject to collection services through the Department.

(3) An overpayment may be paid in full or under a repayment schedule. Each repayment schedule must be approved by the case service supervisor, and the State Refugee Coordinator or designee.

(a) A repayment schedule must be one of the following:

(A) The total amount of the overpayment divided by the remaining months of case time eligibility.

(B) Voluntary deduction of the entire overpayment amount from the next cash assistance check, if the overpayment amount is less than the next cash assistance payment.

(C) Voluntary deduction from all future cash assistance payments until the overpayment is repaid.

(b) Cash repayment must be made according to the procedure determined by the State Refugee program.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0890

Good Cause; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

(1) A client has good cause for a failure to comply with a requirement of an employment program, including an activity (see OAR 461-001-0025) in an employment plan, in any of the following circumstances:

(a) Participation in a required activity in an employment plan would have an adverse effect on or be a risk to the client's physical or mental health or would expose the client to increased risk of domestic violence (see OAR 461-001-0000).

(b) Participation is likely to cause undue hardship for the client or a child of the client.

(c) The failure to comply was caused by the failure of the Department to provide or authorize a timely support service payment.

(d) Appropriate child care cannot be obtained for an individual in the household who has a disability (see OAR 461-001-0000) that substantially reduces or eliminates the individual's ability to care for himself or herself. "Appropriate child care" means that:

(A) Both the provider and the place where care is provided meet health, safety, and provider requirements under OAR 461-165-0180;

(B) The care accommodates the parent's work schedule; and

(C) The care meets the specific needs of the child, such as age and special-needs requirements.

(e) The work attachment position or employment offered is vacant due to a strike, lockout, or other labor dispute.

ADMINISTRATIVE RULES

(f) The work attachment position or employment requires the client to join a union, and the client has religious objections to unions.

(g) The client belongs to a union and the employment violates the conditions of the client's membership in the union.

(h) The wage for the client's current or potential job is:

(A) Less than applicable minimum wage; or

(B) If minimum wage laws do not apply, the wage or rate for piece work is less than that normally paid for similar work.

(i) The client's prospective employer engages in employment practices that are illegally discriminatory on the basis of age, sex, race, religious or political belief, marital status, disability, sexual orientation, or ethnic origin.

(j) The client's failure to participate is due to a circumstance beyond his or her reasonable control.

(k) When the failure to comply is caused by an aspect of the client's disability.

(l) The client has no means of transportation and would have to walk an unreasonable distance to meet the participation requirement. An "unreasonable distance" is a distance that requires a commute of more than two hours each day. The client must make a good-faith effort to secure the needed transportation.

(m) The hours or nature of the job interferes with the client's religious observances, convictions, or beliefs.

(n) The client accepts a job that, for reasons beyond the control of the client, does not materialize or results in fewer work hours or a lower wage than the client's previous job.

(o) The client is in her seventh or eighth month of pregnancy and either works in a job that requires her to work more than 10 hours each week or has a case plan (see OAR 461-001-0025) that requires her to participate more than 10 hours each week.

(p) The client quits a full-time job to accept another full-time job with a wage at least equal to the wage of the first job.

(q) The client makes a good faith effort to complete an activity on the employment plan but is unable to do so.

(2) A client is excused from a failure to comply with a requirement of an employment program for good cause when the client participates in suitable activities for the number of hours required each month to satisfy federally required participation rates (see OAR 461-001-0025).

(3) The Department does not require a client to provide verification of good cause if providing the verification would expose the client to increased risk of domestic violence.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 8-1995(Temp), 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; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0940

Disqualifications; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

In the NAES and RCSP programs:

(1) A client may be disqualified for failure to comply with the requirements of the program. A disqualification is initiated only after the client has had an opportunity to participate in the re-engagement process under OAR 461-193-0960.

(2) In the NAES program, the Department does not apply a disqualification until the Department:

(a) Determines the client is willfully non-compliant and does not have good cause (see OAR 461-193-0890) for failing to comply with a requirement of the program;

(b) Offers (and the client refuses) or conducts screenings (and assesses if appropriate) for physical or mental health needs, substance abuse, domestic violence, and learning needs;

(c) Determines the client has no barrier (see OAR 461-001-0025) or the client refuses to take appropriate steps to address any identified barrier;

(d) Determines the client has not met federally required participation rates (see OAR 461-001-0025); and

(e) Assesses the risk of harm posed to a child of the client by a reduction in cash assistance.

(3) Disqualifications are imposed under the following conditions and are progressive, with three levels of penalties:

(a) The first disqualification results in a \$50 decrease in the payment standard for the case. This disqualification may be applied only one time during project eligibility.

(b) The second disqualification results in removal of the client from the need group (see OAR 461-110-0630).

(c) The third disqualification results in loss of cash assistance for the entire case.

(4) An applicant disqualified for failure to comply with the requirements of an employment program is treated the same as a client under section (1) of this rule.

Stat. Auth.: ORS 411.060, 411.116

Stats. Implemented: ORS 411.070, 411.135, 412.006, 412.049, 414.025

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 8-1995(Temp), f. 3-30-95, cert. ef. 4-1-95; AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 16-2000(Temp), f. 6-28-00, cert. ef. 7-1-00 thru 9-30-00; AFS 24-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-0960

Re-engagement; New Arrival Employment Services (NAES), Refugee Case Services Project (RCSP)

In the NAES and RCSP programs:

(1) When an aspect of the RCSP program or an employment plan is unmet or in dispute, the re-engagement process provides an opportunity for the client and the Department to:

(a) Review and re-evaluate the RCSP program expectations or the employment plan and other information about each strength and barrier (see OAR 461-001-0025) of the client;

(b) Identify participation expectations and concerns about participation and completion of each activity (see OAR 461-001-0025) in the RCSP program or the employment plan;

(c) Consider whether the employment plan is still appropriate;

(d) Develop options that support the client's full participation; and

(e) Revise the employment plan as appropriate.

(2) The re-engagement process assists the Department in identifying whether the client is unable to participate fully or is willfully non-compliant.

(a) If screenings for physical or mental health needs, substance abuse, domestic violence (see OAR 461-001-0000), or learning needs are incomplete, the re engagement process provides an additional opportunity to initiate screenings for any previously unidentified barrier to participation.

(b) Circumstances requiring a determination of whether good cause (see OAR 461-193-0890) exists include: disagreements about an RCSP program activity, the employment plan, irregular attendance at activities, missed appointments, failure to participate in a component of the case plan, and refusal to accept or maintain employment.

(3) The re-engagement process must assess the risk of harm posed to a child (see OAR 461-001-0000) in the filing group (see OAR 461-110-0430) by the potential reduction in aid payments and take steps to ameliorate any identified risk.

(4) The client, the Department, or the Department's contractor may initiate the re-engagement process. The re-engagement process is not a required activity.

(5) The Department will not disqualify a client based on the client's failure to participate in the re-engagement process.

(6) The client or Department may invite a partner agency, a Department contractor, an individual currently working with the client, or another individual with information relevant to the re-engagement process to any appointment or meeting scheduled as part of the re-engagement process.

(7) The re-engagement process ends when any of the following occurs:

(a) The Department and the client agree to a modified employment plan;

(b) Efforts to re-engage the client are unsuccessful;

(c) The Department determines the client meets the federally required participation rates (see OAR 461-001-0025);

(d) The client clearly indicates the intent not to participate in the re-engagement process;

(e) The client is willfully non-compliant and has the ability to be fully engaged;

(f) The client has no identified barrier to participation or refuses to take an appropriate step to address an identified barrier to participation in the program; or

(g) A client does not have good cause (see OAR 461-193-0890) for not complying with a requirement of the program, and the client is able but unwilling to address the issue through activities that address an identified barrier to participation or a case plan modification.

(8) When the re-engagement process ends unsuccessfully the Department may begin the process of disqualifying a client for failure to comply with a requirement of the NAES or RCSP program.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

ADMINISTRATIVE RULES

Hist.: AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 8-1995(Temp), f. 3-30-95, cert. ef. 4-1-95; AFS 37-1995, f. 11-28-95, cert. ef. 12-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-1200

Cooperation Requirements; New Arrival Employment Services (NAES)

In the NAES program:

(1) A client must provide the information required by the Department. The required information includes information needed to:

- (a) Determine if the client is mandatory to participate in the program;
- (b) Assess the client's participation level in the NAES program;
- (c) Assess whether a client has good cause (see OAR 461-193-0890) for any failure to meet a requirement of the NAES program; or
- (d) If a medical condition is in question, provide the Department with a medical opinion from an appropriate medical professional.

(2) A client who is required to participate in the NAES program must do all of the following:

(a) Complete the assessment process and provide sufficient information for the Department to determine whether the client must participate in the NAES program.

(b) Register for the NAES program by completing the forms required by the Department. A client required to participate in the NAES program who fails to register is ineligible for benefits.

(c) Meet all of the following participation requirements:

(A) Accept a bona fide offer of employment, whether temporary, permanent, full-time, part-time, or seasonal.

(B) Maintain employment. A client fails to maintain employment when the client:

(i) Does not accept an increase in hours worked that would result in increased earnings, so long as the maximum amount of hours worked per week does not exceed 40 hours;

(ii) Quits work without good cause or is discharged for misconduct in accordance with the unemployment insurance compensation laws of the State of Oregon; or

(iii) Voluntarily reduces earnings or hours of employment.

(C) Schedule and keep required employment-related appointments and interviews.

(D) Notify the Department's case manager or the NAES program contractor of the reason for not keeping employment-related appointments and interviews, not attending scheduled classes and activities, and not completing case management activities. Notification must be made within three working days from the date of a missed appointment, interview, class, or activity.

(E) Provide the Department, in the manner required, with verifiable documentation of NAES program participation hours including paid work, job search activity, and educational activity.

(F) Complete each case management assignment specified in the employment plan.

Stat. Auth.:ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 13-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 7-2009, f. & cert. ef. 4-1-09

461-193-1230

Removing Disqualifications; New Arrival Employment Services (NAES), Refugee Client Services Project (RCSP)

In the NAES and RCSP programs:

(1) A client disqualified for failure to meet the requirements of the NAES or RCSP program must comply with those requirements before the disqualification may be removed.

(a) When the Department removes a disqualification due to a client's compliance with participation requirements and completion of a cooperation period of two consecutive weeks as specified in a new employment plan, the client is eligible for cash benefits effective the date the client agreed to re-engage.

(b) If a client requests an opportunity to comply with the participation requirements prior to the effective date of a proposed disqualification, the Department amends the employment plan to enable the client to comply with the requirements for the period remaining before the effective date of the disqualification. If the client meets participation requirements during this period, the disqualification penalty is not imposed but the month in which the disqualification penalty was to be imposed counts as a month of disqualification.

(c) A client stating a desire to cooperate with participation requirements on or after the date the disqualification takes effect, must be assigned

a cooperation period of two consecutive weeks. The client must complete a new employment plan before cash benefits are restored. The disqualification ends after the client participates in the cooperation period of two consecutive weeks.

(d) For a client who completes the cooperation period of two consecutive weeks under subsection (c) of this section, the disqualification ends and only one month of the penalty imposed counts as a disqualification.

(2) A disqualification ends when the client is no longer required to participate in the NAES program or complies with the requirements of the employment program under section (1) of this rule. For a client no longer required to participate in the NAES program, the disqualification ends on the first day of the month in which the client informs the Department of the facts that justify the change in the participation requirement.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; SSP 7-2009, f. & cert. ef. 4-1-09

Department of Human Services, Children, Adults and Families Division: Vocational Rehabilitation Services Chapter 582

Rule Caption: Housekeeping amendments affecting OARs 582-001-0003 through 582-001-0010; amend select definitions governing chapter 582; amend 582-100-0040 relating to Order of Selection.

Adm. Order No.: VRS 2-2009

Filed with Sec. of State: 3-27-2009

Certified to be Effective: 3-27-09

Notice Publication Date: 2-1-2009

Rules Amended: 582-001-0003, 582-001-0005, 582-001-0010, 582-100-0040

Rules Repealed: 582-001-0003(T), 582-001-0005(T), 582-001-0010(T), 582-100-0040(T)

Subject: Corrects citations to other OARs and OVRS statutory authority in OARs 582-001-0003 through 582-001-0010 and 582-100-0040.

Amends 582-001-0010(22) defining "Individual with a most significant disability" to remove reference to supported employment in former subsection a.

Amends 582-001-0010(23) defining "Individual with a significant disability" to remove reference to trial work and extended evaluations in subsection (b)(A) and to clarify that only one functional capacity limitation is required to be considered an individual with a significant disability.

Streamlines the definitions for personal assistance, post-employment and transition services, and transportation.

Amends 582-100-0010 relating to Order of selection priority levels, clarifying that only two functional capacity limitations are required to qualify for Priority Two status.

Rules Coordinator: Sherri L. Rita—(503) 945-6695

582-001-0003

Purpose for Adoption of Procedural Rules

Adoption provides for a standard procedure to be used in all matters relating to the Administrative Procedures Act, state statutes and administrative rules about vocational rehabilitation services, the federal Rehabilitation Act of 1973, as amended, the federal regulations implementing the Rehabilitation Act, and the State Plan.

Stat. Auth.: ORS 183.332 & ORS 344.530

Stats. Implemented: ORS 344.530

Hist.: VRD 25, f. & ef. 9-28-76; VRD 1-1990, f. & cert. ef. 11-26-90; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 4-2008(Temp), f. 12-18-08, cert. ef. 12-19-08 thru 6-16-09; VRS 2-2009, f. & cert. ef. 3-27-09

582-001-0005

General Procedures

Department of Human Services, Vocational Rehabilitation Services, chapter 582, will comply with OAR 407-001-0000 and 407-001-0005 for Notices of rulemaking.

Stat. Auth.: ORS 344.530

Stats. Implemented: ORS 183.335, 183.341 & 344.530

Hist.: VRD 14, f. 10-30-73, ef. 11-25-73; VRD 25, f. & ef. 9-29-76; VRD 4-1978, f. 3-14-78, ef. 3-15-78; VRD 1-1980, f. & ef. 2-25-80; VRD 6-1981, f. & ef. 12-8-81; VRD 1-1990, f. & cert. ef. 11-26-90; VRD 2-1993, f. & cert. ef. 9-15-93; VRD 5-1997, f. & cert. ef. 11-21-97;

ADMINISTRATIVE RULES

VRS 5-2004, f. & cert. ef. 8-5-04; VRS 1-2006, f. & cert. ef. 5-11-06; VRS 4-2008(Temp), f. 12-18-08, cert. ef. 12-19-08 thru 6-16-09; VRS 2-2009, f. & cert. ef. 3-27-09

582-001-0010

Definitions for Chapter 582

The following definitions apply to each division in chapter 582 of the Oregon Administrative Rules unless otherwise indicated:

(1) "Act" refers to the federal Rehabilitation Act of 1973, as amended (29 U.S.C. 701 et seq.).

(2) "Assistant Director" refers to the Assistant Director of the Office of Vocational Rehabilitation Services.

(3) "Applicant" refers to an individual who submits an application for vocational rehabilitation services in accordance with 34 CFR 361.41(b)(2).

(4) "Assessment for determining eligibility and vocational rehabilitation needs" refers to, as appropriate in each case:

(a) A review of existing data to determine if an individual is eligible for vocational rehabilitation services; and to assign priority for an order of selection if in effect; and

(b) To the extent necessary, the provision of appropriate assessment activities to obtain necessary additional data to make the eligibility determination and assignment;

(c) To the extent additional data are necessary to make a determination of the employment outcomes and the nature and scope of vocational rehabilitation services to be included in the individualized plan for employment of an eligible individual, a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of the eligible individual. This comprehensive assessment:

(A) Is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the individualized plan of employment of the eligible individual;

(B) Uses as a primary source of information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements: Existing information obtained for the purposes of determining the eligibility of the individual and assigning priority for an order of selection for the individual; and Information that can be provided by the individual and, if appropriate, by the family of the individual;

(C) May include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors that affect the employment and rehabilitation needs of the individual; and

(D) May include, to the degree needed, an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the use of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment;

(d) Referral, for the provision of rehabilitation technology services to the individual, to assess and develop the capacities of the individual to perform in a work environment; and

(e) An exploration of the individual's abilities, capabilities, and capacity to perform in work situations, which must be assessed periodically during trial work experiences, including experiences in which the individual is provided appropriate supports and training.

(5) "Assistive technology device" refers to any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of an individual with a disability.

(6) "Assistive technology service" refers to any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device, including:

(a) The evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in his or her customary environment;

(b) Purchasing, leasing, or otherwise providing for the acquisition by an individual with a disability of an assistive technology device;

(c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(e) Training or technical assistance for an individual with a disability or, if appropriate, the family members, guardians, advocates, or authorized representatives of the individual; and

(f) Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or others who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities, to the extent that training or technical assistance is necessary to the achievement of an employment outcome by an individual with a disability.

(7) "CFR" refers to the Code of Federal Regulations.

(8) "Client Assistance Program" or "CAP" refers to a federally-funded program authorized under 34 CFR 370 that is independent of OVRS and whose purpose is to provide information, advocacy, and legal representation to individuals seeking OVRS services.

(9) "Client's Representative" refers to any person identified by the client as being authorized to speak or act on behalf of the client or to assist the client in any matter pertaining to services of OVRS, unless a representative has been appointed by a court to represent the client, in which case the court-appointed representative is the client's representative.

(10) "Community Rehabilitation Program" or "CRP" refers to:

(a) A program that provides directly or facilitates the provision of one or more of the following vocational rehabilitation services to individuals with disabilities to enable those individuals to maximize their opportunities for employment, including career advancement:

(A) Medical, psychiatric, psychological, social, and vocational services that are provided under one management.

(B) Testing, fitting, or training in the use of prosthetic and orthotic devices.

(C) Recreational therapy.

(D) Physical and occupational therapy.

(E) Speech, language, and hearing therapy.

(F) Psychiatric, psychological, and social services, including positive behavior management.

(G) Assessment for determining eligibility and vocational rehabilitation needs, including technicians for assessment tests.

(H) Rehabilitation technology.

(I) Job development, placement, and retention services.

(J) Evaluation or control of specific disabilities.

(K) Orientation and mobility services for individuals who are blind.

(L) Extended employment.

(M) Psychosocial rehabilitation services.

(N) Supported employment services and extended services.

(O) Services to family members if necessary to enable the applicant or eligible individual to achieve an employment outcome.

(P) Personal assistance services.

(Q) Services similar to the services described in subsections (A) through (P) of this definition, including vendors who provide training, write resumes, consult on self-employment plans, assist with a self-employed business, or write PASS plans.

(b) For the purposes of this definition, the word program means an agency, organization, or institution, or unit of an agency, organization, or institution, that provides directly or facilitates the provision of vocational rehabilitation services as one of its major functions. It does not include the prospective employer of the client.

(11) "Comparable services and benefits" refers to:

(a) Services and benefits that are:

(A) Provided or paid for, in whole or in part, by other Federal, State, or local public agencies, by health insurance, or by employee benefits;

(B) Available to the individual at the time needed to ensure the progress of the individual toward achieving the employment outcome in the individual's individualized plan for employment in accordance with 34 CFR 361.53; and

(C) Commensurate to the services that the individual would otherwise receive from OVRS.

(b) For the purposes of this definition, comparable benefits do not include awards and scholarships based on merit.

(12) "Competitive employment" refers to work:

(a) In the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and

(b) For which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

(13) "DHS" refers to the Department of Human Services.

ADMINISTRATIVE RULES

(14) "Eligible individual" refers to an applicant for vocational rehabilitation services who meets the eligibility requirements of 34 CFR 361.42(a).

(15) "Employment outcome" refers to, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment, as defined in OAR 582-001-0010(12), in the integrated labor market, supported employment, or any other type of employment in an integrated setting, including self-employment, telecommuting, or business ownership, that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(16) "Extended employment" refers to work in a non-integrated or sheltered setting for a public or private nonprofit agency or organization that provides compensation in accordance with the Fair Labor Standards Act.

(17) "Extended services" refers to ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability in supported employment and that are provided by a State agency, a private nonprofit organization, employer, or any other appropriate resource, from funds other than funds received under this part and 34 CFR part 363 after an individual with a most significant disability has made the transition from support provided by OVRs.

(18) "Extreme medical risk" refers to a probability of substantially increasing functional impairment or death if medical services, including mental health services, are not provided expeditiously.

(19) "Family member," for purposes of receiving vocational rehabilitation services in accordance with 34 CFR 361.48(i), refers to an individual:

(a) Who either:

(A) Is a relative or guardian of an applicant or eligible individual; or

(B) Lives in the same household as an applicant or eligible individual;

(b) Who has a substantial interest in the well-being of that individual;

and

(c) Whose receipt of vocational rehabilitation services is necessary to enable the applicant or eligible individual to achieve an employment outcome.

(20) "Impartial hearing officer" refers to an individual who:

(a) Is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education) — an individual is not considered to be an employee of a public agency for the purposes of this definition solely because the individual is paid by the agency to serve as a hearing officer;

(b) Is not a member of the State Rehabilitation Council for OVRs;

(c) Has not been involved previously in the vocational rehabilitation of the applicant or eligible individual;

(d) Has knowledge of the delivery of vocational rehabilitation services, the State plan, and the Federal and State regulations governing the provision of services;

(e) Has received training with respect to the performance of official duties; and

(f) Has no personal, professional, or financial interest that would be in conflict with the objectivity of the individual.

(21) "Individual with a disability" refers to an individual:

(a) Who has a physical or mental impairment; and

(b) Whose impairment constitutes or results in a substantial impediment to employment; and

(c) Who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

(22) "Individual with a most significant disability" refers to an eligible individual who:

(a) Has a severe mental or physical impairment that seriously limits two or more functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and

(b) Is expected to require two or more vocational rehabilitation services over an extended period of time to achieve or maintain a successful employment outcome.

(23) "Individual with a significant disability" refers to an eligible individual who does not qualify as an individual with a most significant disability as defined at OAR 582-001-0010(22); and

(a) The individual is currently receiving or eligible to receive Social Security Income or Social Security Disability Insurance payments; or

(b) The individual:

(A) Has a severe mental or physical impairment that seriously limits one functional capacity (mobility, communication, self-care, self-direction,

interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and

(B) Is expected to require two or more vocational rehabilitation services over an extended period of time to achieve or maintain a successful employment outcome.

(24) "Integrated setting":

(a) With respect to the provision of services, refers to a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals other than non-disabled individuals who are providing services to those applicants or eligible individuals;

(b) With respect to an employment outcome, refers to a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals, other than non-disabled individuals who are providing services to those applicants or eligible individuals, to the same extent that non-disabled individuals in comparable positions interact with other persons.

(25) "Maintenance" refers to monetary support provided to an individual for expenses, such as food, shelter, and clothing, that are in excess of the normal expenses of the individual and that are necessitated by the individual's participation in an assessment for determining eligibility and vocational rehabilitation needs or the individual's receipt of vocational rehabilitation services under an individualized plan for employment.

(26) "Mediation" refers to the act or process of using an independent third party to act as a mediator, intermediary, or conciliator to assist persons or parties in settling differences or disputes prior to pursuing formal administrative or other legal remedies. Mediation under the program must be conducted in accordance with the requirements in 34 CFR 361.57(d) by a qualified and impartial mediator as defined in 34 CFR 361.5(b)(43).

(27) "OAR" refers to the Oregon Administrative Rules.

(28) "Ongoing support services," as used in the definition of "Supported employment"

(a) Refers to services that are:

(A) Needed to support and maintain an individual with a most significant disability in supported employment;

(B) Identified based on a determination by OVRs of the individual's need as specified in an individualized plan for employment; and

(C) Furnished by OVRs from the time of job placement until transition to extended services, unless post-employment services are provided following transition, and thereafter by one or more extended services providers throughout the individual's term of employment in a particular job placement or multiple placements if those placements are being provided under a program of transitional employment;

(b) Must include an assessment of employment stability and provision of specific services or the coordination of services at or away from the worksite that are needed to maintain stability based on:

(A) At a minimum, twice-monthly monitoring at the worksite of each individual in supported employment; or

(B) If under specific circumstances, especially at the request of the individual, the individualized plan for employment provides for off-site monitoring, twice monthly meetings with the individual;

(c) Consist of:

(A) Any particularized assessment supplementary to the comprehensive assessment of rehabilitation needs;

(B) The provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

(C) Job development and training;

(D) Social skills training;

(E) Regular observation or supervision of the individual;

(F) Follow-up services including regular contact with the employers, the individuals, the parents, family members, guardians, advocates or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement;

(G) Facilitation of natural supports at the worksite;

(H) Any other service identified in the scope of vocational rehabilitation services for individuals, described in 34 CFR 361.48; or

(I) Any service similar to the foregoing services.

(29) "ORS" refers to the Oregon Revised Statutes.

(30) "OVRs" refers to the Office of Vocational Rehabilitation Services.

(31) "Parent or Guardian" refers to a person or persons having legal responsibility for the overall welfare and well-being of a client under age 18 or a client who, if over age 18, is considered legally incompetent.

(32) "Personal assistance services" refers to a range of services provided by one or more persons designed to assist an individual with a

ADMINISTRATIVE RULES

disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability.

(33) "Qualified Personnel" means an individual licensed or certified by the state or an individual who maintains an equivalent licensure or certification from another state to make the diagnosis of an applicant's impairment.

(34) "Physical and mental restoration services" refers to:

(a) Corrective surgery or therapeutic treatment that is likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment;

(b) Diagnosis of and treatment for mental or emotional disorders by qualified personnel in accordance with State licensure laws;

(c) Dentistry;

(d) Nursing services;

(e) Necessary hospitalization (either inpatient or outpatient care) in connection with surgery or treatment and clinic services;

(f) Drugs and supplies;

(g) Prosthetic and orthotic devices;

(h) Eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids prescribed by personnel that are qualified in accordance with State licensure laws;

(i) Podiatry;

(j) Physical therapy;

(k) Occupational therapy;

(l) Speech or hearing therapy;

(m) Mental health services;

(n) Treatment of either acute or chronic medical complications and emergencies that are associated with or arise out of the provision of physical and mental restoration services, or that are inherent in the condition under treatment;

(o) Special services for the treatment of individuals with end-stage renal disease, including transplantation, dialysis, artificial kidneys, and supplies; and

(p) Other medical or medically related rehabilitation services.

(35) "Physical or mental impairment" refers to:

(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculo-skeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or

(b) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(36) "Post-employment services" refers to one or more of the services identified in 34 CFR 361.48 that are provided subsequent to the achievement of an employment outcome and that are necessary for an individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(37) "Provider of community rehabilitation services" refers to any CRP, business, or independent contractor that is paid by OVRs to provide any service listed in OAR 582-001-0010(10).

(38) "Qualified and impartial mediator" refers to an individual who:

(a) Is not an employee of a public agency (other than an administrative law judge, hearing examiner, employee of a State office of mediators, or employee of an institution of higher education) — an individual serving as a mediator is not considered to be an employee of a public agency for the purposes of this definition solely because the individual is paid by a public agency to serve as a mediator;

(b) Is not a member of the State Rehabilitation Council for OVRs;

(c) Has not been involved previously in the vocational rehabilitation of the applicant or eligible individual;

(d) Is knowledgeable of the vocational rehabilitation program and the applicable Federal and State laws, regulations, and policies governing the provision of vocational rehabilitation services;

(e) Has been trained in effective mediation techniques consistent with any State-approved or -recognized certification, licensing, registration, or other requirements; and

(f) Has no personal, professional, or financial interest that would be in conflict with the objectivity of the individual during the mediation proceedings.

(39) "Rehabilitation engineering" refers to the systematic application of engineering sciences to design, develop, adapt, test, evaluate, apply, and distribute technological solutions to problems confronted by individuals with disabilities in functional areas, such as mobility, communications, hearing, vision, and cognition, and in activities associated with employment, independent living, education, and integration into the community.

(40) "Rehabilitation technology" refers to the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

(41) "Severe mental or physical impairment" refers to the use of this term in the federal Rehabilitation Act of 1973, as amended.

(42) "State plan" refers to the State plan for vocational rehabilitation services submitted by OVRs under 34 CFR 361.10.

(43) "Substantial impediment to employment" refers to a physical or mental impairment that (in light of attendant medical, psychological, vocational, educational, communication, and other related factors) hinders an individual from preparing for, entering into, engaging in, or retaining employment consistent with the individual's abilities and capabilities.

(44) "Supported employment" refers to:

(a) Competitive employment in an integrated setting, or employment in integrated work settings in which individuals are working toward competitive employment, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals with ongoing support services for individuals with the most significant disabilities:

(A) For whom competitive employment has not traditionally occurred or for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and

(B) Who, because of the nature and severity of their disabilities, need intensive supported employment services from OVRs and extended services after transition as described in OAR 582-001-0010(17) to perform this work; or

(b) Transitional employment, as defined OAR 582-001-0010(47), for individuals with the most significant disabilities due to mental illness.

(45) "Supported employment services" refers to ongoing support services and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment that are provided by OVRs:

(a) For a period of time not to exceed 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time to achieve the employment outcome identified in the individualized plan for employment; and

(b) Following transition, as post-employment services that are unavailable from an extended services provider and that are necessary to maintain or regain the job placement or advance in employment.

(46) "Transition services" refers to a coordinated set of activities for a student designed within an outcome-oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.

(47) "Transitional employment," as used in the definition of "Supported employment," refers to a series of temporary job placements in competitive work in integrated settings with ongoing support services for individuals with the most significant disabilities due to mental illness. In transitional employment, the provision of ongoing support services must include continuing sequential job placements until job permanency is achieved.

(48) "Transportation" refers to travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a vocational rehabilitation service, including expenses for training in the use of public transportation vehicles and systems.

(49) "Vocational rehabilitation services":

(a) If provided to an individual, refers to those services listed in 34 CFR 361.48; and

(b) If provided for the benefit of groups of individuals, also refers to those services listed in 34 CFR 361.49.

(50) "Vocational rehabilitation training" means skill training in which the basis and focus of the training are individualized or customized. Vocational rehabilitation training may include focus on disability related

ADMINISTRATIVE RULES

issues as those issues impact the skills training. Vocational rehabilitation training can include, but is not limited to:

- (a) Supported employment;
- (b) Disability and related Skills training;
- (c) On the job training;
- (d) One-on-one specialized business training - training provided to individuals who are working to establish their own business;
- (e) Customized training — training offered by an employer to a group of individuals for the purpose of training and possibly hiring the individuals.

(51) “Vocational training” means skills training for a specific occupation.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 344.530
Stats. Implemented: ORS 344.530, 344.550, 344.560, 344.570 & 344.590
Hist.: VRS 5-2004, f. & cert. ef. 8-5-04; VRS 2-2005, f. 4-20-05, cert. ef. 7-1-05; VRS 1-2008, f. & cert. ef. 2-4-08; VRS 2-2008, f. & cert. ef. 3-3-08; VRS 3-2008, f. & cert. ef. 4-10-08; VRS 4-2008(Temp), f. 12-18-08, cert. ef. 12-19-08 thru 6-16-09; VRS 2-2009, f. & cert. ef. 3-27-09

582-100-0040

Order of Selection for Services

(1) If the full range of vocational rehabilitation services cannot be provided to all eligible individuals who apply, the Administrator of OVRS shall invoke an Order of Selection.

(2) During an Order of Selection, OVRS shall continue to provide all needed services to any individual who is in active plan status prior to the effective date of the order of selection, including clients receiving or subsequently eligible for post-employment services as described at OAR 582-001-0010(36).

(3) During an Order of Selection, OVRS shall continue to provide services needed to determine eligibility.

(4) As part of the eligibility determination, OVRS shall determine the priority category in which eligible clients qualify.

(5) Priority of Service Order. Open plans implemented before the effective date of an Order of Selection and individuals needing Post Employment services shall not be impacted. The following priorities shall be applied statewide:

(a) Priority One. Eligible persons who meet all three of the following criteria shall be served first, in the order of each individual’s date of application:

(A) The individual is classified with a Most Significant Disability consistent with OAR 582-001-0010(22); and

(B) The individual has a severe mental or physical impairment that seriously limits three or more functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and

(C) The individual is expected to require two or more vocational rehabilitation services over an extended period of time to achieve or maintain a successful employment outcome.

(b) Priority Two. Eligible persons not qualifying as Priority One who meet all three of the following criteria shall be served second, in the order of each individual’s date of application:

(A) The individual is classified with a Most Significant Disability consistent with OAR 582-001-0010(22); and

(B) The individual has a severe mental or physical impairment that seriously limits two functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and

(C) The individual is expected to require two or more vocational rehabilitation services over an extended period of time to achieve or maintain a successful employment outcome.

(c) Priority Three. Eligible persons classified with a significant disability consistent with OAR 582-001-0010(23) shall be served third, in the order of each individual’s date of application;

(d) Priority Four. All other eligible persons shall be served fourth in the order of each individual’s date of application.

(6) The count of functional capacities to determine whether an individual has a most significant disability consistent with OAR 582-001-0010(22) and to determine the priority of the individual for an Order of Selection under 582-100-0040 shall be based a count of the following seven items only: mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, and work skills. Sub-categories within these seven capacities are not counted for this determination.

Stat. Auth.: ORS 344.540
Stats. Implemented: ORS 344.511 - 344.690 & 344.710 - 344.730
Hist.: VRD 3-1980, f. & ef. 7-2-80; VRD 3-1991, f. & cert. ef. 9-11-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 2-2005, f. 4-20-05, cert. ef. 7-1-05;

VRS 5-2008(Temp), f. 12-18-08, cert. ef. 12-19-08 thru 6-16-09; VRS 2-2009, f. & cert. ef. 3-27-09

Rule Caption: Amend OAR 582-050-0000 relating to referrals and applications.

Adm. Order No.: VRS 3-2009

Filed with Sec. of State: 3-27-2009

Certified to be Effective: 3-27-09

Notice Publication Date: 2-1-2009

Rules Amended: 582-050-0000

Subject: OAR 582-050-0000 addresses the processing of referrals and applications for services. In order to conform state rules to the federal rules governing vocational rehabilitation services, the amendments clarify the obligations of the Office of Vocational rehabilitation with regard to referrals and applications, set forth the requirements that must be met before an application will be deemed submitted, and affirm the obligation to ensure application materials are available on a statewide basis.

Rules Coordinator: Sherri L. Rita—(503) 945-6695

582-050-0000

Referrals and Applications

(1) Referrals to and applications for Vocational Rehabilitation Services provided by OVRS shall be handled promptly and equitably.

(2) OVRS shall establish timelines for making a good faith effort to inform individuals referred to or seeking services from OVRS of application requirements and to gather information necessary to initiate an assessment for determining eligibility and priority for services.

(3) Assessment to determine eligibility and priority for services shall commence as soon as an application for services is received and to the maximum extent possible will be expedited through use of existing information, including school, Social Security, medical, and family member records.

(4) An individual is considered to have submitted an application only when all the following conditions have been satisfied:

(a) the individual or the individual’s representative, as appropriate, has completed and signed an agency application form or has otherwise requested services;

(b) the individual or the individual’s representative, as appropriate, has provided the information necessary to initiate an assessment for eligibility; and

(c) the individual is available to complete the assessment process.

(5) Once OVRS has received an application for vocational rehabilitation services, including applications for vocational rehabilitation services made through common intake procedures in One-Stop centers established under section 121 of the federal Workforce Investment Act of 1998, an eligibility determination must be made within 60 days, unless:

(a) Exceptional and unforeseen circumstances beyond the control of OVRS preclude making an eligibility determination within 60 days and OVRS and the individual agree to a specific extension of time; or

(b) A trial work experience or exploration of the individual’s abilities, capabilities, and capacity to perform in work situations is carried out in accordance with 34 CFR 361.42(e) or, if appropriate, an extended evaluation is carried out in accordance with 34 CFR 361.42(f).

(6) OVRS shall not make a determination of ineligibility on the basis that an individual with a significant disability is too severely impaired unless a trial work experience, community based assessment, or extended evaluation results in clear and convincing evidence that such individual is presently incapable of an employment outcome as result of the provision of further Vocational Rehabilitation Services.

(7) OVRS will not close an applicant’s record of services prior to making an eligibility determination unless the applicant declines to participate in, or is unavailable to complete, an assessment for determining eligibility and priority for services, and OVRS has made a reasonable number of attempts to contact the applicant or, if appropriate, the applicant’s representative, to encourage the applicant’s participation.

(8) The length of time between eligibility determination and the signing of the Individualized Plan for Employment (IPE) by the VR counselor and client or client’s representative as appropriate will not exceed 180 days except under the circumstances listed in (8)(a)–(g). If the State invokes an Order of Selection, the length of time begins once the client is pulled from the waitlist. The counselor must obtain supervisor approval to extend the time beyond 180 days and document in the case record the reason for the extension and a time frame for when the IPE will be signed.

ADMINISTRATIVE RULES

- (a) Mutual agreement by the client and counselor to extend the time past 180 days taking into consideration the unique needs of the individual such as the cultural and linguistic needs of the individual.
- (b) Unforeseen circumstances beyond the control of either the counselor or client, which results in extending the time needed beyond 180 days.
- (c) Youth Transition program student will have their IPE signed prior to leaving the school setting.
- (d) Client has requested an impartial hearing.
- (e) Lack of cooperation by the client, which extends the length of time beyond 180 days.
- (f) Lack of agreement by either the client or counselor over the proposed IPE, which extends the length of time beyond 180 days.
- (g) For clients planning to go into self-employment, the length of time between eligibility determination and signing of the IPE is 365 days.
- (9) OVRS shall make information regarding application requirements and forms available statewide.

Stat. Auth.: ORS 344.530
Stats. Implemented: ORS 344.570
Hist.: VRD 2-1991, f. & cert. ef. 9-11-91; VRD 2-1993, f. & cert. ef. 9-15-93; VRS 5-2004, f. & cert. ef. 8-5-04; VRS 2-2006, f. & cert. ef. 8-1-06; VRS 3-2009, f. & cert. ef. 3-27-09

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

Rule Caption: Revised reimbursement rates for prescription drugs by a contracted mail order pharmacy provider.

Adm. Order No.: DMAP 5-2009(Temp)

Filed with Sec. of State: 3-26-2009

Certified to be Effective: 4-1-09 thru 9-25-09

Notice Publication Date:

Rules Amended: 410-121-0155

Subject: The Pharmaceutical Services Program administrative rules govern Division of Medical Assistance Programs' (DMAP) payments for services provided to certain clients. DMAP temporarily amended 410-121-0155 to reflect new reimbursement rates for drugs provided by the DMAP contracted mail order pharmacy provider. Text will also be revised to improve readability and take care of "necessary" housekeeping corrections.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0155

Reimbursement

(1) Definitions. For the purposes of this rule:

(a) "Billed amount" is the usual and customary amount billed by the provider; and

(b) "Estimated Acquisition Cost" (EAC) is the lesser of:

(A) The Centers for Medicare and Medicaid Services' (CMS) federal upper limits (FUL) for payment;

(B) The Oregon Maximum Allowable Cost (OMAC);

(C) Discounted Average Wholesale Price (AWP);

(i) For retail pharmacies: eighty-five percent of AWP of the drug;

(ii) For institutional pharmacies: eighty-nine percent of AWP for long-term care clients in a nursing facility or community based living facility; or

(iii) For contracted mail order pharmacy: seventy-nine percent of AWP for single-source drugs, thirty-two percent of AWP for multiple-source drugs and eighty percent of AWP for injectable drugs.

(c) "Applicable copayments" are defined in Oregon Administrative Rule (OAR) 410-120-1230.

(2) The Division of Medical Assistance Programs (DMAP) will revise its EAC file weekly. Pharmacies must make available to DMAP any information necessary to determine the pharmacy's actual acquisition cost of drug products dispensed to DMAP clients.

(3) Payment for covered fee-for-service drug products will be the lesser of the billed amount or the EAC of the generic form, minus applicable copayments, plus a professional dispensing fee.

(4) Payment for trade name forms of multiple source products:

(a) Will be the lesser of the billed amount or the Discounted AWP of the trade name form, minus applicable copayments, plus a professional dispensing fee;

(b) DMAP will only pay if the prescribing practitioner has received a prior authorization for the trade name drug.

(6) No professional dispensing fee is allowed for dispensing pill splitters/cutters.

(7) Payment for pill splitters/cutters with a National Drug Code (NDC) number will be the lesser of the billed amount or the EAC.

(a) A practitioner prescription is not required.

(b) DMAP will only pay for one pill splitter/cutter per client in a twelve-month period.

Stat. Auth.: ORS 184.750, 184.770, 409.050, 411, 414.065 & 42 CFR 447.205

Stats. Implemented: ORS 414.065

Hist.: PWC 818(Temp), f. 10-22-76, ef. 11-1-76; PWC 831, f. 2-18-77, ef. 3-1-77; PWC 846(Temp), f. & ef. 7-1-77; PWC 858, f. 10-14-77, ef. 11-1-77; PWC 869, f. 12-30-77, ef. 1-1-78; AFS 15-1979(Temp), f. 6-29-79, ef. 7-1-79; AFS 41-1979, f. & ef. 11-1-79; AFS 15-1981, f. 3-5-81, ef. 4-1-81; AFS 35-1981(Temp), f. 6-26-81, ef. 7-1-81; AFS 53-1981(Temp), f. & ef. 8-14-81; AFS 70-1981, f. 9-30-81, ef. 10-1-81; AFS 44-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices. AFS 74-1982(Temp), f. 7-22-81, ef. 8-1-82; AFS 99-1982, f. 10-25-82, ef. 11-1-82; AFS 113-1982(Temp), f. 12-28-82, ef. 1-1-83; AFS 13-1983, f. & ef. 3-21-83; AFS 51-1983(Temp), f. 9-30-83, ef. 10-1-83; AFS 56-1983, f. 11-17-83, ef. 12-1-83; AFS 18-1984, f. 4-23-84, ef. 5-1-84; AFS 53-1985, f. 9-20-85, ef. 10-1-85; AFS 42-1986(Temp), f. 6-10-86, ef. 7-1-86; AFS 52-1986, f. & ef. 7-2-86; AFS 12-1987, f. 3-3-87, ef. 4-1-87; AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89, Renumbered from 461-016-0100; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0250; HR 20-1991, f. & cert. ef. 4-16-91; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 61-2001(Temp), f. 12-13-01, cert. ef. 12-15-01 thru 3-15-02; OMAP 1-2002, cert. ef. 2-15-02; OMAP 32-2002, f. & cert. ef. 8-1-02; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 18-2004, f. 3-15-04 cert. ef. 4-1-04; OMAP 19-2005, f. 3-21-05, cert. ef. 4-1-05; OMAP 16-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 26-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 5-2009(Temp), f. 3-26-09, cert. ef. 4-1-09 thru 9-25-09

Rule Caption: April 1, 2009 interim modifications and technical changes to the January 1, 2009–December 31, 2010 Health Services Commission's Prioritized List of Health Services.

Adm. Order No.: DMAP 6-2009(Temp)

Filed with Sec. of State: 3-26-2009

Certified to be Effective: 4-1-09 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 by biennial January 1, 2009–December 31, 2010 Oregon Health Services Commissions Prioritized List of Health Services. Effective April 1, 2009, DMAP temporarily amends 410-141-0520 to reference the January 1, 2009–December 31, 2010 Oregon Health Services Commission's Prioritized List of Health Services with interim modifications and technical changes effective April 1, 2009.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-141-0520

Prioritized List of Health Services

(1) The Prioritized List of Health Services (Prioritized List) is the Oregon Health Services Commission's (HSC) listing of physical health services with "expanded definitions" of Preventive Services and the HSC 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.

(2) Certain Mental Health services are only covered for payment when provided by a Mental Health Organization (MHO), Community Mental Health Program (CMHP) or authorized Fully Capitated Health Plan (FCHP) or Physician Care Organization (PCO). These codes are identified on their own Mental Health (MH) section of the appropriate lines on the Prioritized List of Health Services.

(3) Chemical dependency (CD) services are covered for eligible OHP clients when provided by an FCHP, PCO, or by a provider who has a letter of approval from the Office of Mental Health and Addiction Services and approval to bill Medicaid for CD services.

Stat. Auth.: SB 163 (2007), 2007 OL Ch. 798, ORS 409.010 & 409.050

Stats. Implemented: ORS 414.065, 414.727, 414.050, 414.010, 192.518 - 192.526

ADMINISTRATIVE RULES

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 17-2004(Temp), f. 3-15-04 cert. ef. 4-1-04 thru 9-15-04; OMAP 28-2004, f. 4-22-04 cert. ef. 5-1-04; OMAP 48-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 51-2004, f. 9-9-04, cert. ef. 10-1-04; OMAP 68-2004(Temp), f. 9-14-04, cert. ef. 10-1-04 thru 3-15-05; OMAP 83-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 54-2005(Temp), f. & cert. ef. 10-14-05 thru 4-1-06; OMAP 62-2005, f. 11-29-05, cert. ef. 12-1-05; OMAP 71-2005, f. 12-21-05, cert. ef. 1-1-06; OMAP 6-2006, f. 3-22-06, cert. ef. 4-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 14-2007(Temp), f. & cert. ef. 10-1-07 thru 3-28-08; DMAP 28-2007(Temp), f. & cert. ef. 12-20-07 thru 3-28-08; DMAP 8-2008, f. & cert. ef. 3-27-08; DMAP 10-2008(Temp), f. & cert. ef. 4-1-08 thru 9-15-08; DMAP 23-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 31-2008(Temp), f. & cert. ef. 10-1-08 thru 3-29-09; DMAP 40-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 4-2009(Temp), f. & cert. ef. 1-30-09 thru 6-25-09; DMAP 6-2009(Temp), f. 3-26-09, cert. ef. 4-1-09 thru 9-25-09

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

Adm. Order No.: DMAP 7-2009(Temp)

Filed with Sec. of State: 3-30-2009

Certified to be Effective: 4-1-09 thru 9-25-09

Notice Publication Date:

Rules Amended: 410-136-0240, 410-136-0300

Subject: The Medical Transportation Services Program administrative rules govern Division of Medical Assistance Programs' (DMAP) payments for services provided to certain clients. DMAP temporarily amended the rules listed above to clarify text that had the potential to prohibit certain appropriate transports of eligible OHP Plus clients to Oregon Health Plan-covered medical services. There is no change in policy with these revisions. DMAP revised the text in OAR 410-120-0300, Authorization; section (12) (c) to clarify that DMAP will not reimburse for secured transports if a person is in the custody of a law enforcement agency or institution. And, in keeping with the text in OAR 410-120-0300, DMAP revised the text in OAR 410-136-0240, Secured Transports; section (4) to clarify that an OHP Plus client is eligible to receive medical transportation benefits to mental health and addictions services if they are court ordered, provided this is not a person who is in the custody of a state, county or federal prison or facility.

DMAP intends to permanently adopt this rule, at which time text will be further revised to improve readability and take care of necessary "housekeeping" corrections in the remainder of the rule.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-136-0240

Secured Transports

(1) The Division of Medical Assistance Programs (DMAP) will reimburse for secured transports when the following conditions are met:

(a) The provider must be able to transport children and adults who are in crisis or at immediate risk of harming themselves or others due to mental or emotional problems or substance abuse;

(b) DMAP must recognize the provider as a provider of secured transports. This requires written advance notice to DMAP (prior to or at the time of enrollment) that the provider has met the requirements of the secure transport provider protocol as established in OARs 309-033-0200 through 309-033-0970;

(c) When medically appropriate (to administer medications, etc. in-route) or in those cases where legal requirements must be satisfied (i.e., a parent, legal guardian or escort is required during transport), one additional person will be allowed to escort at no additional charge to DMAP. The DMAP reimbursement is considered to be payment in full for the transport.

(2) The provider must submit a copy of all rates charged to the general public to DMAP, Provider Enrollment, at the time of enrollment. The provider must submit any changes to those rates to DMAP in writing within 30 days of the change. The notification must indicate the rate changes and effective date. If subsequent review by DMAP discloses that the written notice is not accurate, DMAP may recoup payments.

(3) DMAP will authorize reimbursement on an individual client basis in keeping with the DMAP rules regarding level of transport needed, eligi-

bility, cost effectiveness and medical appropriateness. In the event the provider gave transport on an emergent basis, DMAP will authorize when appropriate after provision of service.

(4) In keeping with the guidelines set forth in 410-136-0300 Section (12) (c), DMAP will reimburse for medical transportation for an OHP Plus client who is eligible for OHP medical transportation services even if the service is court ordered but as long as they are not a person in the custody of a law enforcement agency or institution, state, county or federal prison or facility.

(5) The DMAP Medical Care identification (ID) does not guarantee eligibility. The Provider is responsible for verifying client eligibility prior to providing services. This includes determining if DMAP or a managed care plan is responsible for reimbursement. The Provider assumes full financial risk in serving a person who is not confirmed eligible by DMAP as eligible for the service provided on the date(s) of service.

(6) Refer to OAR 410-120-1140 Verification of Eligibility (also see the DMAP General Rules Supplemental Information guide for instructions).

(7) The DMAP Medical Care ID is printed on paper and is the size of a business card. The ID lists the client's name, prime number and the date the ID was issued.

(8) The provider must transport the client to a Title XIX eligible or enrolled facility recognized by DMAP as having the ability to treat the immediate medical, mental and/or emotional needs of a client in crisis.

(9) DMAP must assume that a client being returned to place of residence is no longer in crisis or at immediate risk of harming him/herself or others, and is, therefore, able to utilize non-secured transport. In the event a secured transport is medically appropriate to return a client to place of residence, the branch must obtain written documentation stating the circumstances and the treating physician must sign the documentation. The branch must retain the documentation in the branch record (along with a copy of the order) for DMAP review.

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

Stats. Implemented: ORS 414.065

Hist.: HR 28-1994, f. & cert. ef. 9-1-94; HR 25-1995, f. 12-29-95, cert. ef. 1-1-96; OMAP 33-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 60-2004, f. 9-10-04, cert. ef. 10-1-04; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 7-2009(Temp), f. 3-30-09, cert. ef. 4-1-09 thru 9-25-09

410-136-0300

Authorization

(1) For the purposes of the Administrative Rules governing provision of Medical Transportation Services, authorization is defined to be authorization in advance of the service being accessed or provided.

(2) Retroactive authorization for medical transportation will be made only under the following circumstances:

(a) "After hours" transports to obtain urgent medical care. Medical appropriateness will be determined by branch or the Division of Medical Assistance Programs (DMAP) review;

(b) Secured transports provided to clients in crisis on weekends, holidays or after normal branch office hours. Medical appropriateness for secured transports will be determined by branch/DMAP review to ensure authorization is given and/or reimbursement made only for those transports that meet criteria set forth in 410-136-0240.

(3) Authorization of payment is required for the following:

(a) Non-emergency ambulance;

(b) Non-emergency air ambulance;

(c) Stretcher car (including stretcher car services provided by an ambulance);

(d) Wheelchair car/van;

(e) Taxi;

(f) Secured transport (including those arranged for and/or provided outside of normal branch office hours);

(g) Client reimbursed transportation (including medically appropriate meals, lodging, attendant);

(h) Fixed route public bus systems;

(i) All special/bid transports.

(4) Authorization will be made for the services identified above when:

(a) The transport is medically appropriate considering the medical condition of the client;

(b) The destination is to a medical service covered under the Medical Assistance program;

(c) The client medical transportation eligibility screening indicates the client has no resources or that no alternative resource is available to provide appropriate transportation without cost or at a lesser cost to DMAP;

(d) The transport is the least expensive medically appropriate mode of conveyance available considering the medical condition of the client.

ADMINISTRATIVE RULES

(5) The DMAP Medical Care identification (ID) does not guarantee eligibility. The Provider is responsible for verifying client eligibility prior to providing services. This includes determining if DMAP or a managed care plan is responsible for reimbursement. The Provider assumes full financial risk in serving a person who is not confirmed eligible by DMAP as eligible for the service provided on the date(s) of service.

(6) Refer to OAR 410-120-1140 Verification of Eligibility (also see the DMAP General Rules Supplemental Information guide for instructions).

(7) The DMAP Medical Care ID is printed on paper and is the size of a business card. The ID lists the client's name, prime number and the date the ID was issued.

(8) Authorization must be obtained in advance of service provision. Branch telephone numbers can be found in the DMAP General Rules. A provider authorized to provide transportation will receive a completed Medical Transportation Order (DMAP 405T or DMAP 406). All transportation orders, including any equivalent, must contain the following:

- (a) Provider name or number;
- (b) Client name and ID number;
- (c) Pickup address;
- (d) Destination name and address;
- (e) Second (or more) destination name and address;
- (f) Appointment date and time;
- (g) Trip information, e.g., special client requirements;
- (h) Mode of transportation, e.g., taxi;
- (i) 1 way, round trip, 3-way;
- (j) Current date;
- (k) Branch number;
- (l) Worker/clerk ID;
- (m) Dollar amount authorized (if special/secured transport).

(8) If the Medical Transportation Order indicates 'on-going' transports have been authorized, the following information is also required:

- (a) Begin and end dates;
- (b) Appointment time(s);
- (c) Days of week.

(9) Additional information identifying any special needs of the individual client should also be indicated on the order in the "Comments" section. If the order is for a secured transport the name and telephone number of the medical professional requesting the transport, as well as information regarding the nature of the crisis is required.

(10) Authorization for non-emergency services after service provided:

(a) Occasionally a client may contact the provider directly "after hours" (i.e., when the branch office is closed) and order an urgent care medical transport. Only in this case, is it appropriate for the provider to initiate the Medical Transportation Order. All required information (except the branch number, worker/clerk ID and dollars authorized) must be completed by the provider before submitting the order to the branch for authorization. The provider must also indicate on the order the time and day of week the client called. The partially completed authorization order must be received at the appropriate branch office within 30 calendar days following provision of the service;

(b) After branch review (and if approved) the branch will complete the branch number, dollars authorized (if special or secured transport) worker/clerk ID and current date, and return the order to the provider within 30 calendar days. The provider may not bill DMAP until the final approved order is received;

(c) A provider requesting branch authorization for "after hours" rides may be at risk of non-payment if the branch determines the ride was not for the purpose of obtaining urgent medical services covered under the Medical Assistance Programs.

(11) For client reimbursed transportation and fixed route public bus systems, the client must contact the branch office in advance of the travel. Once the transportation has been authorized, money for bus tickets/passes or the actual bus tickets/passes will be disbursed at the branch level. If a client is requesting mileage reimbursement, the branch is to provide assistance using the current guidelines and methodologies as indicated in the DHS Worker Guide.

(12) Authorization will not be made nor reimbursement provided:

(a) To return a client from any foreign country to any location within the United States even though the medical care needed by the client is not available in the foreign country;

(b) To return a client to Oregon from another state or provide mileage, meals or lodging to the client, unless the client was in the other state for the purpose of obtaining services or treatment approved by DMAP or approved

by the client's Prepaid Health Plan with subsequent DMAP approval for the travel;

(c) For any secured medical transport provided to a person:

(A) In the custody of or under the legal jurisdiction of any law enforcement agency;

(B) Going to or from a court hearing, or to or from a commitment hearing;

(C) Who the Department has determined is an inmate of a public institution as defined in OAR 461-135-0950; and

(D) Whose OHP eligibility has been suspended by the Department pursuant to ORS 414.420 or 414.424.

(13) Authorization does not guarantee reimbursement:

(a) Check eligibility on the date of service by calling Automated Information System (AIS) or requesting a copy of the client's Medical Care Identification;

(b) Ensure the service to be provided is currently a medical service covered under the Medical Assistance program;

(c) Ensure the claim is for the actual services and/or number of services provided.

(d) Per OAR 410-136-0280, for all claims submitted to DMAP, the provider record must contain completed documentation pertinent to the service provided.

(14) DMAP may not be billed for services and/or dollars in excess of the number of services and/or dollars authorized.

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

Stats. Implemented: ORS 414.065

Hist.: AFS 7-1982, f. 1-22-82, ef. 2-1-82; AFS 21-1982(Temp), f. & ef. 3-23-82; AFS 92-1982, f. & ef. 10-8-82; AFS 64-1986, f. 9-8-86, ef. 10-1-86; HR 12-1993, f. 4-30-93, cert. ef. 5-1-93, Renumbered from 461-020-0021; HR 30-1993, f. & cert. ef. 10-1-93; HR 28-1994, f. & cert. ef. 9-1-94; HR 9-1995, f. 3-31-95, cert. ef. 4-1-95; HR 25-1995, f. 12-29-95, cert. ef. 1-1-96; HR 10-1997, f. 3-28-97, cert. ef. 4-1-97; OMAP 33-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 43-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 55-2002, f. & cert. ef. 10-1-02; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 7-2009(Temp), f. 3-30-09, cert. ef. 4-1-09 thru 9-25-09

.....

Department of Justice Chapter 137

Rule Caption: Clarifies criteria in paternity establishment/disestablishment, processing modification and using Federal Parent Locator Services.

Adm. Order No.: DOJ 3-2009

Filed with Sec. of State: 4-1-2009

Certified to be Effective: 4-1-09

Notice Publication Date: 2-1-2009

Rules Amended: 137-055-1320, 137-055-3020, 137-055-3080, 137-055-3100, 137-055-3460

Subject: OAR 137-055-1320 is amended to reflect changes to federal law. Those changes require "authorized individuals" (for example, a parent or agent of a child) who submit requests for Federal Parent Locator Service information (in those instances where information is sought to establish paternity or support, or modify or enforce a support order) to attest that they are who they purport to be, that they will use the information for the purpose requested, and that they will protect the information as confidential information.

OAR 137-055-3020 is amended to clarify that the rule applies only to those cases in which the administrator of the Division of Child Support initiates legal proceedings and not to all children in Oregon. Additionally, when parentage testing is completed and a party is a recipient of Temporary Assistance to Needy Families (TANF) or Medicaid under the state's plan, a parentage test judgment may not be entered against that party. The rule has been amended to clarify that fact.

OAR 137-055-3080 is amended to clarify that the administrator of the Division of Child Support will proceed against a third party, self-alleged father when there is a child born to married parents but the presumption in the law allows a challenge.

OAR 137-055-3100 is amended to clarify that the administrator of the Division of Child Support will not enter an order establishing paternity for failure to comply with parentage tests when there is a presumption of paternity under the law.

OAR 137-055-3460 is amended to clarify the manner of process service the program will use in limited circumstances when modifications are required but obligees cannot be found. The proposed

ADMINISTRATIVE RULES

amendment comports with current law, and allows the program to use due diligence in attempting to locate the obligees, and if unable to locate, complete process service by mail at the last-known address.

Rules Coordinator: Vicki Tungate—(503) 986-6086

137-055-1320

Access to FPLS for Purposes of Parentage Establishment; Child Support Establishment, Modification or Enforcement; or Determining Who Has or May Have Parental Rights

(1) For the purposes of this rule and OAR 137-055-1360, the following definitions apply:

(a) “FPLS” means the Federal Parent Locator Service operated by the United States Department of Health and Human Services.

(b) “Original requestor” means a party to a paternity or child support case who is seeking FPLS information, directly, through an attorney, or through court request.

(c) “Custodial Parent” includes a caretaker or caretaker relative as defined in OAR 461-120-0610.

(d) “Legal Guardian” means a person appointed as a guardian under ORS chapter 125 or similar provision.

(e) “Reasonable evidence of possible domestic violence” means:

(A) A record on the Oregon Judicial Information Network or the Law Enforcement Data System that an order of protection has or had been issued against the original requestor in favor of the person being sought; or

(B) A record that the person being sought has or had been granted good cause pursuant to ORS 412.024 not to establish paternity or to establish or enforce a support order against the original requestor; or

(C) A record that the person being sought has or had been granted an order for nondisclosure of information or an ACP order for nondisclosure of information pursuant to OAR 137-055-1160 in a case where the original requestor is or was the other party in a legal action.

(f) “Reasonable evidence of possible child abuse” means that there is a record with the Department of Human Services child welfare program that the original requestor has been investigated for alleged abuse of any child.

(2) For the purposes of this rule, an authorized person is:

(a) A custodial parent, legal guardian, attorney, or agent of a child (other than a child receiving Temporary Assistance for Needy Families (TANF)), seeking to establish parentage or to establish, modify or enforce a support order.

(b) A court or agent of the court which has the authority to issue an order of paternity or support and maintenance of a child or to serve as the initiating court to seek such an order from another state; or

(c) A state agency responsible for administering an approved child welfare plan or an approved foster care and adoption assistance plan.

(3) An authorized person as defined in section (2) of this rule, may request information to facilitate the discovery or location of any individual:

(a) Who is under an obligation to pay child support;

(b) Against whom a child support obligation is sought;

(c) To whom a child support obligation is owed; or

(d) Who has or may have parental rights with respect to a child.

(4) If available from FPLS, the information that may be provided about an individual described in subsections (3)(a)–(d) of this rule includes:

(a) The address and verification of the social security number of the individual sought;

(b) The name, address and federal employer identification number of the employer of the individual sought; and

(c) Information about income from employment and benefits from employment, including health care coverage.

(5) A request pursuant to this rule must be made in writing directly to the Division of Child Support (DCS) and must contain:

(a) The purposes for which the information is requested;

(b) The full name, social security number (if known) and date of birth or approximate date of birth of the individual sought;

(c) The full name and date of birth and social security number of the person making the request;

(d) Whether the individual is or has been a member of the armed forces or if the individual is receiving federal compensation or benefits, if known;

(e) If the request is from the court, the signature of the judge or agent of the court; and

(f) If the request is from an individual not receiving TANF, the individual must attest:

(A) That the request is made to obtain information or facilitate discovery for the purpose of establishing parentage or establishing, modifying or enforcing child support obligations;

(B) That the information will be used solely for those reasons and will be kept confidential; and

(C) If the individual is a parent, that he or she is the parent with physical custody of the child.

(6) The request may be made on a form adopted by the Child Support Program (CSP) and available from any CSP office.

(7) When DCS receives a request from an authorized person pursuant to subsections (2)(a) or (2)(b) of this rule, it will determine if there is any record of possible domestic violence by the original requestor against the individual sought or any record of possible child abuse by the original requestor.

(8) If reasonable evidence of domestic violence or child abuse is found pursuant to section (7) or FPLS does not return information due to a family violence indicator, an authorized person may ask the court to determine, pursuant to 42 USC 653(b)(2)(B), whether disclosure of the information could be harmful to the parent or child sought.

(a) If the court concludes that disclosure of the information would not be harmful to the parent or child, DCS will submit the request along with the court’s determination to FPLS.

(b) If the court concludes that disclosure of the information would be harmful to the parent or child, the request will be denied.

Stat. Auth.: ORS 25.265 & 180.345

Stats. Implemented: ORS 25.265

Hist.: AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0279; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-1320; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-1320; 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 1-2007, f. & cert. ef. 1-2-07; DOJ 3-2009, f. & cert. ef. 4-1-09

137-055-3020

Paternity Establishment Procedures

(1) When a case involves a child who is not yet born, the administrator will take no action to establish paternity or to provide locate services until such time as the child is born.

(2)(a) When initiating legal proceedings to establish paternity for a child conceived in Oregon, the administrator will use ORS Chapter 109 or Chapter 416.

(b) Except for proceedings filed under ORS Chapter 109, past support will be established as provided by ORS Chapter 416 and OAR 137-055-3220.

(3) When the administrator initiates legal proceedings to establish paternity, if the child was born in this state, the administrator will file the Notification of Filing of Petition in Filiation Proceedings with the Center for Health Statistics.

(4) The administrator will seek to establish paternity against the man named by the mother to be the most likely alleged father except as provided in sections (5) and (6).

(5) If the husband and mother are still married and the husband is on the child’s birth record:

(a) If only one party disputes paternity, the administrator will give notice to the parties that:

(A) The parties have the right to challenge paternity under ORS 109.070 by filing a petition in the circuit court;

(B) The administrator will delay any initiated support action for 30 days;

(C) If a party provides proof within 30 days that he or she filed a petition, the administrator will suspend the support action pending the outcome of the court’s decision.

(D) If no proof is received within 30 days that a party has filed a petition, the administrator will proceed with the legal action to establish support.

(b) If both the husband and mother dispute the child’s paternity, the administrator will order the husband, mother and child to appear for parentage testing.

(6) If the husband and mother are still married, no father is listed on the birth record, and the mother names another man as the father of the child, the administrator will provide notice and an opportunity to object to the husband.

(a) If a written objection is received from the husband within 30 days of the date of the notice, an action to establish paternity will be initiated against the husband.

(b) If no written objection is received from the husband within 30 days of the date of the notice, an action to establish paternity will be

ADMINISTRATIVE RULES

initiated against the most likely alleged father named in the mother's paternity affidavit.

(7) In all cases in which the mother states that more than one man could be the biological father of the child and parentage tests have excluded a man as the father of the child, the following provisions apply:

(a) If there is only one remaining untested possible biological father, that man is constructively included as the father by virtue of the other man's exclusion as the father.

(b) If there are more than one remaining untested possible biological fathers, the administrator will initiate action against each man, either simultaneously or one at a time, to attempt to obtain parentage tests which either exclude or include the man.

(8) In all cases in which the mother states that more than one man could be the biological father of the child and parentage tests have included a man as the father of the child at a cumulative paternity index of at least 99, any other untested possible father(s) will be considered to be constructively excluded by virtue of the first man's inclusion.

(9)(a) The Child Support Program may initially pay the costs of parentage tests, and will seek reimbursement of those costs, but may agree to waive the costs.

(b) If an alleged father fails to appear as ordered for parentage tests, but the mother and child have appeared, reimbursement will be sought from the alleged father for the costs incurred.

(c) The maximum amount allowed to be entered as a parentage test judgment against a party is the amount the Child Support Program agrees to pay a parentage testing laboratory used to perform the tests.

(d) A judgment for parentage test costs reimbursement will not be sought:

(A) Against a person who has been excluded as a possible father of a subject child;

(B) If the mother stated that more than one man could be the father of the child, and has been unable to name a most likely alleged father, and the man tested has not objected to the entry of an order establishing paternity;

(C) If the alleged father has applied for services under ORS 25.080 and requested paternity establishment in accordance with OAR 137-055-3080; or

(D) Except as provided in section (11) of this rule, against any individual who is a recipient of Temporary Assistance to Needy Families (TANF) benefits or Medicaid assistance.

(10) A judgment for parentage test costs reimbursement will not be sought against any person found to be the legal father for costs attributable to testing other alleged fathers in any case in which the mother stated that more than one man could be the father of the child.

(11) When a party requests additional parentage testing as provided in ORS 109.252(2), the following provisions apply:

(a) The laboratory selected for additional testing must be a laboratory approved by accreditation bodies designated by the Department of Human Services; and

(b) The party making the request must advance the costs of the additional tests to the accredited laboratory.

(12) Upon receipt of a party's request for additional parentage testing and proof that payment has been advanced to an accredited laboratory, the administrator or the court will order additional testing.

(13) If a non-requesting party fails to appear for the additional parentage testing, the administrator will take appropriate steps to compel obedience to the order for additional testing.

(14) If a requesting party fails to appear for the additional parentage testing, the administrator may enter an order in accordance with OAR 137-055-3100.

(15) The administrator may dismiss or terminate a proceeding to establish paternity after sending written notice to the parties that the case is being considered for dismissal or termination and that any comments or objections must be made within 10 days.

Stat. Auth.: ORS 180.345

Stats. Implemented: ORS 109.070 & 416.430

Hist.: AFS 7-1998, f. 3-30-98, cert. ef. 4-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1020; SSP 15-2003, f. 6-25-03, cert. ef. 6-30-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3020; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3020; DOJ 2-2006(Temp), f. & cert. ef. 1-3-06 thru 6-30-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06; DOJ 1-2008(Temp), f. & cert. ef. 1-2-08 thru 3-31-08; DOJ 6-2008, f. & cert. ef. 4-1-08; DOJ 3-2009, f. & cert. ef. 4-1-09

137-055-3080

Responsibility of Administrator to Establish Paternity at Request of Self-Alleged Father

(1) For purposes of this rule, self-alleged father means a man who both:

(a) Claims that he is, or possibly is, the biological father of a child born out of wedlock as defined in ORS 109.124; and

(b) Wishes to have paternity legally established for the child, establishing himself as the legal father.

(2) The administrator is responsible for pursuing establishment of paternity at the request of a self-alleged father, subject to all of the following:

(a) The self-alleged father must either:

(A) Be eligible for services under ORS 25.080, because he is receiving TANF cash assistance or Medicaid assistance for the child born out of wedlock; or

(B) Complete an application for services as provided under ORS 25.080.

(b) Unless otherwise prohibited under this rule, the administrator will:

(A) Take all appropriate steps to determine if the self-alleged father is the biological father; and

(B) Pursue appropriate action to legally establish paternity unless evidence indicates that he is not the biological father.

(c) The administrator will not pursue action to establish paternity under this section in any case where:

(A) Adoption of the child is final;

(B) Paternity has already been established for the child; or

(C) Paternity is presumed under ORS 109.070, the husband and wife are cohabiting and they do not consent to the challenge.

(d) The administrator will not pursue action to establish paternity under this rule if the Child Support Program (CSP) Director has determined that such action would not be in the best interests of the child, in accordance with section (5) of this rule.

(3) For purposes of this rule, legal proceedings for adoption of the child are pending if either of the following provisions is true:

(a) The mother or legal guardian of the child has released or surrendered the child to the adoptive parent(s) for adoption, and such release or surrender has become irrevocable because the child has been placed in the physical custody of the adoptive parent(s) and the other conditions of ORS 109.312 have been met;

(b) The mother or legal guardian of the child has released or surrendered the child to the Department of Human Services (DHS) or an incorporated child-caring agency for adoption, and such release or surrender has become irrevocable because the child has been placed by the agency in the physical custody of a person or persons for the purpose of adoption, in accordance with ORS 418.270(4).

(4)(a) When a self-alleged father requests the administrator establish his legal paternity for a child, the administrator will send written notification by first class mail to the last-known address of the mother and (if a separate party) legal guardian of the child. Further, if the administrator knows or is informed that legal proceedings for adoption of the child are pending, the administrator will also send written notification to the licensed private agency handling the adoption, or if none exists, to DHS;

(b) If the mother and (if a separate party) legal guardian cannot readily be found, the enforcing agency administrator will make a diligent attempt to locate the party. A diligent attempt includes but is not limited to submitting the case to the Division of Child Support for state parent locator services. If unable to locate the mother and legal guardian within 30 days, the administrator will proceed to process the case as described in section (8) of this rule without the notice described in this section;

(c) The written notification must state the following:

(A) That the self-alleged father has asked the administrator for establishment of paternity services;

(B) That if legal proceedings for adoption of the child are pending, or if the child's mother (or legal guardian if a separate party) alleges that the child was conceived due to rape or incest, the CSP Director will determine whether establishing paternity is in the best interests of the child, on the basis of the responses the CSP Director receives to the written notification;

(C) That a copy of any response to the notification the CSP Director receives will be sent to the self-alleged father, and that the self-alleged father will then have an opportunity to respond to the allegations. The administrator will ensure that the address of the mother and/or guardian is deleted from any written material it sends to the self-alleged father;

(D) The factors the CSP Director will consider, set out in section (5) of this rule, in determining whether establishing paternity would be in the best interest of the child;

(E) That the mother, legal guardian, and adoption agency or DHS child welfare program if appropriate under this rule, has 15 days to respond in writing to the written notification;

ADMINISTRATIVE RULES

(F) That the self-alleged father has 15 days to respond to an allegation or response received by the CSP Director;

(G) That if any of the parties listed in paragraph (D) or (E) of this subsection does not respond to the written notice or allegation within 15 days, the CSP Director will make a determination based on the responses received;

(H) That if the CSP Director determines that establishing paternity would not be in the best interests of the child, this decision:

(i) Means only that the administrator will not pursue action to establish paternity; and

(ii) Does not preclude the self-alleged father from pursuing establishment of paternity on his own, without the assistance of the administrator.

(5) In any case where legal proceedings for adoption of the child are pending, or where the child was conceived due to alleged rape or incest, the CSP Director is responsible for determining whether action to establish paternity would be in the best interests of the child.

(a) If the CSP Director determines that action to establish paternity would not be in the best interests of the child, the administrator will take no further action to establish paternity for the self-alleged father;

(b) A signed written statement from the mother or legal guardian of the child, stating that the child was conceived as a result of rape or incest, is sufficient reason for the CSP Director to determine that establishing paternity would not be in the best interests of the child, unless such statement is disputed or denied by the self-alleged father, subject to the following:

(A) If the self-alleged father does not respond to the copy of the allegation or response the CSP Director receives as provided in subsections (4)(a) through (4)(c) of this rule, the CSP Director will make a determination by default based on the mother's or legal guardian's statement;

(B) If the self-alleged father does respond and acknowledges that the child was conceived by rape or incest, the CSP Director must determine that establishing paternity would not be in the best interests of the child;

(C) If the self-alleged father does respond and denies that the child was conceived by rape or incest, the CSP Director will decide whether to pursue action to establish paternity. The CSP Director will consider factors including, but not limited to:

(i) Whether a police report was filed;

(ii) Whether the self-alleged father was convicted or acquitted of rape or incest charges;

(iii) Whether other persons have information that the child was conceived due to rape or incest;

(iv) Any other factors known or provided to the CSP Director that would support or refute the veracity of the rape or incest allegation;

(v) Whether establishing paternity would be in the best interest of the child, considering the factors listed in subsection (c) of this section;

(vi) The CSP Director's decision in this matter is limited to only whether the administrator will pursue action to establish paternity, and is in no way to be construed or intended as a determination or accusation of whether the self-alleged father is in fact guilty or not guilty of rape or incest;

(c) When the CSP Director finds that legal proceedings for adoption of the child are pending, the CSP Director will consider the following factors in determining whether establishing paternity would be in the best interests of the child:

(A) The nature of the relationship or contacts between the child and the self-alleged father. This determination may consider whether the child has lived with the self-alleged father or has had frequent visitation with the self-alleged father, thereby establishing a substantial parent-child relationship;

(B) The degree of parental commitment by the self-alleged father to the child. This determination may consider whether the self-alleged father has attempted to stay in contact with the child, and if such attempts would continue or increase in the future;

(C) The degree to which the self-alleged father has contributed or attempted to contribute, consistent with his ability, to the support of the child. This determination may consider the nature and extent of such support, and if such support would continue or increase in the future;

(D) If there is a legal relationship between the child and the self-alleged father, or if there has been an attempt to establish such a legal relationship through filiation proceedings, custody actions, voluntary acknowledgment of paternity, or similar actions. This determination may consider whether the self-alleged father has had an opportunity to establish a legal relationship prior to the initiation of adoption proceedings;

(E) Whether good reasons exist that would excuse the self-alleged father's failure to establish a relationship, or stay in contact with the child,

or contribute to the support of the child, or attempt to establish a legal relationship with the child. Such reasons may include, but are not limited to, the self-alleged father's late awareness of the mother's pregnancy or of the child's birth.

(6) Absent judicial review, the decision of the CSP Director is final with regard to any responsibility of the administrator to pursue establishment of paternity.

(7) No provision of this rule prohibits the self-alleged father from pursuing establishing paternity on his own, without the assistance of the administrator.

(8) If the CSP Director determines (when a determination by the CSP Director is necessary under this rule) that the administrator may pursue action to establish paternity at the request of a self-alleged father, or if the administrator does not receive a written assertion requiring such a determination by the CSP Director under this rule, the administrator will proceed on the case as follows:

(a) The administrator will make diligent efforts to provide the mother of the child, unless she is deceased, with actual notice of the action to establish paternity. Notice must be by personal service upon the mother. Diligent efforts include mailing of the notice or petition and summons by first class mail to all reasonably known recent addresses with a request that the mother acknowledge service on the form provided and also mailing the same notice to one or more of the maternal grandparents, if known, addressed to them individually and requesting that they forward the notice and acknowledgment form to the mother;

(b) Notwithstanding the requirement of subsection (a) of this section, no action to establish paternity under this section may be delayed more than 60 days from the self-alleged father's initial request because of the enforcing agency's inability to provide actual notice to the mother of the child or children;

(c) If the mother of the child or children cannot be served with notice of the action or if the mother is deceased, the enforcing agency will not take an order establishing paternity unless parentage tests have been completed which fail to exclude the self-alleged father, and have a cumulative paternity index of at least 99;

(d) In any action to establish paternity in which the administrator cannot serve the child's mother, or when the mother is deceased, the administrator will request that the court appoint a willing, qualified and suitable person to be a guardian ad litem for the child. If no relative or other person agrees to such appointment, the administrator will request that an attorney be appointed for this purpose;

(e) When an order establishing paternity has been taken in accordance with this section without service of the notice or petition and summons on the mother, the administrator will mail a copy of the final order to the mother by first class mail to the most recent addresses of record in the case record, DHS' TANF files and Oregon Driver and Motor Vehicle files marked please forward, address correction requested. In addition to such mailing, the administrator will, for a period of six months from the date of the final order, continue attempts to locate the mother and personally serve her with a copy of the final order establishing paternity.

(9) All other provisions of this rule notwithstanding, the administrator cannot require the child's mother (or other custodial adult) to cooperate with efforts to establish paternity, and the administrator will not assess a penalty for not cooperating, in any case where a finding that the child's mother (or other custodial adult) is exempt from cooperating due to good cause, pursuant to federal law at 42 U.S.C. 654(a)(29) and 42 U.S.C. 666(a)(5)(B)(i), is either currently in effect or is pending. In any such case, the administrator need not proceed further on behalf of the self-alleged father if it determines that there is no further effective action the administrator can take on behalf of the self-alleged father.

Stat. Auth.: ORS 180.345

Stats. Implemented: ORS 25.080

Hist.: AFS 23-1993, f. & cert. ef. 10-19-93; AFS 3-1994, f. & cert. ef. 2-1-94; AFS 12-1996, f. & cert. ef. 4-1-96; AFS 9-1998, f. 5-29-98, cert. ef. 6-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0068; AFS 4-2001, f. 3-28-01, cert. ef. 4-1-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3080; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3080; DOJ 1-2008(Temp), f. & cert. ef. 1-2-08 thru 3-31-08; DOJ 6-2008, f. & cert. ef. 4-1-08; DOJ 3-2009, f. & cert. ef. 4-1-09

137-055-3100

Order Establishing Paternity for Failure to Comply with an Order for Parentage Testing

(1) In an action to establish paternity initiated pursuant to ORS 416.415, the administrator may serve simultaneously the Notice and Finding of Financial Responsibility and an administrative order for parentage tests.

ADMINISTRATIVE RULES

(2) An administrative order for parentage tests may require either the mother of the child(ren) in question or a person who is a possible father of the child(ren) to file a denial of paternity in order to receive a parentage test, or it may allow testing prior to a party filing a responsive answer to the allegation of paternity.

(3) The administrator will enter an order establishing paternity based upon a party's failure to appear for parentage testing, provided that all parties have been served with a Notice and Finding of Financial Responsibility and with an order requiring parentage tests if:

(a) The mother of the subject child(ren) has named the male party who failed to appear for parentage tests in a sworn statement as a possible father of the child(ren) in question, and there is not a presumed father under ORS 109.070; or

(b) A male party has claimed in a sworn statement to be the father of the child(ren) in question and the mother and her child(ren) have failed to appear for such tests, and there is not a presumed father under ORS 109.070.

(4) An order establishing paternity based on a failure to submit to parentage tests may be entered:

(a) Whether or not a responsive answer has been filed; and

(b) Whether or not corroboration exists to support a sworn statement of a party naming a male party as a father or possible father of the child(ren) in question, provided that the male party has either:

(A) Been named in a sworn statement by the mother as a possible father of the child; or

(B) Has named himself in a sworn statement as the father of the child.

(5) The provisions of this rule do not apply to the additional parentage tests described in OAR 137-055-3020(11) through 137-055-3020(14), unless the party requesting the tests fails to comply with the order for parentage testing.

Stat. Auth.: ORS 180.345

Stats. Implemented: ORS 109.070, 109.252 & 416.430

Hist.: AFS 7-1998, f. 3-30-98, cert. ef. 4-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1030; SSP 15-2003, f. 6-25-03, cert. ef. 6-30-03; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3100; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3100; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06; DOJ 1-2008(Temp), f. & cert. ef. 1-2-08 thru 3-31-08; DOJ 6-2008, f. & cert. ef. 4-1-08; DOJ 3-2009, f. & cert. ef. 4-1-09

137-055-3460

Processing Modifications When Unable to Find a Party

(1) On any Oregon child support case, whenever Oregon law or administrative rule requires the administrator to process a modification of a support order to zero, and a State of Oregon court or the administrator has jurisdiction to modify the support order, the administrator shall proceed even in the event that the administrator cannot locate the obligee.

(2) For purposes of this rule, before the administrator can determine that the obligee cannot be found, the administrator must first submit a request to the State Parent Locator Service of the Division of Child Support and must allow the State Parent Locator Service at least 90 days to verify an address or employer for the party being sought.

(3) When the motion to modify the support order is for a modification to zero because the obligated parent is either receiving certain cash assistance as provided in ORS 25.245, or is incarcerated, or now has physical custody of the child(ren) named in the support order, and the administrator cannot locate the obligee, the administrator may serve by other methods as allowed in 25.020(9)(a) or ORCP 7.D(6).

(4) Provisions in this rule regarding a motion to modify a support order to zero are also applicable to a motion to terminate support or, if the obligor is receiving certain cash assistance as provided in ORS 25.245, to a notice suspending support.

Stat. Auth.: ORS 180.345

Stats. Implemented: ORS 25.020(9), 25.085, 25.245 & ORCP 7.D

Hist.: AFS 20-1998, f. & cert. ef. 10-5-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1085; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3460; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3460; DOJ 3-2009, f. & cert. ef. 4-1-09

.....

Department of Oregon State Police, Office of State Fire Marshal Chapter 837

Rule Caption: Increase public display, retail and wholesale fireworks permit fees.

Adm. Order No.: OSFM 1-2009

Filed with Sec. of State: 4-9-2009

Certified to be Effective: 4-10-09

Notice Publication Date: 12-1-2008

Rules Amended: 837-012-0530, 837-012-0625, 837-012-0750

Subject: Increase public display, retail, and wholesale fireworks permit fees.

Rules Coordinator: Pat Carroll—(503) 373-1540, ext. 276

837-012-0530

Permit Fees

(1) Permit fees shall be paid at, or mailed to, the Office of State Fire Marshal and shall accompany the Permit Application.

(2) Payment shall be made by personal check, business check, cashier's check or money order made payable to the Office of State Fire Marshal. If the fee is paid by either personal or business check, the Office of State Fire Marshal shall not take any action on the Permit Application until the check has cleared the bank.

(3) The permit fee shall be \$3,000.

(4) Permit fees are non-refundable. Exception: The State Fire Marshal may refund all or part of the permit fee if it is determined the application is not appropriate or the permit is denied.

(5) Permit fees are non-transferable to any other individual or business.

Stat. Auth.: ORS 476, 478 & 480

Stats. Implemented:

Hist.: FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; OSFM 6-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 15-2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02; OSFM 6-2004(Temp), f. & cert. ef. 11-17-04 thru 5-15-05; Administrative correction 5-20-05; OSFM 8-2005, f. 5-24-05, cert. ef. 6-7-05; OSFM 9-2008(Temp), f. 11-14-08, cert. ef. 11-17-08 thru 5-8-09; OSFM 1-2009, f. 4-9-09, cert. ef. 4-10-09

837-012-0625

Retail Permit Fees

(1) Permit fees shall be paid at, or mailed to, the Office of State Fire Marshal and shall accompany the Permit Application.

(2) Payment shall be made by personal check, business check, cashier's check or money order made payable to the Office of State Fire Marshal. If the fee is paid by either personal or business check, the Office of State Fire Marshal shall not take any action on the Permit Application until the check has cleared the bank.

(3) The permit fee for each Permit Application shall be \$100.

(4) Permit fees are non-refundable and non-transferable.

Stat. Auth.: ORS 476 & 480

Stats. Implemented: ORS 480.110 - 480.165

Hist.: FM 1-1990(Temp), f. & cert. ef. 1-12-90; FM 4-1990, f. & cert. ef. 7-10-90; OSFM 14-2000, f. & cert. ef. 12-4-00; OSFM 11-2001, f. & cert. ef. 12-14-01; OSFM 3-2005, f. & cert. ef. 2-15-05; OSFM 13-2005(Temp), f. & cert. ef. 8-16-05 thru 2-11-06; OSFM 2-2006(Temp), f. & cert. ef. 2-13-06 thru 3-10-06; OSFM 5-2006, f. & cert. ef. 3-10-06; OSFM 9-2008(Temp), f. 11-14-08, cert. ef. 11-17-08 thru 5-8-09; OSFM 1-2009, f. 4-9-09, cert. ef. 4-10-09

837-012-0750

Display Permit Application Fees

(1) Display Permit Application fees shall be paid at, or mailed to, the Office of State Fire Marshal and shall accompany the Display Permit Application.

(2) Payment shall be made by personal check, business check, cashier's check or money order made payable to the Office of State Fire Marshal. If the fee is paid by either personal or business check, the Office of State Fire Marshal shall not take any action on the Display Permit Application until the check has cleared the bank.

(3) The Display Permit Application fee for a Display Permit is \$100.

(4) Display Permit Application fees are non-refundable and non-transferable.

Stat. Auth.: ORS 480.150

Stats. Implemented: ORS 480.110 - 480.165

Hist.: FM 2-1992, f. & cert. ef. 3-10-92; OSFM 4-2002(Temp), f. & cert. ef. 2-25-02 thru 8-19-02; OSFM 7-2002, f. & cert. ef. 6-20-02; OSFM 2-2005, f. & cert. ef. 2-15-05; OSFM 13-2005(Temp), f. & cert. ef. 8-16-05 thru 2-11-06; OSFM 3-2006(Temp), f. & cert. ef. 2-13-06 thru 3-10-06; OSFM 6-2006, f. & cert. ef. 3-10-06; OSFM 9-2008(Temp), f. 11-14-08, cert. ef. 11-17-08 thru 5-8-09; OSFM 1-2009, f. 4-9-09, cert. ef. 4-10-09

.....

Department of Public Safety Standards and Training Chapter 259

Rule Caption: Housekeeping changes to Administrative Rulemaking process.

Adm. Order No.: DPSST 2-2009

Filed with Sec. of State: 4-8-2009

Certified to be Effective: 4-8-09

Notice Publication Date: 3-1-2009

Rules Amended: 259-001-0005

ADMINISTRATIVE RULES

Subject: Clarifies Department's requirements to provide notice to interested parties as part of the proposed permanent rulemaking process.

Rules Coordinator: Bonnie Salle-Narveaz—(503) 378-2431

259-001-0005

Notice to Interested Persons on Proposals to Adopt, Amend, or Repeal any Administrative Rule Affecting Police Officers, Corrections Officers, or Parole and Probation Officers, Telecommunicators, Emergency Medical Dispatchers, Fire Service Professionals, Law Enforcement Units, and Public or Private Safety Agencies as Defined in ORS 181.610

In accordance with ORS 183.341(4), and except as provided in ORS 183.341(1), to provide a reasonable opportunity for interested persons to be notified of the proposed actions affecting police officers, corrections officers, parole and probation officers, telecommunicators, emergency medical dispatchers, fire service professionals, law enforcement units, or public or private safety agencies, the Board and the Department shall give notice of the proposed permanent adoption, amendment, or repeal of rule(s):

(1) At least twenty-one (21) days prior to the effective date of the intended action, in the Secretary of State's Bulletin referred to in ORS 183.360.

(2) At least twenty-eight (28) days prior to the effective date of the intended action, by mailing or furnishing a copy of the notice to the following:

- (a) Oregon State Sheriff's Association (OSSA);
- (b) Oregon Association Chiefs of Police (OACP);
- (c) Oregon Peace Officers Association (OPOA);
- (d) Oregon Criminal Justice Association (OCJA);
- (e) Oregon Department of Corrections;
- (f) United Press International;
- (g) Associated Press;
- (h) Capitol Building Press Room;
- (i) Oregon Council of Police Associations (OCPA);
- (j) Oregon Department of Justice;
- (k) Oregon State Police Officers Association (OSPOA);
- (l) Federation of Parole & Probation Officers (FPPO);
- (m) Oregon State Police Headquarters;
- (n) Oregon Emergency Management;
- (o) Oregon Chapter/Association of Public Safety Communications Officers (APCO);
- (p) Oregon Fire Chief's Association (OFCA);
- (q) Oregon Health Division, Emergency Medical Services Section;
- (r) Oregon Fire Instructors Association (OFIA);
- (s) Oregon Fire Marshals Association (OFMA);
- (t) Oregon Fire District Directors Association (OFDDA);
- (u) Oregon Volunteer Firefighters Association (OVFA);
- (v) Oregon State Firefighters Council (OSFC);
- (w) League of Oregon Cities (LOC);
- (x) Portland Police Bureau;
- (y) Oregon State Fire Marshal's Office;
- (z) Oregon State Forestry;
- (aa) Federal Bureau of Investigation — Oregon Office;
- (bb) Oregon District Attorneys Association (ODAA);
- (cc) Portland Fire Bureau.

(3) At least twenty-eight (28) days prior to the effective date of the intended action, by mailing a copy of the notice to persons on the Board and Department mailing list established pursuant to ORS 183.335(7).

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1983, f. & ef. 12-15-83; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; DPSST 2-2009, f. & cert. ef. 4-8-09

.....

Rule Caption: COD Course Remediation Process and Certification Recall Process for Failing to Maintain First Aide/CPR (Police).

Adm. Order No.: DPSST 3-2009

Filed with Sec. of State: 4-8-2009

Certified to be Effective: 4-8-09

Notice Publication Date: 3-1-2009

Rules Amended: 259-008-0025, 259-008-0065

Subject: Establishes re-testing process for an individual who fails a Career Officer Development (COD) Course.

Establishes certification recall process for police officers who fail to maintain current First Aid or CPR certification and clarifies reporting requirements.

Rules Coordinator: Bonnie Salle-Narveaz—(503) 378-2431

259-008-0025

Minimum Standards for Training

(1) Basic Course:

(a) Except as provided in 259-008-0035, all law enforcement officers, telecommunicators, and emergency medical dispatchers shall satisfactorily complete the prescribed Basic Course, including the field training portion. The Basic Course and field training portion shall be completed within twelve months from the date of employment by corrections officers and within 18 months by police officers, parole and probation officers, telecommunicators, and emergency medical dispatchers.

(b) The field training program shall be conducted under the supervision of the employing department. When the field training manual is properly completed, the sign-off pages of the field training manual shall be forwarded to the Department. Upon the approval of the Department, the employee shall receive credit toward basic certification.

(c) Effective July 1, 2007, all police officers must satisfactorily complete the Department's physical fitness standard. The Department's physical standard is:

(A) Successful completion of the OR-PAT at 5:30 (five minutes and thirty seconds) when tested upon entry at the Basic Police Course; or

(B) Successful completion of the OR-PAT at 5:30 (five minutes and thirty seconds) when tested prior to graduation from the Basic Police Course.

(d) Law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as defined in ORS 181.610, subsections (5), (13) and (14), and OAR 259-008-0005, subsections (7), (19), (23), and (24), during the last five (5) years or more, shall satisfactorily complete the full required Basic Course to qualify for certification. This requirement may be waived by the Department upon a finding that the applicant has current knowledge and skills to perform as an officer.

(e) Telecommunicators and emergency medical dispatchers who have previously completed the Basic Course, but have not been employed as a telecommunicator or EMD, as described in ORS 181.610(9) and (18) and 259-008-0005(14) and (32) for two and one-half (2-1/2) years or more, must satisfactorily complete the full required Basic Course to qualify for certification. This requirement may be waived by the Department upon finding that a Telecommunicator has current knowledge and skills to perform as a Telecommunicator. There is no waiver available for an emergency medical dispatcher.

(f) Previously employed telecommunicators may challenge the Basic Telecommunications Course based on the following criteria:

(A) The department head of the applicant's employing agency shall submit the "challenge request" within the time limits set forth in the Oregon Revised Statutes and Oregon Administrative Rules.

(B) The applicant shall provide proof of successful completion of prior equivalent training.

(C) The applicant shall provide documentation of the course content with hour and subject breakdown.

(D) The applicant shall obtain a minimum passing score on all written examinations for the course.

(E) The applicant shall demonstrate performance at the minimum acceptable level for the course.

(F) Failure of written examination or demonstrated performance shall require attendance of the course challenged.

(G) The applicant shall only be given one opportunity to challenge a course.

(g) Previously employed police officers, corrections officers and parole and probation officers who are required to attend the Basic Course may not challenge the Basic Course.

(h) All law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as described in ORS 181.610(5), (13) and (14), and OAR 259-008-0005(7), (19), (23) and (24) over two and one-half (2-1/2) but less than five (5) years shall complete a Career Officer Development Course if returning to the same discipline. This requirement may be waived after a staff determination that the applicant has demonstrated the knowledge and skills required for satisfactory completion of a Career Officer Development Course.

ADMINISTRATIVE RULES

(i) Corrections and police officers who have not completed the Basic Course shall begin training at an academy operated by the Department within 90 days of their initial date of employment. A 30-day extension of this time period shall be granted by the Board or its designee upon receipt of a written statement of the reasons for the delay from the officer's employer. Any delays caused by the inability of the Department to provide basic training for any reason, shall not be counted as part of the periods set forth above (refer to ORS 181.665 and 181.652).

(j) Law enforcement officers who have previously completed a basic training course out of state while employed by a law enforcement unit, or public or private safety agency, may, upon proper documentation of such training and with approval of the Department, satisfy the requirements of this section by successfully completing a prescribed Career Officer Development Course or other appropriate course of instruction.

(k) The basic course for police officers must include:

(A) Training on the law, theory, policies and practices related to vehicle pursuit driving;

(B) Vehicle pursuit training exercises, subject to the availability of funding; and

(C) A minimum of 24 hours of training in the recognition of mental illnesses utilizing a crisis intervention training model.

(2) Career Officer Development Course:

(a) All law enforcement officers who have not been employed as such for between two and one half (2-1/2) and five (5) years, shall satisfactorily complete the Career Officer Development Course approved by the Department.

(b) A law enforcement officer assigned to a Career Officer Development Course must also complete the Board's field training program under the supervision of the employing department and submit to the Department a properly completed Field Training Manual. The Department may waive the Field Training Manual requirement upon demonstration by the employing agency that it is not necessary. See 259-008-0025(1)(b).

(A) A law enforcement officer who fails to achieve a minimum passing test score after completing a Career Officer Development Course will be given one opportunity to remediate through self-study and re-test within 60 days of the initial date of failure.

(B) A law enforcement officer who fails to achieve a minimum passing test score after re-testing will have been determined to have failed academically and will be required to attend the next available Basic Course.

(C) A law enforcement officer who is scheduled to complete a distance learning COD Course must achieve a minimum passing test score within the timeframe set by the Department. Failure to successfully complete a distance COD Course within the timeframe set by the Department will require an officer to attend the next available COD Course.

(c) The Department may also require successful completion of additional specified courses or remedial training.

(3) Supervision Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a first-level supervisory position shall satisfactorily complete the prescribed Supervision Course within 12 months after initial promotion, appointment, or transfer to such position. This section shall apply whether the individual is promoted or transferred from within a department, or is appointed from an outside department, without having completed a prescribed Supervision Course, within the preceding five (5) years.

(4) Middle Management Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a middle management position must satisfactorily complete the prescribed Middle Management Course within 12 months after initial promotion, appointment, or transfer to such position. This section shall apply whether the individual is promoted or transferred to a middle management position within a department, or employed from outside a department and appointed to a middle manager position without having completed a prescribed middle management course within the preceding five (5) years.

(5) Specialized Courses:

(a) Specialized courses are optional and may be presented at the Academy or regionally. The curriculum is generally selected because of relevancy to current trends and needs in police, corrections, parole and probation, telecommunications, and emergency medical dispatch fields, at the local or statewide level.

(b) Specialized courses may be developed and presented by individual departments of the criminal justice system, local training districts, a college, the Department, or other interested persons. The staff may be available to provide assistance when resources are not available in the local region.

(c) Police officers, including certified reserve officers, shall be trained on how to investigate and report cases of missing children and adults.

(A) The above mandated training is subject to the availability of funds.

(B) Federal training programs shall be offered to police officers, including certified reserve officers, when they are made available at no cost to the state.

(6) Waiver. A person requesting a waiver of any course requirements is required to submit to the Department any supporting documents or pertinent expert testimony and evaluation requested. Any expense associated with providing such documentation, testimony or evaluation shall be borne by the person requesting the waiver or the requesting agency.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1982, f. & ef. 7-2-82; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0030, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 5-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 13-2001(Temp), f. & cert. ef. 10-26-01 thru 4-10-02; BPSST 2-2002, f. & cert. ef. 2-6-02; BPSST 8-2002, f. & cert. ef. 4-3-02; BPSST 15-2002, f. & cert. ef. 7-5-02; DPSST 14-2003, f. & cert. ef. 12-22-03; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 3-2007, f. & cert. ef. 1-12-06; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 9-2008, f. & cert. ef. 7-15-08; DPSST 14-2008, f. & cert. ef. 10-15-08; DPSST 3-2009, f. & cert. ef. 4-8-09

259-008-0065

Maintenance of Certification For Active Police Officers

(1)(a) The Board is responsible for setting the standards for active police officer training and the maintenance of certification. The Department is required to uphold those standards, while each agency determines what training will be provided to meet the standards.

(b) It is recommended that agencies provide training time and training opportunities to enable the active police officer to meet the required maintenance training hours.

(2) In order to maintain certification:

(a) All active police officers must maintain current First Aid/CPR certification.

(b) Proof of First Aid/CPR certification renewal must be reported to the Department once every three years as part of each officer's mandatory maintenance training cycle. Proof includes submission of the following:

(A) An F-6 Course Roster received by the Department prior to the end of an officer's maintenance reporting period that verifies completion of training and identifies certification expiration dates. This will result in credit for training hours and update of the officer's First Aid/CPR certification expiration dates; or

(B) A photocopy of the front and back of an officer's current First Aid/CPR certification card prior to the end of the maintenance period. This will result in an update of the officer's First Aid/CPR expiration dates only. No training hours will be added to the officer's record, unless accompanied by an F-6 Course Roster; or

(C) An F-15 Maintenance-Police form identifying new expiration dates. The F-15 Maintenance-Police form must be submitted in accordance with subsection (5) of this section, following the end of the officer's maintenance period.

(c) All active police officers must complete a total of at least eighty-four (84) hours of agency approved training every three (3) years. The eighty-four (84) hours will include:

(A)(i) Eight (8) CORE hours of training annually, from either the "Firearms" or "Use of Force" subject areas:

(ii) This training must be reported to the Department as twenty-four (24) hours of CORE training, once every three years.

(B)(i) Active police officers who hold a Supervision, Mid-Management or Executive certification, must complete at least twenty-four (24) hours of agency approved Leadership/Professional training, every three years:

(ii) This training must be reported to the Department as twenty-four (24) hours of agency approved Leadership/Professional training, once every three (3) years.

(C)(i) In addition to the CORE (A)(i) (required of all officers) and Leadership/Professional (B)(i) training hours (only required of officers with Supervision Certification and above), the remaining hours must be completed from the category of "General Law Enforcement" training in the recommended, but not limited to, subject areas of Law and Legal, Ethics and Communication, Investigations, Survival Skills, Child Abuse, Sex Abuse, and Elder Abuse:

ADMINISTRATIVE RULES

(ii) These remaining training hours must be reported to the Department as "General Law Enforcement" training, once every three (3) years.

(3) Beginning on the date a police officer returns to work from any leave of absence, the following requirements must be met:

(a) Maintenance Training Requirements as described in section (7) or (8) of this section;

(b) Proof of current First Aid and CPR cards;

(c) Any other applicable requirement for employment, training or certification as specified in OAR 259-008-0010, 259-008-0025 or 259-008-0060.

(4)(a) The employing agency must maintain documentation of required training and First Aid/CPR certification on each police officer;

(b) Any training submitted to the Department on an F-6 Course Roster will be entered into each officer's DPSST training record.

(c) Maintenance training submitted on an F-6 will be credited towards the number of hours required for each maintenance training category in section (2) above.

(d) On or after January 2 of each year, the Department will identify all police officers who are deficient in maintenance training or First Aid/CPR certification according to Department records and provide notification to the officer and his/her employing agency.

(e) Within 30 days of receipt of the notification in (d) above, the agency must notify the Department of the training status or First Aid/CPR certification of all police officers identified as deficient by submitting a Form F-15M-Police to the Department, identifying the training or First Aid/CPR certification completed during the previous three (3) year reporting period.

(A) Maintenance training and First Aid/CPR training hours reported to the Department on an F-15M-Police will be used solely to verify completion of maintenance training requirements and will not be added to the officer's DPSST training record.

(B) Failure to notify the Department of completion of the required training for officers with identified training deficiencies will result in a notification of recall letter being sent to the agency head and the officer.

(5) The Department will recall a police officer's certification for:

(a) Failure to complete any required maintenance training or maintain First Aid/CPR certification during the maintenance period identified in section (2); or

(b) Failure to submit the completed Form F-15M-Police, within 30 days after a warning notification letter has been sent.

(6) A police officer with a recalled certification cannot work in a certified position.

(7)(a) Recertification following a recall may be obtained at the approval of the Department by submitting the following:

(A) A written request for re-certification from the employing agency head, along with an explanation of why the training or First Aid/CPR certification was not obtained;

(B) An F-6 Course Roster verifying that any missed training has been completed, and identifying the training as "Maintenance make-up" training; and

(C) Verification of current First Aid/CPR certification, submitted as provided in subsection (2) (b) of this rule.

(b) After 2-1/2 years in a recalled status the police officer will be required to complete a Career Officer Development Course before s/he can be recertified.

(c) After more than 5 years in a recalled status the police officer will be required to complete basic training in the appropriate discipline.

(8) Agency heads of the employing agency may document "excused leave" in extreme circumstances for not completing the annual requirements but must provide documentation as to the reason and indicate when the missed training was completed.

(9) Maintenance Training Requirements for Police Officers on Leave of Absence.

(a) A police officer who is on leave of absence for any period between 90 to 180 days will have the same maintenance training deadline as the date established prior to the officer's leave of absence date.

(b) A police officer who is on leave of absence for more than 180 days, but less than one year will receive a one year extension from the maintenance training deadline established prior to the officer's leave.

(c) A police officer who is on leave of absence for more than one year, but less than 2-1/2 years will receive an extension of up to three years from the maintenance training deadline established prior to the officer's leave. The extension will be prorated, based on the duration of the officer's leave. Upon the officer's return to work, the officer must complete the mandatory

eight hours of annual firearms/use of force maintenance training within 30 days of the officer's return to work, as follows:

(A) Qualification with the appropriate duty weapon(s); and

(B) Completion of sufficient additional firearms and use of force refresher training to total eight hours.

(d) Failure to meet the requirements of subsection (c) of this section will result in a warning notification or recall of a police officer's certification as described in subsection (4) or (5) of this section.

(10)(a) Maintenance Training Requirements for Previously Certified Police Officers.

(b) Any police officer who has not been employed as a police officer for between one year and five years, or whose certification has lapsed following 2 1/2 years in a leave status, must complete the mandatory eight hours of annual firearms/use of force maintenance training within 30 days of the officer's return to work, as follows:

(A) Qualification with the appropriate duty weapon(s); and

(B) Completion of sufficient additional firearms and use of force refresher training to total eight hours.

Stat. Auth.: ORS 181.652, 181.653 & 181.667

Stats. Implemented: ORS 181.652, 181.653 & 181.667

Hist.: PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 22-2002, f. & cert. ef. 11-18-02; BPSST 9-2003, f. & cert. ef. 4-22-03; DPSST 11-2006(Temp), f. & cert. ef. 8-15-06 thru 2-1-07; DPSST 13-2006, f. & cert. ef. 10-13-06; DPSST 3-2007, f. & cert. ef. 1-12-06; DPSST 3-2009, f. & cert. ef. 4-8-09

Rule Caption: Amend Conversion Ratio for Police and Corrections Students Receiving College Credit for Basic Course.

Adm. Order No.: DPSST 4-2009

Filed with Sec. of State: 4-8-2009

Certified to be Effective: 4-8-09

Notice Publication Date: 3-1-2009

Rules Amended: 259-008-0060

Subject: The current rule allows for a unilateral 1:20 ratio for conversion, which means the Department can grant 20 training hours for each college credit converted to training or deduct 20 training hours for each college credit obtained from training, whichever is to the advantage of an individual applying for upper levels of certification. Oregon community colleges determined the 1:20 ratio of one credit per 10 hours of comparable training. The Department proposes to amend its rule to provide for a 1:20 ratio for skills based training and 1:10 ratio for academic training.

Rules Coordinator: Bonnie Salle-Narveaz—(503) 378-2431

259-008-0060

Public Safety Officer Certification

(1) Basic, Intermediate, Advanced, Supervisory, Management, Executive and Instructor Certificates are awarded by the Department to law enforcement officers and telecommunications meeting prescribed standards of training, education, experience; and the levels established by the employing law enforcement units, or public or private safety agencies. Emergency medical dispatchers may be awarded basic certification only.

(2) Basic certification is mandatory and shall be acquired by all police officers, telecommunications, and emergency medical dispatchers within 18 months of employment, and by all corrections officers within one year of employment unless an extension is granted by the Department.

(3) To be eligible for the award of a certificate, law enforcement officers shall be full-time employees as defined by ORS 181.610 and OAR 259-008-0005 or part-time parole and probation officers, as described in ORS 181.610 and OAR 259-008-0066.

(4) To be eligible for the award of a certificate, law enforcement officers shall meet the Board's prescribed minimum employment standards as established by OAR 259-008-0010.

(5) To be eligible for the award of a certificate, telecommunications must meet the Board's prescribed minimum employment standards as established by OAR 259-008-0011.

(6) To be eligible for the award of a certificate, law enforcement officers shall subscribe to and swear or affirm to abide by the Criminal Justice Code of Ethics (Form F11). Telecommunicators and emergency medical dispatchers shall subscribe to and swear or affirm to abide by the Telecommunicator Code of Ethics. (Form F-11T). [Form not included. See ED. NOTE.]

(7) Application for certification must be submitted on Form F7, with all applicable sections of the form completed. The form shall be signed by

ADMINISTRATIVE RULES

the applicant. In order to insure that the applicant does or does not meet the minimum standards of employment, training, education, and experience, and is competent to hold the level of certification for which the applicant has applied, the department head or authorized representative shall sign the form recommending that the certificate be issued or withheld. If the department head chooses not to recommend the applicant's request for certification, the reason for this decision shall be specified in writing and shall accompany the Application for Certification (Form F7). [Form not included. See ED. NOTE.]

(8) When a department head is the applicant, the above recommendation shall be made by the department head's appointing authority such as the city manager or mayor, or in the case of a specialized agency, the applicant's superior. Elected department heads are authorized to sign as both applicant and department head.

(9) In addition to the requirements set forth above, each applicant, for the award of an Intermediate, Advanced, Supervisory, Management, or Executive Certificate, shall have completed the designated education and training, combined with the prescribed corrections, parole and probation, police or telecommunications experience.

(a) Each quarter credit unit granted by an accredited college or university which operates on a quarterly schedule shall equal one (1) education credit.

(b) Each semester credit unit granted by an accredited college or university operating on a semester schedule shall equal one and one half (1-1/2) education credits.

(c) The Department must receive sealed official transcripts from a college prior to entering college credit on an individual's official record.

(10) Training Points. Twenty (20) classroom hours of job-related training approved by the Department shall equal one (1) training point. (Example: 200 training hours equal 10 training points.)

(a) Basic, Intermediate, Advanced, Supervisory, Middle Management, Executive, or Specialized courses certified, sponsored, or presented by the Department shall be approved.

(b) The Department may award training points for departmental or other in-service training which is recorded and documented in the personnel files of the trainee's department. These records shall include the subject, instructor, classroom hours, date, sponsor, and location.

(c) Training completed in other states, military training, and other specialized training, if properly documented may be accepted, subject to staff evaluation and approval. These records shall include the subject, date, and classroom hours, and shall be certified true copies of the original.

(d) Upon receipt of documentation which shall include the source, syllabus, number of hours, dates and successful completion of the course, the Department or its designated staff may award training points for correspondence courses.

(e) College credits earned may be counted for either training points or education credits, whichever is to the advantage of the applicant.

(f) College credit awarded based on training completed may be applied toward either training points or education credits, whichever is to the advantage of the applicant.

(A) Prior to applying an applicant's college credit toward any upper level of certification, the Department must receive documentation of the number of college credits awarded based on training attended.

(B) The training hours identified under paragraph (A) and submitted as college credit toward an upper level of certification will not be included in any calculation of whether the applicant has earned sufficient training hours to qualify for the requested certification level(s).

(i) Any college credit received for practical or skills-based training attended will be calculated at a ratio of 1:20 hours for each quarter credit, for purposes of training hour deductions.

(ii) Any college credit received for academic training attended will be calculated at a ratio of 1:10 hours for each quarter credit, for purposes of training hour deductions.

(g) Notwithstanding subsection (e) and (f) above, no credit can be applied toward both an education credit and training point when originating from the same training event.

(11) Experience/Employment:

(a) Experience acquired as a corrections, parole and probation, or police officer employed full time with municipal, county, state, or federal agencies, may be accepted if the experience is in the field in which certification is requested and is approved by the Department. For the purpose of this rule, creditable service time for experience will cease to accrue under the following circumstances:

(A) When an individual is employed in a casual, seasonal, or temporary capacity;

(B) When an individual is on "leave." This includes, but is not limited to, medical leave, a leave of absence or military leave;

(C) Notwithstanding section (B) of this rule, a public safety professional may submit a written request for credit for military time served upon return from a military leave. The Department may approve credit for military time served if the public safety professional's military duties are determined to be equivalent to the duties the public safety professional was performing prior to the public safety professional's military leave. Any credit received for time served will be at the discretion of the Department.

(D) From the date a public safety professional's certification is recalled until it is reinstated by the Department;

(E) When a public safety professional fails to obtain Basic certification within a mandated timeframe and is prohibited from being employed as a public safety professional;

(b) Experience acquired as a telecommunicator or emergency medical dispatcher employed with a public or private safety agency may be accepted if the experience is in the field in which certification is requested and is approved by the Department.

(c) Experience acquired as a certified part-time telecommunicator, emergency medical dispatcher as defined in OAR 259-008-0005(12) and (32) respectively, or part time parole and probation officer, as defined under 259-008-0005(20) and (21) and 259-008-0066, shall count on a pro-rated basis.

(d) Police, corrections, parole and probation, telecommunicator, or emergency medical dispatch experience in fields other than that in which certification is requested may receive partial credit when supported by job descriptions or other documentary evidence. In all cases, experience claimed is subject to evaluation and approval by the Department.

(12) The Basic Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Basic Certificate:

(a) Applicants shall have completed a period of service of not less than nine (9) months with one or more law enforcement units, or public or private safety agencies in a certifiable position, in the field in which certification is being requested.

(b) Applicants shall have satisfactorily completed the required Basic Course in the field in which certification is requested or have completed equivalent training as determined by the Department.

(c) Applicants shall have valid first aid and cardiopulmonary resuscitation (CPR) card(s).

(13) The Intermediate Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Intermediate Certificate:

(a) Applicants shall possess a Basic Certificate in the field in which certification is requested.

(b) Applicants shall have acquired the following combinations of education and training points combined with the prescribed years of police, corrections, parole and probation or telecommunications experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]

(14) The Advanced Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Advanced Certificate:

(a) Applicants shall possess or be eligible to possess the Intermediate Certificate in the field in which certification is requested.

(b) Applicants shall have acquired the following combinations of education and training points combined with the prescribed years of corrections, parole and probation, police, telecommunications experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]

(15) The Supervisory Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Supervisory Certificate:

(a) Applicants shall possess or be eligible to possess the Advanced Certificate in the field in which certification is requested.

(b) Applicants shall have satisfactorily completed no less than 45 education credits as defined in section (10) of this rule.

(c) Applicants shall have satisfactorily completed the prescribed Supervision Course or an equivalent number of hours of Department approved supervisory level training within five (5) years prior to application for the Supervisory Certificate.

(d) Applicants shall be presently employed in, or have satisfactorily performed the duties associated with the position of a first level supervisor, as defined in ORS 181.610 and OAR 259-008-0005(16), as attested to by the applicant's department head during the time such duties were

ADMINISTRATIVE RULES

performed, for a period of one (1) year. The required experience shall have been acquired within five (5) years prior to the date of application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, supervisory duties.

(16) The Management Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Management Certificate:

(a) Applicants shall possess or be eligible to possess the Supervisory Certificate in the field in which certification is requested.

(b) Applicants shall have satisfactorily completed no less than 90 education credits as defined in section (10) of this rule.

(c) Applicants shall have satisfactorily completed the prescribed Middle Management Course or an equivalent number of hours of Department approved management level training within five (5) years prior to application for the Management Certificate.

(d) Applicants shall be presently employed in, and shall have served satisfactorily in a Middle Management position, as an Assistant Department Head, or as a Department Head as defined in ORS 181.610 and OAR 259-008-0005, for a period of two (2) years. The required experience must have been acquired within five (5) years prior to the date of application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, management duties.

(17) The Executive Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Executive Certificate:

(a) Applicants shall possess or be eligible to possess the Management Certificate in the field in which certification is requested.

(b) Applicants shall have satisfactorily completed no less than 90 education credits as defined in section (10) of this rule.

(c) Applicants shall have satisfactorily completed 100 hours of Department approved executive level training within five (5) years prior to application for the Executive Certificate.

(d) Applicants shall be presently employed in, and shall have served satisfactorily in a Middle Management position, as an Assistant Department Head, or as a Department Head as defined in OAR 259-008-0005, for a period of two (2) years. The required experience must have been acquired within five (5) years prior to the date of the application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, the duties associated with that of a department head or assistant department head.

(18) Multi-discipline Certification. Upon receiving written request from the department head stating a justified and demonstrated need exists for the efficient operation of the employing agency, the Department may approve multi-discipline certification for law enforcement officers who meet all minimum employment, training and education standards established in OAR 259-008-0010, 259-008-0025, and this rule, in the disciplines which they are requesting certification. The officer shall meet the following requirements for the award of multi-discipline certification:

(a) Basic certification: A person who is certified in one discipline may apply for multi-discipline certification, if employed in or transferred to another discipline within the same law enforcement unit. The applicant shall demonstrate completion of all training requirements in the discipline in which certification is being requested.

(b) Higher levels of certification: Law enforcement officers who possess higher levels of certification in one discipline may, upon employment in or transfer to another discipline within the same law enforcement unit, apply for the same level of certification after completion of nine (9) months experience in the discipline in which they are requesting certification, and meeting the requirements for those higher levels of certification as outlined in this rule. This section does not apply to the EMD discipline since it only exists at the basic certification level.

(c) Retention of Multi-discipline certification. In order to maintain multi-discipline certification, each discipline in which certification is held requires successful completion and documentation of training hours by the holders of the certificates every twelve (12) months. The training must be reported to the Department, as follows:

(A) For the EMD certificate; a minimum of four (4) hours of training, specific to this discipline, must be reported annually on a Form F-15M.

(B) For the Telecommunicator certification, a minimum of twelve (12) hours of training, specific to this discipline, must be reported annually on a Form F-15M.

(C) For all other disciplines, a minimum of twenty (20) hours of training, specific to each discipline in which certification is held, must be reported annually on a Form F-15M.

(d) The same training may be used for more than one discipline if the content is specific to each discipline. It is the responsibility of the agency head to determine if the training is appropriate for more than one discipline.

(e) Failure to comply with subsection (c) of this rule shall result in the recall of the multi-discipline certification by the Board.

(f) Upon documentation of compliance with subsection (c) of this rule, a law enforcement officer may reapply for single or multi-discipline certification as outlined by this rule.

(19) Certificates Are Property of Department. Certificates and awards are the property of the Department, and the Department shall have the power to revoke or recall any certificate or award as provided in the Act.

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

Stat. Auth.: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654, 181.665

Stats. Implemented: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654 & 181.665
Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1980(Temp), f. & ef. 6-26-80; PS 2-1980, f. & ef. 12-8-80; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0055, PS 1-1990, f. & cert. ef. 2-7-90; PS 1-1995, f. & cert. ef. 3-30-95, PS 2-1995, f. & cert. ef. 9-27-95; PS 7-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 1-1999, f. & cert. ef. 3-9-99; BPSST 6-1999, f. & cert. ef. 7-29-99; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 13-2001(Temp), f. & cert. ef. 10-26-01 thru 4-10-02; BPSST 8-2002, f. & cert. ef. 4-3-02; BPSST 21-2002, f. & cert. ef. 11-21-02; DPSST 1-2004, f. 1-16-04, cert. ef. 1-20-04; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 2-2008, f. & cert. ef. 1-15-08; DPSST 9-2008, f. & cert. ef. 7-15-08; DPSST 22-2008, f. & cert. ef. 12-29-08; DPSST 4-2009, f. & cert. ef. 4-8-09

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

Rule Caption: DMV to Invalidate and Return Surrendered Driver License, Driver Permit or Identification Card upon Issuance.

Adm. Order No.: DMV 6-2009

Filed with Sec. of State: 3-20-2009

Certified to be Effective: 3-20-09

Notice Publication Date: 2-1-2009

Rules Adopted: 735-062-0096

Subject: Pursuant to ORS 807.024, DMV mails an applicant's permanent driver license, driver permit or identification (ID) card from a central location. If the applicant is renewing or replacing an Oregon driver license, driver permit or ID card, or currently holds an out-of-state license or ID card, that card must be surrendered at the time of application. An interim card is issued, which the applicant may use until the permanent one is received, and DMV destroys the surrendered card. Most people receive their new card in the mail a few days later, but the interim card is printed on paper stock with few security features and is frequently not accepted as photo identification for business transactions and security screening at airports. This has made it difficult for some people to prove their identity while waiting for their new card to arrive in the mail.

According to research into states using a central issuance process, 15 out of 16 motor vehicle agencies invalidate the person's surrendered driver license, driver permit or identification card by hole-punching, clipping a corner, or some other method. These states return the card to the person to use for identification purposes prior to receiving the new card in the mail. Although not valid for driving or official state identification, businesses and security screeners are more likely to accept a state-issued license, permit or ID card even if it is invalidated, because it contains more security features to establish the person's identity.

DMV adopted OAR 735-062-0096 to allow DMV to invalidate a surrendered driver license, driver permit or identification card by hole-punching the card and then return it to the applicant when an interim card or applicant temporary permit is issued. The rule also requires the person to destroy the invalidated driver license, driver permit or identification card once the permanent card is received or

ADMINISTRATIVE RULES

if the person's identification card or driving privileges are canceled, suspended or revoked.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-062-0096

Surrendered Driver License, Driver Permit or Identification Card

(1) When DMV issues an interim driver card or an interim identification card to an applicant under OAR 735-062-0094 or an applicant temporary permit under ORS 807.310, DMV will invalidate and return the driver license, driver permit or identification card the applicant surrendered. An invalidated driver license or driver permit may not be used as proof of driving privileges, but is not deemed cancelled under 801.175.

(2) DMV will invalidate a surrendered driver license, driver permit or identification card by hole-punching the card.

(3) The invalidated driver license, driver permit or identification card must be destroyed by the applicant when:

(a) A valid driver license, driver permit or identification card issued and mailed by DMV is received by the applicant; or

(b) Driving privileges or rights to an identification card have been suspended, cancelled or revoked.

Stat. Auth.: ORS 184.616, 184.619, 802.010

Stats. Implemented: ORS 807.024, 807.045, 807.060, 807.150, 807.160, 807.310, 807.540, 807.550, 807.580

Hist.: DMV 6-2009, f. & cert. ef. 3-20-09

Rule Caption: Adds provision to designate ODAC member to represent dealers of motorcycles, mopeds or all-terrain vehicles.

Adm. Order No.: DMV 7-2009

Filed with Sec. of State: 3-20-2009

Certified to be Effective: 3-20-09

Notice Publication Date: 2-1-2009

Rules Amended: 735-150-0005

Subject: OAR 735-150-0000 establishes the Oregon Dealer Advisory Committee (ODAC) as the advisory committee required under ORS 802.370. The rule includes provisions for the designation of members, committee member terms and the appointment and interest of member representation.

ODAC membership consists of individuals who represent franchise dealers of new vehicles, dealers of used vehicles, Oregon dismantlers, RV dealers, vehicle dealership office management, auto auctions, Oregon towing businesses and the interests of the general public. DMV amended OAR 735-150-0005 to add a provision for the appointment of an individual who represents dealers of motorcycles, mopeds or all-terrain vehicles and deleted reference to the appointment of a realtor to the committee because this membership position represents the sale of manufactured structures, which ODOT no longer regulates

Other changes include how a vacancy on the committee is filled, how often meetings are held, how information on proposed or emergency actions is provided to committee members, and clarifies that recommendations of the committee are advisory only.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-150-0005

Oregon Dealer Advisory Committee

(1) The Oregon Dealer Advisory Committee is established pursuant to ORS 802.370.

(2) The committee's membership will consist of the following individuals appointed by the DMV administrator:

(a) Two individuals who represent franchise dealers of new vehicles;

(b) Two individuals who represent dealers of used vehicles;

(c) Two individuals who represent Oregon dismantlers;

(d) Two individuals who represent the interests of the general public;

(e) One individual who represents recreational vehicle dealers;

(f) One individual who represents vehicle dealership office management interests;

(g) One individual who represents auto auctions;

(h) One individual who represents Oregon towing businesses; and

(i) One individual who represents dealers of motorcycles, mopeds, or all-terrain vehicles.

(j) In addition to the committee membership described under subsections (a) through (i) of this section, membership may also include one indi-

vidual, whose term of appointment and interest of representation is determined by the DMV Administrator.

(3) DMV will designate one member listed in section (2) of this rule as chair of the committee. The chair's term expires December 31 of each year.

(4) Committee members are appointed to a three-year term and may be reappointed by the DMV administrator to serve an additional term(s). However, members serve at the pleasure of the DMV Administrator. Member terms will be staggered in a manner determined by DMV. In the event of a vacancy, the DMV administrator will appoint a new committee member to serve the duration of the three-year term.

(5) DMV will seek the recommendation of existing ODAC committee members or a trade or professional association generally recognized to represent a membership category before appointing a committee member, however, DMV is not bound by any recommendation.

(6) Meetings will be held quarterly beginning in January of each year, unless a meeting is cancelled, postponed or rescheduled as agreed to by DMV and a majority of the committee members. A committee member may be replaced by the DMV administrator for missing two consecutive quarterly meetings without good cause.

(7) DMV will consult with the committee before:

(a) Adopting administrative rules under ORS 822.035;

(b) Taking disciplinary action against a dealer under ORS 822.050 to revoke, suspend or place a dealer on probation;

(c) Levying a civil penalty against a dealer under ORS 822.009(1); or

(d) Taking disciplinary action against an Oregon dismantler under OAR 735-152-0050 to revoke, suspend or place a dismantler on probation.

(8) DMV may consult with the committee as required by section (7) of this rule at a committee meeting, or by mail, telephone, or other electronic means. DMV will provide written information on a proposed action described in section (7) of this rule to the committee members at least seven days before a committee meeting or the date a recommendation from the committee members is due. DMV may provide the written information by mail, fax, or other electronic means.

(9) The requirements of sections (7) and (8) of this rule do not apply if DMV determines it must take immediate action because the continued operation of a business regulated under ORS Chapter 822 jeopardizes public health or safety. Following the action, DMV will provide written notification of DMV's action to the committee and allow committee members to submit recommendations concerning the action.

(10) Recommendations of the committee and the individual committee members are advisory only and the Department of Transportation, including DMV, is not bound by any recommendation.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 822.035

Stats. Implemented: ORS 802.370

Hist.: MV 19-1992, f. 12-23-92, cert. ef. 1-1-93; DMV 6-1994, f. & cert. ef. 7-21-94; DMV 20-2004, f. & cert. ef. 8-20-04; DMV 32-2005(Temp), f. 12-14-05, cert. ef. 1-1-06 thru 6-29-06; DMV 4-2006, f. & cert. ef. 5-25-06; DMV 7-2009, f. & cert. ef. 3-20-09

Rule Caption: Establishes procedures and requirements for Oregon's Vehicle Appraiser Education Program.

Adm. Order No.: DMV 8-2009

Filed with Sec. of State: 3-20-2009

Certified to be Effective: 3-20-09

Notice Publication Date: 9-1-2008

Rules Adopted: 735-158-0005, 735-158-0010

Rules Amended: 735-158-0000

Subject: These rule amendments establish a vehicle appraiser education training program under ORS 819.480, for qualified applicants for Oregon vehicle appraiser certificates. The rules specify education program requirements, curriculum standards and qualification requirements for appraiser education instructors and trainees. Additional amendments to OAR 735-158-0000 specify the grounds under which DMV may deny issuance, suspend, revoke or renew a vehicle appraiser certificate.

The education program is a non-vocational training program specifically designed for individuals who are required to hold a vehicle appraiser certificate as a condition of employment. Examples of employers that may require an employee to hold an appraiser certificate include towing businesses and public agencies such as state, city and county law enforcement agencies that enforce laws relating to abandoned vehicles and vehicles that constitute a roadside hazard.

Training will be conducted by DMV-approved instructors and will provide education on the basic skills and minimum knowledge

ADMINISTRATIVE RULES

required to appraise vehicles in Oregon. DMV will administer the education program at no cost to program instructors or trainees. Instructors will not be compensated by DMV.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-158-0000

Vehicle Appraiser Certificate

(1) An applicant for a vehicle appraiser certificate or renewal under ORS 819.480 must submit the following to the DMV Business Regulation Section:

(a) A completed and signed DMV Application for Vehicle Appraiser Certificate (DMV Form 735-6610);

(b) All applicable fees; and

(c) Except as provided in section (2) of this rule, proof of two years combined work experience as a vehicle appraiser:

(A) For a new or used car business, tow business, insurance company, vehicle body repair business, law enforcement agency or any other state or local jurisdiction; or

(B) In the operation or employment of a certified vehicle dismantler business.

(2) A qualified applicant for a vehicle appraiser certificate may substitute a certificate of completion of the Vehicle Appraiser Education Program established under OAR 735-152-0010 for proof of work experience required under subsection (1)(c) of this rule. For purposes of 735-158-0010 and this section, “qualified applicant” means an individual who, as a condition of employment, is:

(a) Required to conduct vehicle appraisals under ORS 819.210, 819.220 or 819.280; and

(b) Required to conduct vehicle appraisals as an employee of a towing business that holds a valid towing business certificate issued under ORS 822.205 and OAR chapter 735, division 154; or

(c) Employed by a public agency authorized to remove or take a vehicle into custody as described under ORS 819.140. This includes state, city and county law enforcement agencies and other agencies responsible for enforcing laws relating to abandoned vehicles and vehicles that constitute a roadside hazard.

(4) DMV will not process an application that is incomplete. An incomplete application and the fees submitted with the application will be returned to the applicant.

(5) When DMV denies issuance or renewal of a vehicle appraiser certificate, DMV will retain the fees submitted with the application to cover the cost of processing the application.

(6) In addition to any other penalty provided by law, DMV may suspend, revoke, or refuse to issue or renew a vehicle appraiser certificate on the following grounds:

(a) Making a false or misleading statement or misrepresentation, including by act of omission, pertaining to:

(A) An application for a vehicle appraiser certificate;

(B) A vehicle appraiser report;

(C) Any document required by DMV; or

(D) Any investigation by DMV or law enforcement.

(b) Failure to comply with any applicable statute or rule pertaining to a vehicle appraiser certificate.

(c) DMV determines the applicant was convicted of a felony or misdemeanor related to fraud or dishonesty, if the conviction occurred less than three years before the date of application.

(7) A vehicle appraiser or applicant for a vehicle appraiser certificate who is subject to suspension, revocation or refusal to issue or renew the vehicle appraiser certificate is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act, ORS Chapter 183.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 819.480

Stats. Implemented: ORS 819.210, 819.220, 819.480, 819.482 & 822.700

Hist.: MV 25-1981(Temp), f. & ef. 12-1-81; MV 13-1982, 5-28-82, ef. 6-1-82; MV 27-1986, f. 12-31-86, ef. 1-1-87; Administrative Renumbering 3-1988, Renumbered from 735-071-0078; DMV 7-2002(Temp), f. 3-14-02, cert. ef. 3-18-02 thru 9-13-02; DMV 13-2002, f. & cert. ef. 6-24-02; DMV 16-2006, f. & cert. ef. 11-17-06; DMV 13-2007, f. & cert. ef. 11-30-07; DMV 8-2009, f. & cert. ef. 3-20-09

735-158-0005

Vehicle Appraiser Education Program

(1) Training Requirements. The Vehicle Appraiser Education Program is a non-vocational training program designed for individuals who need a vehicle appraiser certificate as a condition of employment, as described in OAR 735-158-0000(2). The training, conducted by DMV-approved instructors, provides education on the basic skills and minimum knowledge required to appraise vehicles in Oregon. The training is a minimum of four hours and covers:

(a) Oregon laws and administrative rules applicable to certified vehicle appraisers and the appraisal of vehicles, including but not limited to:

(A) Privileges granted by an appraiser certificate and certificate renewal;

(B) Reporting requirements and appraisal-related forms; and

(C) Procedures and requirements regarding the removal of vehicles from a public right-of-way or private property, and the disposition of vehicles upon removal.

(b) Accepted appraisal methods, determining vehicle value and how to recognize high-value vehicles and collector cars; and

(c) Resources of information relating to vehicle appraisers and the appraisal of vehicles. For example, information may be obtained from associations, car clubs, publications, vehicle valuation guides, seminars, or websites.

(2) Individuals who successfully complete the training program will receive a statement of completion from the training instructor. The statement may be submitted to DMV as proof of work experience required under OAR 735-158-0010 when applying for a vehicle appraiser certificate.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 819.480

Stats. Implemented: ORS 819.210, 819.220, 819.480, 819.482 & 822.700

Hist.: DMV 8-2009, f. & cert. ef. 3-20-09

735-158-0010

Vehicle Appraiser Education Program; Instructor Qualifications; Requirements

(1) A person who wishes to become a DMV-approved Vehicle Appraiser Education Program instructor must:

(a) Hold a valid Oregon Vehicle Appraiser Certificate;

(b) Have a minimum of five consecutive years experience as a certified vehicle appraiser in Oregon; and

(c) Submit a written request to become an instructor to DMV Business Regulation Section, 1905 Lana Ave. NE, Salem Oregon 97314. The request must include the following information for the person making the request:

(A) Name, mailing address and telephone number;

(B) A copy of the person's current Vehicle Appraiser Certificate. The copy must show the certificate number, date of issuance and date of expiration; and

(C) An outline of the curriculum the instructor plans to use for the training. At a minimum, the curriculum must cover all topics described under OAR 735-158-0005(1) and include a least four hours of training.

(2) DMV will notify a person who submits a request to become a Vehicle Appraiser Education Program instructor upon approval or denial of their request.

(3) A DMV-approved instructor may conduct training classes at any time. However, the instructor must submit the following to DMV within seven business days of completing a training:

(a) The date and time of the training; and

(b) For each person who successfully completes the training:

(A) The person's name, mailing address and telephone number; and

(B) The name, mailing address and telephone number of the tow company or public agency with whom the person is employed.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 819.480

Stats. Implemented: ORS 819.210, 819.220, 819.480, 819.482 & 822.700

Hist.: DMV 8-2009, f. & cert. ef. 3-20-09

Department of Transportation, Highway Division Chapter 734

Rule Caption: Description of process for applying for an outdoor advertising sign permit.

Adm. Order No.: HWD 2-2009

Filed with Sec. of State: 3-20-2009

Certified to be Effective: 3-23-09

Notice Publication Date: 2-1-2009

Rules Adopted: 734-060-0000

Subject: This rule describes of process and requirements for a person to apply for an outdoor advertising sign permit, creating priorities among applicants and making provisions for administrative hearings.

Rules Coordinator: Lauri Kunze—(503) 986-3171

ADMINISTRATIVE RULES

734-060-0000

Outdoor Advertising Sign Application Process

(1) Application forms. An application for a sign permit under the Oregon Motorist Information Act (OMIA) is made by completing and submitting the appropriate form, attaching to the form all documents necessary to show the application meets the requirements of the law, and submitting the correct fee to the Outdoor Advertising Sign Program of the Oregon Department of Transportation. Application forms are available from the Outdoor Advertising Sign Program. There are two different application forms: "Outdoor Advertising Sign Permit Application" is for new permits for outdoor advertising signs that preexisted the law change on May 30, 2007, relocations and reconstructions of such permitted signs; and "Application for Transit Bench or Shelter Sign" for signs on bus/transit benches and bus/transit shelters. The Department may deny a permit application if the applicant does not use the correct form.

(2) Copies of sign laws. The Department will make available copies of all state sign statutes, administrative rules, federal statutes, federal regulations, and federal-state agreements in effect. The Department may charge for the copies at the rate established by law for public records requests, and may require prepayment. The Department may also provide these documents by e-mail, web site, or in other forms for the convenience of the public and the Department.

(3) Summary of regulations. To assist potential permit applicants and the general public, the Department will make available a summary of sign permit regulations. The summary does not bind the Department to the items listed or waive its right and duty to enforce all requirements under the law.

(4) Contents of Application. To be complete the application must include the following.

(a) Application form Part 1: Applicant Information, Sign Specifications. Information must be complete and accurate for applicant, sign builder, purpose of application, sign description, township/range/section/tax lot, highway route number or name and side of highway, how site is marked, name and address of property owner, and why the sign will be an "outdoor advertising sign." The location boxes should be completed to the best of applicant's ability to enable the Department to find the site.

(b) Application form Part 2: Certification of Applicant. The application form must be signed and dated by the applicant, certifying the information provided by applicant is accurate and has not been changed after the local government certification (see section (c) below). If the applicant is a corporate or other business entity the individual signing must include their title or role so as to indicate the authority to sign for the applicant.

(c) Application form Part 3: Certification of Local Jurisdiction. After completing Part 1, applicant must submit the completed application form to the local jurisdiction for zoning and local compliance information. The local official must complete all of Part 3 and, if relevant, attach a letter of explanation of local code compliance. The local official must sign and date Part 3.

(d) Fee. The fee is based on square footage as described in administrative rule. To be complete applicant must submit the correct application fee. The Sign Program does not accept cash; checks must be made out to Oregon Department of Transportation.

(e) Written proof of landowner consent. Upon adoption of this rule, an application for a reconstruction permit, relocation permit, or a new pre-existing sign permit must include written proof the landowner consents to have applicant maintain the proposed sign. The document must be signed by the landowner and the application filed during the base term of the agreement, or during a renewal term that is automatic or at applicant's election. If during a renewal period applicant must certify that the renewal was exercised and continues in effect. Examples of acceptable documents are the land lease, land lease plus applicant's certification as described above, land lease plus owner's written confirmation that an extension is being exercised, or a current memo signed and dated by land owner stating that applicant has permission to put the sign at the specified location. Payment information need not be included unless it is the evidence that compensation is exchanged making it an outdoor advertising sign.

(f) Business License. The applicant and the sign builder must have a current outdoor advertising sign business license as required under ORS 377.730.

(g) Relocation permit application. For a relocation application, if the zoning was first commercial or industrial after 1/1/1973, or the local jurisdiction cannot determine the date, the applicant must submit a sketch or other document showing the site is within 750 feet of a commercial or industrial area to comply with ORS 377.767(3).

(h) Pre-existing sign permit application. For an application for a new permit for an outdoor advertising sign under HB 2273 (2007), the following additional items are required:

(i) Complete the application form "Supplement for Pre-existing Sign Permit" and sign it before a notary public;

(ii) Submit documents demonstrating each of your claims, such as a lease showing the sign was posted for compensation; and

(iii) Pursuant to ORS 377.712(1), include information demonstrating that applicant was ignorant of the law's permit requirement for that sign.

(l) Transit Bench or Shelter Application. For an application for an outdoor advertising sign on a transit shelter or bench under Oregon Administrative Rules Division 60 or 65, include official documentation that the site is at a bus or transit stop on a city or urban transit system route.

(5) Complete Applications.

(a) The Outdoor Advertising Sign Program's mailing address is: ODOT Outdoor Advertising Sign Program, 355 Capitol St NE, Room 408, Salem OR, 97301. The Sign Program receives hand deliveries at 355 Capitol St NE, Room 420 reception desk, Salem. The Sign Program receives facsimiles at 503-986-3625. The Sign Program receives electronic mail at OutdoorAdvertising@odot.state.or.us.

(b) The Department requires original signatures, and original initials to any changes, on the application form. Therefore the Department will not accept the application form by electronic transmission (including facsimile). The Department may accept other documents by electronic transmission. The Department will not accept any changes made verbally; all changes must be in writing.

(c) The Department will indicate on each application document the date and time received. Application materials received by mail will be treated as received at the time a representative of the sign program physically receives the program's mail for that day. Application materials received in person, by fax, or by electronic transmission will be treated as received when a representative of the sign program physically receives those materials.

(d) The Department will only process applications that are complete. An application is complete when the Outdoor Advertising Sign program receives the signed application form including all necessary information, all documents necessary for issuance of a permit, and the correct application fee. Within 15 calendar days of receiving an application the Department will provide to the applicant written notice whether the application is complete. If the Department determines the application is complete, the notice will state the application's priority among all pending, complete applications. If the Department determines any information provided is incorrect, the application is not complete. The Department may rescind a notice of completeness and priority date if it later determines that information provided by applicant is not correct.

(e) If an application is not complete, within 15 calendar days of receiving the application the Department will return the entire application with written instructions on what is needed to complete it. The applicant must initial any subsequent changes and, if the changes are substantive to the local jurisdiction, must obtain a new certification from the local jurisdiction. If the form is complete, but the application is otherwise incomplete due to insufficient supporting documents or fee, the Department may return the entire application with written instructions for completion, or may hold the application and notify the applicant in writing of what is needed and when it must be provided. Within 15 days of receiving the corrected form or additional materials the Department will provide the applicant written notification whether it is complete and, if complete, the priority among all pending, complete applications. If the applicant makes any change to the application after it is complete, the Department will change the priority date to the date of that change. If the Department has held an incomplete application for 60 days from date of initial receipt the application is deemed withdrawn by the applicant. The Department will return the entire application and refund any deposited fee.

(6) Processing of complete permit application.

(a) The Department will approve or deny a permit within 60 days of the complete application's priority date as determined under (5)(d) or (e) if the application clearly does not conflict with another complete application.

(b) An application for a permit that conflicts with the location of an expired or canceled permit will not be processed until the time for any hearing or appeal on the latter permit has passed, unless the permit is being canceled as a condition for issuance of the new permit.

(c) When a complete application might conflict with another complete application due to spacing or any other reason, the application with the earlier priority date and time takes precedence over the later application.

ADMINISTRATIVE RULES

Subject to all other requirements of the OMIA, the Department will issue the permit to the earlier applicant.

(d) If multiple complete applications have the same priority date and time, and are determined by the Department to compete for the same spot, the Department shall notify the applicants of the circumstances within seven days of the Department's determination. If an affected applicant requests a contested case hearing, the matter will be determined by a single contested case hearing under Oregon's Administrative Procedures Act. The Department shall refer the matter to the Office of Administrative Hearings within seven days of an applicant's written hearing request.

(e) If the Department does not approve or deny a permit application within the time allowed under (6)(a), this does not require the Department to issue a permit or require any remedy except as provided otherwise in law.

(7) Field checks. Applicant requirements and Department method.

(a) When the Department determines an application is complete, the Department will perform a field check to determine the milepoint and all other information necessary to process the application.

(b) The applicant must place a marking at the site to show the proposed location for the sign permit. The applicant may use a stake, ribbon, paint, or any method or material that will allow the Department to easily locate the site and attribute it to the applicant. If the marked site is other than that represented to the local authority in obtaining its signature on the application form, or is other than where the applicant actually builds the sign, the Department may consider that a violation of ORS 377.725(10).

(c) If the Department can not locate the site it will notify the applicant pursuant to (5)(e) above that the application is incomplete due to incorrect information and may request reasonable action by the applicant to identify the site.

(d) The Department will conduct a field check by traveling to the proposed site and calculating the milepoint to the one-hundredth of a mile or, when necessary, to the one-thousandth of a mile. The Department may also determine the engineering station. The Department may also make any other determination regarding the site that is relevant to the application, such as proximity to the right of way and to a commercial or industrial area.

(e) The Department may use intersections, highway structures, or other highway feature and its corresponding milepoint or engineering station, to measure and calculate the milepoint of the proposed site. Milepost markers are for the convenience of motorists and are not precise indications of the milepoint, therefore the Department will not use milepost markers for these calculations without other indication of accuracy.

(8) Denied Permit Applications. If the Department denies an application, it will consider that site as conflicting with other applications:

(a) Until the time to request a hearing elapses without a hearing request from the applicant; or

(b) If a hearing is requested, until the time to request an appeal on the final order has elapsed or until the final appellate court enters a judgment on the matter, whichever is later.

(9) Issued Permits.

(a) The permit will specify the 180th day by which the sign must be constructed.

(b) Within 190 days of permit issuance, the permittee must notify the Department in writing if the action described in the permit has been completed, and include at least one photograph demonstrating that completion. For a reconstruction permit or a relocation permit based on a relocation credit, the notice must state that the new sign has been constructed. For a direct relocation the notice must state that the new sign has been constructed and the former sign on which the permit was based has been removed. If the Department has not received the notification within 180 days the Department will alert permittee to the deficiency and the upcoming 190-day deadline. If the permittee fails to submit the written notice and photograph within the time allowed, the Department will cancel the permit to relocate or reconstruct, and the permit will revert to its prior status.

(c) "Constructed" means that the structure and all sign faces are permanently in place and the permit plate is attached. "Removed" means the taking down, removing, or eliminating all sign structure elements that are visible from the state right of way.

(10) This rule applies to permit applications filed after the effective date of this rule.

Stat. Auth.: ORS 184.616, 184.619, 377.715, 377.725
Stats. Implemented: ORS 377.715, 377.725
Hist.: HWD 2-2009, f. 3-20-09, cert. ef. 3-23-09

Rule Caption: New rules allowing official signs for Viticultural Areas.

Adm. Order No.: HWD 3-2009

Filed with Sec. of State: 3-20-2009

Certified to be Effective: 3-23-09

Notice Publication Date: 2-1-2009

Rules Adopted: 734-062-0100, 734-062-0105, 734-062-0110, 734-062-0115, 734-062-0120, 734-062-0125

Subject: HB 2273 (2007) deleted provision for Directional Signs under the Outdoor Advertising Sign laws for signs on private property visible to state highway. Viticultural Areas (wine-growing regions) had been a specifically qualifying feature for a Directional Sign Permit. To provide a different sign option, these rules would allow Viticultural Areas to be identified on official ODOT signs along interstates and freeways.

Rules Coordinator: Lauri Kunze—(503) 986-3171

734-062-0100

Applicability and Purpose

(1) The purpose of these regulations is to establish standards for the Department of Transportation to erect official traffic control signs to identify to motorists that they are entering a federally recognized viticultural area.

(2) These regulations are applicable to the Interstate System and freeways. The Department may not consider applications under these rules for signs off the Interstate System or freeways.

Stat. Auth.: ORS 366.205, 366.450, 810.200, 810.210

Stat. Implemented.: ORS 366.205, 366.450, 810.200, 810.210

Hist.: HWD 3-2009, f. 3-20-09, cert. ef. 3-23-09

734-062-0105

Definitions

As used in these rules the following definitions apply unless the context clearly indicates otherwise:

(1) "Engineer" means the State Traffic Engineer or the Engineer's designee.

(2) "Qualified Feature" means a feature that qualifies under this rule, or a feature that qualifies as a Cultural or Historical feature under rules for those official signs.

(3) "Qualified Viticultural Feature" means a grape growing region distinguishable by geographical features, and approved as an American Viticultural Area by the U.S. Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau, pursuant to 27 CFR 9.

(4) "Interstate System" or "interstate highway" means every state highway that is a part of a national system of interstate and defense highways established pursuant to Section 103(b), Title 23, United State Code.

(5) "Sign" includes sign panels, support structure and break away devices.

(6) "Freeway" means a divided arterial highway with four or more lanes available for through traffic, with full control of access and grade separation at intersections.

(7) "Department" means the Oregon Department of Transportation.

(8) "Viticultural Feature Applicant" means the person or entity that submitted the application for a sign under these rules.

Stat. Auth.: ORS 366.205, 366.450, 810.200, 810.210

Stat. Implemented.: ORS 366.205, 366.450, 810.200, 810.210

Hist.: HWD 3-2009, f. 3-20-09, cert. ef. 3-23-09

734-062-0110

Criteria For Location

(1) Signs for qualified viticultural features must conform to all requirements of the Manual on Uniform Traffic Control Devices as adopted by the Oregon Transportation Commission, any of its amended supplements, and all other standards established by the Department of Transportation for official traffic control devices. The Department may approve a maximum of two qualified features, and only one such sign structure, per interchange per direction of travel.

(2) Before approving an application for such a sign, the Engineer will review the proposed sign, legend, and placement to determine whether it will comply with these rules. Some factors the Engineer may consider include but are not limited to: spacing or other factors involving official signs that will be installed as part of an upcoming transportation project, cost versus available funds, environmental concerns, right-of-way width, existing traffic control devices, and other issues that impact whether it is appropriate for the Department to install a sign.

Stat. Auth.: ORS 366.205, 366.450, 810.200, 810.210

Stat. Implemented.: ORS 366.205, 366.450, 810.200, 810.210

Hist.: HWD 3-2009, f. 3-20-09, cert. ef. 3-23-09

ADMINISTRATIVE RULES

734-062-0115

Application and Eligibility

(1) The Department shall prioritize applications for signs for qualified features based on the date of receipt of a properly completed application.

(2) Only the following may apply for a sign under these rules: the entity that submitted the successful application for federal recognition as a viticultural area, a municipal or county government within that viticultural area, a winery or vineyard within the viticultural area, or a winery or vineyard association with membership in the viticultural area.

(3) The applicant must use the form specified by the Department, and complete an application for each requested sign.

(4) The qualified viticultural applicant or its designee must request annually that the sign erected under these rules be renewed. The request must affirm that the viticultural area continues to qualify under federal standards, and continues to qualify for the sign under these rules. A renewed sign allows the sign to remain for one year from the date of renewal, provided the feature remains eligible as set forth in these rules.

(5) The Department may review a viticultural feature for continued eligibility at any time.

(6) The Department may remove the sign or the sign legend for the viticultural feature if the Department determines the sign is no longer appropriate for that location or if the federal agency responsible for viticultural areas:

(a) Removes the designation; or

(b) Changes the designation so that the sign is no longer geographically within the viticultural area.

(7) The Department may make a decision outlined in this division of rules without a hearing. If a viticultural feature applicant disagrees with the Department's final decision, the applicant may request a contested case hearing under ORS chapter 183. The Department may continue to enforce its decision pending the conclusion of the contested case including any appellate court action.

Stat. Auth.: ORS 366.205, 366.450, 810.200, 810.210

Stat. Implemented.: ORS 366.205, 366.450, 810.200, 810.210

Hist.: HWD 3-2009, f. 3-20-09, cert. ef. 3-23-09

734-062-0120

Signs for Qualified Viticultural Features

(1) Location. A qualified viticultural feature applicant may apply for a sign near the border entering the viticultural area recognized by the federal Department of Treasury. Because a viticultural feature is a large geographic area rather than a specific destination, no follow-up signs are required or allowed.

(2) Number. The Department may approve a maximum of two signs per highway for each qualified viticultural feature.

(3) Sign Legend. Because a viticultural feature is a large geographic area rather than a specific destination, the sign legend on such a sign will indicate that motorists are entering the viticultural area, but will not direct motorists to a particular exit or location.

(4) A qualified viticultural feature applicant must submit the following information to demonstrate qualification for such a sign:

(a) Documentation of recognition by the federal Department of Treasury of the viticultural area;

(b) Map showing the proposed sign location in relation to the boundaries of the viticultural area;

(c) Documentation showing the applicant has sent notice of the proposal to appropriate wine industry groups for dissemination among their members in any adjacent or overlapping qualified viticultural area, including any designated sub-section of a viticultural area.

Stat. Auth.: ORS 366.205, 366.450, 810.200, 810.210

Stat. Implemented.: ORS 366.205, 366.450, 810.200, 810.210

Hist.: HWD 3-2009, f. 3-20-09, cert. ef. 3-23-09

734-062-0125

Installation

(1) The Department may furnish, erect, and maintain all signs that have been approved for installation.

(2) The Department shall notify applicant promptly when an application has been approved or denied, and when a sign has been installed.

Stat. Auth.: ORS 366.205, 366.450, 810.200, 810.210

Stat. Implemented.: ORS 366.205, 366.450, 810.200, 810.210

Hist.: HWD 3-2009, f. 3-20-09, cert. ef. 3-23-09

.....

Rule Caption: Self-issued variance permits for towing a disabled log truck.

Adm. Order No.: HWD 4-2009

Filed with Sec. of State: 3-20-2009

Certified to be Effective: 3-20-09

Notice Publication Date: 2-1-2009

Rules Amended: 734-072-0010, 734-072-0020, 734-072-0022, 734-072-0030

Subject: These revisions streamline authorization for companies that operate log trucks by allowing them to self-issue a variance permit when needed to tow a disabled log truck. When a log truck, loaded or empty, becomes disabled, ODOT rules allow another log truck operating with a variance permit to tow the disabled vehicle(s) to the destination mill or the carrier's terminal, whichever is closer. Under previous rule, the variance permit required telephonic pre-authorization from ODOT. Due to the remote locations log trucks operate in, there is not always telephone service available to allow the motor carrier to obtain pre-authorization. Providing a log hauler the ability to self-issue a variance permit will mitigate disruption of scheduled log processing at a mill.

Rules Coordinator: Lauri Kunze—(503) 986-3171

734-072-0010

Self-Issuance Program for Variance Permits

(1) The self-issuance program for variance permits provides for three levels of authorization:

(a) Level I authorization allows a motor carrier to self-issue single trip permits following the telephone application process established in OAR 734-072-0015;

(b) Level II authorization allows a motor carrier providing service described in OAR 734-076-0115(4) to independently issue a "pre-authorized" self-issue single trip permit to a "specific" power unit without calling the Motor Carrier Transportation Division; and

(c) Level III authorization allows a motor carrier to independently self-issue single trip permits without contacting the department.

(2) To qualify for Level I authorization, a motor carrier must make application to the Over-Dimensional Permit Unit of the Motor Carrier Transportation Division located in Salem.

(3) To qualify for Level II authorization, a motor carrier must make application to the Over-Dimensional Permit Unit of the Motor Carrier Transportation Division located in Salem and certify that it has read and understands Level II requirements.

(4) To qualify for Level III authorization, a motor carrier must make application to the Over-Dimensional Permit Unit of the Motor Carrier Transportation Division located in Salem, and the carrier must:

(a) Attend and successfully complete a training program conducted by the Over-Dimensional Permit Unit;

(b) Have purchased a minimum of 125 single trip permits for over-size/overweight movements within the 12 months preceding the application for self-issuance of permits; and

(c) Be in good standing with the Motor Carrier Transportation Division by:

(A) Not having more than one late highway use tax report in the 12 months preceding the application;

(B) Having maintained current vehicle and tax registration with the Department during the 12 months preceding application;

(C) Having no suspensions of tax registration with the Department during the 12 months preceding the application;

(D) Having no more than a five percent underpayment finding on the most current weight-mile tax audit;

(E) Having a satisfactory safety rating with the Motor Carrier Transportation Division or the United States Department of Transportation;

(F) Signing an agreement of responsibility for the permitted moves; and

(G) Filing proof of general liability insurance with the Oregon Department of Transportation in the amount and manner described in OAR 734-072-0011.

(5) Upon approval by the Over-Dimensional Permit Unit, the motor carrier may self-issue permits at the level authorized.

(6) Authorized carriers may purchase blank permits for the purpose of self-issuance from the Motor Carrier Transportation Division of the Department of Transportation, Over-Dimensional Permit Unit office located in Salem. The fee for each blank permit form is the fee required under ORS 818.270.

Stat. Auth.: ORS 184.616, 184.619 & 818.220

Stats. Implemented: ORS 818.200 & 818.220

Hist.: 1 OTC 9-1980, f. & ef. 4-17-80; HWY 3-1992, f. & cert. ef. 3-25-92; HWY 6-1996, f. & cert. ef. 10-10-96; HWY 3-1997, f. & cert. ef. 3-24-97; TO 2-2001, f. & cert. ef. 6-14-01; HWD 4-2009, f. & cert. ef. 3-20-09

ADMINISTRATIVE RULES

734-072-0020

Additional Requirements for Self-Issuance of Variance Permits

(1) When self-issuing a variance permit, the carrier must meet all information requirements contained in ORS 818.225.

(2) A carrier self-issuing permits under Level III authorization must coordinate all moves with the appropriate city or county jurisdictions, as required.

(3) Any incident involving damage or potential damage to any roadway or structure resulting from a permitted move under the programs established by division 72 rules must be reported to the Permit Unit Manager in Salem within 24 hours of the occurrence.

(4) The permit form will consist of an original and one copy. The original permit and attachments must be in the possession of the driver of the permitted vehicle as provided under ORS 818.350. The carrier must mail the Road Use Assessment Fee (RUAF) billing calculation and payment along with the Salem copy of the permit, within 15 days from the end of the month in which the permit was issued, to the Over-Dimensional Permit Unit, 550 Capitol St. NE, Salem, Oregon 97301-2530.

Stat. Auth.: ORS 184.616, 184.619 & 818.220

Stats. Implemented: ORS 818.200 & 818.220

Hist.: 1 OTC 9-1980, f. & ef. 4-17-80; HWY 3-1992, f. & cert. ef. 3-25-92; HWY 6-1996, f. & cert. ef. 10-10-96; TO 2-2001, f. & cert. ef. 6-14-01; HWD 4-2009, f. & cert. ef. 3-20-09

734-072-0022

Program for Single Trip Variance Permits Sent by Facsimile

The program for issuance of permits by facsimile allows carriers to apply for permits by telephone or facsimile. The completed permit is transmitted by the Over-Dimensional Permit Unit to the carrier's place of business by facsimile.

Stat. Auth.: ORS 184.616, 184.619 & 818.220

Stats. Implemented: ORS 818.200 & 818.220

Hist.: HWY 3-1992, f. & cert. ef. 3-25-92; HWY 6-1996, f. & cert. ef. 10-10-96; HWD 4-2009, f. & cert. ef. 3-20-09

734-072-0030

Cancellation of Permits or Authorization

(1) The cancellation authority granted under ORS 818.220 shall apply to and govern the cancellation of self-issue and facsimile permits sent to carrier's place of business.

(2) Authorization to self-issue permits may be canceled if a carrier, on more than one occasion, fails to conform to written or verbal direction from the Over-Dimensional Permit Unit regarding proper self-issuance of permits.

(3) A motor carrier's Level III authorization to self-issue permits may be canceled if:

(a) The provisions contained in OAR 734-072-0010(3) are not maintained in good standing;

(b) Random checks of completed and returned self-issued permits that show the reported weights or dimensions are not accurate or in conformance with the program;

(c) The carrier fails to submit a timely payment of a Road Use Assessment Fee (RUAF) billing resulting from a permitted move;

(d) The carrier fails more than once in a six-month period to submit self-issue reports by the 15th day of the month following the month to which the report applies; or

(e) The carrier is shown to have been involved in an incident causing damage to a roadway or structure while conducting a movement requiring a variance permit, except when operating within the provisions of a variance permit issued directly by the Department of Transportation.

Stat. Auth.: ORS 184.816, 184.819 & 818.220

Stats. Implemented: ORS 818.200 & 818.220

Hist.: 1 OTC 9-1980, f. & ef. 4-17-80; HWY 3-1992, f. & cert. ef. 3-25-92; HWY 6-1996, f. & cert. ef. 10-10-96; TO 2-2001, f. & cert. ef. 6-14-01; HWD 4-2009, f. & cert. ef. 3-20-09

.....

Rule Caption: Describes variance permit process for heavy loads and over-height operations.

Adm. Order No.: HWD 5-2009

Filed with Sec. of State: 3-20-2009

Certified to be Effective: 3-20-09

Notice Publication Date: 2-1-2009

Rules Amended: 734-075-0010, 734-082-0015, 734-082-0025, 734-082-0040

Subject: These amendments relate to weight and height limits for combinations of vehicles operating under a single-trip variance permit. These amendments clarify Department processes used to determine variance permit requirements for extra heavy loads, and loads that exceed allowable height. Combinations of vehicles with an adequate

number of axles and tires may obtain a variance permit to transport heavy loads that exceed the maximum axle and tandem axle weight limitations described in OAR 734-082-0015 if the weights do not exceed Permit Weight Table 5 limits. OAR 734-075-0010, 734-082-0025 and 734-082-0040 are amended to clarify allowable vertical clearance for over height loads and describe how vertical clearance limits are determined. Other amendments allow for an exception process for loads exceeding prescribed limits after review and approval by ODOT's Bridge Section, and update map revision dates.

Rules Coordinator: Lauri Kunze—(503) 986-3171

734-075-0010

Vehicle Combinations and Maximum Size Limitations

This rule establishes the maximum number of vehicles in combination and size of vehicles allowed when moving an overdimensional unit:

(1) The combination shall not exceed two vehicles, the towing vehicle and the unit being transported.

(2) The maximum lengths are as follows:

(a) The maximum overall length of the combination:

(A) Shall not exceed 85 feet on State highways;

(B) Shall not exceed 95 feet on Group 1 highways; and

(C) Shall not exceed 110 feet on Interstate highways, multilane highways or highways approved for the longer length as authorized by a single trip permit or as authorized by written order of the Chief Engineer.

(b) The mobile home being towed shall not exceed 75 feet, including the tongue, except as provided in OAR 734-075-0011.

(3) The maximum widths are as follows:

(a) Units shall not exceed 14 feet overall width, unless a single trip permit or a limited duration permit is issued;

(b) Units transported under a single trip permit or limited duration permit are subject to the following:

(A) The unit shall not exceed 16 feet at the base except as described in subsection (e);

(B) The overall width shall not, except as described in subsection (e), exceed 18 feet.

(c) Except as prohibited by paragraph (b)(B) of this section, a unit may have an eave, provided the eave does not extend beyond either side by:

(A) More than 30 inches for units with a base width of less than 16 feet; or

(B) More than 16 inches for units with a base width of 16 feet or more.

(d) External appurtenances such as doorknobs, window fasteners, eave cap, clearance lights and load securement devices may exceed the width of the unit by a distance not greater than two inches on each side;

(e) A unit that exceeds 16 feet wide at the base may be allowed if the Administrator of MCTD determines that the public interest requires the impending movement, and the movement can be performed safely.

(4) Except as provided in subsection (5), the maximum height for the combination, while in transit, shall not exceed 14 feet unless proper route clearance has been obtained and is so indicated on the single trip permit.

(5) A continuous trip permit may be issued for a combination height up to 14 feet six inches over specifically authorized routes.

Stat. Auth.: ORS 184.616, 814.619, 810.060 & 818.200

Stats. Implemented: ORS 818.200 & 818.220

Hist.: HC 1287, f. 3-14-73; 1 OTC 19a, f. & ef. 1-24-74; 1 OTC 9-1978(Temp), f. & ef. 7-19-78; 1 OTC 11-1979(Temp), f. & ef. 6-20-79; 1 OTC 12-1979(Temp), f. & ef. 6-20-79; 1 OTC 13-1979(Temp), f. & ef. 6-20-79; 1 OTC 24-1979, f. & ef. 10-24-79; 2 HD 7-1982(Temp), f. & ef. 11-22-82; 2HD 15-1983, f. & ef. 8-18-83; HWY 4-1988(Temp), f. & cert. ef. 6-23-88; HWY 4, 1989, f. & cert. ef. 5-23-89; HWY 6-1990, f. & cert. ef. 3-13-90; HWY 5-1992, f. & cert. ef. 3-25-92; HWY 7-1996, f. & cert. ef. 12-19-96; TO 2-1998, f. 3-10-98, cert. ef. 4-1-98; TO 3-1999, f. & cert. ef. 10-13-99; TO 2-2001, f. & cert. ef. 6-14-01; HWD 3-2008(Temp), f. & cert. ef. 4-24-08 thru 10-21-08; HWD 9-2008, f. & cert. ef. 9-11-08; HWD 5-2009, f. & cert. ef. 3-20-09

734-082-0015

Weight For Single Non-Divisible Loads

(1) The loaded weight of a group of axles, vehicle, or combination of vehicles shall not exceed that specified in the Permit Weight Table assigned to the permit. In no case shall the loaded weight exceed:

(a) 21,500 pounds per axle, except as described in OAR 734-082-0010(2);

(b) 43,000 pounds per tandem axle;

(c) 98,000 pounds loaded weight for continuous trip permits;

(d) The weight otherwise specified on the permit; or

(e) The sum of the permissible axle, tandem axle, or group axle weight, whichever is less.

ADMINISTRATIVE RULES

(2) Auxiliary axle(s) must be deployed, and distribute the weight of the load or vehicle, when failure to do so results in any tire, axle, tandem axle or group of axles exceeding the weight limits allowed by OAR 734-074-0020.

(3)(a) In a combination of two vehicles other than a truck-tractor and semitrailer, the axle and tandem axle weights listed in subsections (1)(a) and (b) of this rule may be allowed by permit for the towing vehicle or the towed vehicle, but not both, if the gross weight does not exceed that authorized in ORS 818.010 except;

(b) When the combination of vehicles is a motor truck and stinger-steered balance trailer, the axle and tandem axle weights listed in subsections (1)(a) and (b) of this rule may be allowed by permit for both vehicles if the load is carried on the balance trailer, and the towing vehicle is unladen.

(4) Overweight permits will be valid only for a single non-divisible load, except a permit may be issued for a single load consisting of multiple assembled parts constituting an integral whole with detached accessories included in the load, if the accessories are detached to reduce width, height, length, or a combination of these dimensions, and an overweight permit could have been issued for the load in its assembled condition.

(a) Single trip permits may be issued for combinations of vehicles having a steering axle followed by four or more consecutive tandem axles, provided the weight does not exceed:

(A) 600 pounds per inch of tire width;

(B) 24,000 pounds per axle, except as described in OAR 734-082-0010(2);

(C) 48,000 pounds per tandem axle;

(D) The weights listed in Permit Weight Table 5 for groups of axles;

or
(E) The sum of the permissible axle, tandem axle, or group of axle weights, whichever is less.

(b) Additional weight for axles or tandem axles may be allowed by permit when the combination of vehicles described in subsection (a) of this section utilizes axles that are ten feet wide and have four tires (10 percent additional axle weight), or axles that are ten feet wide and have eight tires (25 percent additional axle weight). Any additional weight allowed must be specified on the permit, and will apply only to axles or tandem axles specifically identified as having the requisite characteristics. The minimum of the weights listed on Permit Weight Table 5, calculated by Permit Weight Table 5 formulas, or listed on the permit determines the maximum allowable weight for groups of axles.

(c) Permits issued under this section are subject to special routing and analysis by the Department of Transportation. Weights exceeding those listed on Permit Weight Table 5, or exceeding Permit Weight Table 5 formulas will require a case by case engineering review and approval by the Department of Transportation Bridge Section before a permit will be issued. Permits issued under such Bridge Section review authority shall specify maximum allowable axle, tandem axle, and group axle weights which may not be exceeded and shall be valid only for the single specific movement requested and reviewed unless otherwise expressly authorized by the Bridge Section.

(d) All movements shall be subject to any posted weight limitation in effect on any highway, highway section, bridge, or structure.

(e) Equipment used in the loading, unloading or operation of the vehicle may be transported with the permitted item.

(5) The road use assessment fee required in OAR 734-082-0003 is based on the weight requested for the permit. The weight shown on the permit is the maximum weight permitted.

(6) The Department of Transportation may publish tables of weights that may be authorized by these rules, subject to route analysis for each trip.

(7) In no instance may the vehicle combination exceed the manufacturer's GVWR for the vehicle or the vehicle combination and load.

(8) The exception described in ORS 818.030(10) and 818.340(4) is limited to the actual weight of the idle reduction system, not to exceed 400 pounds. In order to qualify for the exception, the operator of the vehicle may be required to prove:

(a) By written certification the weight of the auxiliary power unit; and

(b) By demonstration or certification that the idle reduction technology is fully functional.

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

Stat. Auth.: ORS 184.616 & 184.619

Stats. Implemented: ORS 818.220 & 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 2-1992, f. & cert. ef. 2-18-92; TO 7-1998, f. & cert. ef. 8-20-98; TO 8-2002, f. & cert. ef. 10-14-02; HWD 6-2007, f. & cert. ef. 10-17-07; HWD 5-2008, f. & cert. ef. 5-19-08; HWD 5-2009, f. & cert. ef. 3-20-09

734-082-0025

Height

(1) Permits are required for all vehicles or combinations of vehicles, including any load, which exceeds 14 feet in height. Unless specifically stated on the permit as authorized by ORS Chapter 818 or rule, over height permits will not be valid for loads or items placed or stacked one on top of another or overlapping.

(2) The height of a permitted load is measured from the ground to the highest point as it is ready for transport on the highway.

(3) Vertical clearance through or under structures for over height permitted loads is allowed to be up to, but within no more than four inches of the lowest determined physical clearance for each traffic lane of each structure. Over height loads are routed under or around structures according to this maximum buffered vertical clearance.

(4) In cases where no other viable route is available to avoid the buffered vertical clearance maximums, a case by case engineering review and approval by the Department of Transportation Bridge Section will be required before a permit will be issued. Permits issued under such Bridge Section review authority will be valid only for the single specific movement requested and reviewed unless otherwise expressly authorized by the Bridge Section. Permits issued under such conditions may require coordination and monitoring by Department of Transportation staff as designated.

Stat. Auth.: ORS 184.616 & 184.619

Stats. Implemented: ORS 818.220 & 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; TO 7-1998, f. & cert. ef. 8-20-98; TO 3-2000, f. & cert. ef. 2-11-00; HWD 5-2009, f. & cert. ef. 3-20-09

734-082-0040

Combination of Vehicles

(1) The following vehicles or combinations of vehicles may be authorized for continuous trip permits over authorized routes provided the width does not exceed 14 feet, the height does not exceed 14 feet or, except for self-propelled fixed load vehicles limited by OAR 734-082-0039, 14 feet 6 inches on specifically authorized routes, and the overall length does not exceed that stated below:

(a) A solo vehicle shall not exceed 40 feet and vehicle inclusive of load shall not exceed 50 feet in overall length.

(b) Truck-tractor and semitrailer combinations, which may include an auxiliary axle, shall not exceed the length limits as shown on the reverse of Group Map 1 or Route Map 7, whichever is greater, and the semitrailer shall not exceed 53 feet in length including the auxiliary axle. An auxiliary axle attached to the rear of a trailer shall be included in the measurement of the trailer unless the combination measurement exceeds 53 feet. Group Map 1, dated January 2008, and Route Map 7, dated May 2008, available from the Over-Dimensional Permit Unit, are by reference made a part of Division 82 rules.

(c) Motor truck and trailer shall not exceed 75 feet in overall length.

(d) Truck-tractor with semitrailer and trailer combinations shall not exceed the length limits shown on the reverse of Group Map 1 or Route Map 7, whichever is greater.

(e) Passenger or light vehicles towing any trailer shall not exceed 70 feet in overall length.

(f) An unladen combination of vehicles used to transport non-divisible loads may consist of the truck-tractor, jeep axle(s), a trailer, booster axle(s), dolly(s), steering axle(s) and other equipment needed to transport the non-divisible load. Trailer length shall not exceed 62 feet. The combination must be reduced to the shortest length practicable; however overall length shall not exceed 105 feet. Unladen movement is authorized with equipment needed to legally transport the non-divisible load loaded on the trailer.

(g) A combination consisting of a truck-tractor or toter towing a manufactured home, mobile home or modular building unit chassis, which may include axles and tires attached to each chassis hauled, may operate on a 30-day multiple trip permit under the following conditions:

(A) Chassis length inclusive of tongue shall not exceed 75 feet;

(B) The chassis shall not be loaded end to end but may be staggered lengthwise for transport;

(C) Overhang shall not extend more than five feet off the rear of the chassis transporting the load;

(D) Overall length of the combination shall not exceed:

(i) 105 feet on interstate and multilane highways; and

(ii) 95 feet on two-lane green and brown routes shown on Route Map 7; and

(E) The chassis transporting the load shall be equipped with brakes and lights that meet the requirements of CFR 49 Part 393.

ADMINISTRATIVE RULES

(2) When the combination of vehicles includes jeep axles, or other vehicles of a size or weight not authorized by section (1) of this rule, movement shall be by single trip permit only.

Stat. Auth.: ORS 184.616, 184.619, 810.050 & 810.060

Stats. Implemented: ORS 818.220 & 818.225

Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 2-1991(Temp), f. & cert. ef. 8-23-91; HWY 2-1992, f. & cert. ef. 2-18-92; HWY 11-1992, f. & cert. ef. 9-16-92; HWY 5-1997, f. & cert. ef. 5-9-97; TO 7-1998, f. & cert. ef. 8-20-98; TO 3-2000, f. & cert. ef. 2-11-00; TO 8-2002, f. & cert. ef. 10-14-02; HWD 2-2005, f. & cert. ef. 3-18-05; HWD 4-2007, f. & cert. ef. 7-19-07; HWD 5-2008, f. & cert. ef. 5-19-08; HWD 5-2009, f. & cert. ef. 3-20-09

.....
**Department of Transportation,
Motor Carrier Transportation Division
Chapter 740**

Rule Caption: Federal safety and hazardous materials transportation regulations affecting motor carriers.

Adm. Order No.: MCTD 1-2009

Filed with Sec. of State: 3-20-2009

Certified to be Effective: 4-1-09

Notice Publication Date: 2-1-2009

Rules Adopted: 740-100-0065, 740-100-0085

Rules Amended: 740-100-0010, 740-100-0060, 740-100-0070, 740-100-0080, 740-100-0090, 740-100-0100, 740-110-0010, 740-110-0080

Subject: These rules cover the annual adoption of federal motor carrier safety and hazardous materials transportation regulations and the adoption of international standards related to driver, vehicle and hazardous materials out-of-service violations. The changes are necessary to ensure Oregon's motor carrier safety, hazardous materials and driver, vehicle and hazardous materials out-of-service requirements are current with national and international standards. Amendments to the adoption of CFR 49 Part 385 regarding safety fitness for intrastate motor carriers are necessary to ensure uniformity in the way motor carriers with an unsatisfactory safety rating are treated. Oregon stands to lose approximately \$2.4 million of Motor Carrier Safety Assistance Program (MCSAP) funds if it fails to amend incompatible rules. New rules adopt federal: (1) administrative out-of-service criteria; and (2) out-of-service criteria for vehicles used in the transportation of radioisotopic waste and highway route controlled quantities of radioactive materials. The Maximum Fine Schedule adopted under OAR 740-100-0100 is readopted to reflect current national standards.

Rules Coordinator: Lauri Kunze—(503) 986-3171

740-100-0010

Adoption of Federal Safety Regulations

(1) Except as provided in section (4) of this rule, the rules and regulations adopted by the United States Department of Transportation contained in Title 49, Code of Federal Regulations (CFR), Parts 380 (Special Training Requirements), 382 (Controlled Substances and Alcohol Use and Testing), 383 (Commercial Driver's License Standards Requirements and Penalties), 385 (Safety Fitness Procedures), 387 (Minimum Levels of Financial Responsibility for Motor Carriers), 390 (Federal Motor Carrier Safety Regulations: General), 391 (Qualification of Drivers), 392 (Driving of Motor Vehicles), 393 (Parts and Accessories Necessary for Safe Operation), 395 (Hours of Service of Drivers), 396 (Inspection, Repair, and Maintenance), 398 (Transportation of Migrant Workers), 399 (Employee Safety and Health Standards), and all amendments thereto in effect April 1, 2009, are adopted and prescribed by the Department of Transportation (ODOT) to be observed by carriers conducting operations in interstate commerce, subject to ORS Chapter 825.

(2) The provisions of section (1) of this rule as adopted are prescribed by the Department to be observed by carriers conducting operations in intrastate commerce, subject to ORS Chapter 825, except:

(a) Relating to Part 385:

(A) The provisions of Part 385.1(b), 385.13(b), 385.13(c), 385.13(d)(3), 385.301 through 385.337 and Appendix A to Part 385 do not apply to a motor carrier operating exclusively in intrastate commerce.

(B) With reference to Part 385.13(a), 385.19(c) and 385.19(d), current intrastate safety rating information is available from ODOT only by telephone at (503) 378-6963.

(C) With reference to Part 385.15 and 385.17, requests for administrative review of an intrastate safety rating or requests for a change to a proposed or final intrastate safety rating based on corrective actions must be submitted in writing to the ODOT Motor Carrier Transportation Division, 550 Capitol St. NE, Salem OR 97301-2530.

(D) With reference to Appendix B of Part 385, a final intrastate safety rating will be determined by the Department, and the motor carrier to whom the rating applies will be notified in writing of its intrastate safety rating.

(E) In addition to the violations described in the List of Acute and Critical Violations in Appendix B of Part 385, the Department will include the following violations in a determination of an intrastate or an interstate safety rating:

(i) Financial responsibility requirements in OAR 740-040-0010 (critical) and 740-040-0020 (acute); and

(ii) Intrastate drivers hours-of-service requirements found in OAR 740-100-0010(2)(i) (critical).

(b) The provisions of Part 387 shall apply to intrastate motor carriers only when transporting hazardous materials, hazardous substances or hazardous wastes.

(c) With reference to Part 390.21, external identification requirements do not apply to vehicles with a gross combination weight rating of 26,000 pounds or less and operated exclusively in intrastate private carriage, except those vehicles transporting hazardous materials of a type or quantity requiring placarding or passenger vehicles with a seating capacity of more than 15 passengers including the driver.

(d) The rules in Part 391.11(b)(1) regarding the minimum age for a commercial motor vehicle operator do not apply to a driver engaged in intrastate commerce.

(e) The rules in Part 391 (except Part 391.11(b)(5), Valid Operator's License, and Part 391.15, Disqualification of Drivers) do not apply to a driver who is employed by a private carrier and does not transport hazardous materials of a type or quantity requiring the vehicle to be marked or placarded in accordance with Title 49, CFR, Part 177.823, and drives a motor vehicle with a gross vehicle or gross combination weight rating of 26,000 pounds or less.

(f) Notwithstanding Parts 391.41 to 391.49 (Subpart E — Physical Qualifications and Examinations) the Department may issue a waiver of physical disqualification to a commercial vehicle driver who has met the conditions established by the Driver and Motor Vehicle Services Division.

(g) With reference to Part 395.1(e), intrastate motor carriers transporting property may drive for a maximum of 12 hours following ten hours off duty;

(h) With reference to Part 395.1(g), intrastate motor carriers transporting property may drive for a maximum of 12 hours following ten hours off duty and may not drive after the 16th hour after coming on duty;

(i) With reference to Part 395.3, motor carriers conducting intrastate transportation of property may not require or permit any driver used by it to drive a commercial motor vehicle, nor may any such driver:

(A) Exceed 12 hours driving following ten consecutive hours off-duty;

(B) Drive for any period beyond the 16th hour after coming on-duty following ten consecutive hours off-duty;

(C) Drive for any period following 70 hours on-duty in any seven consecutive days if the employing motor carrier does not operate commercial motor vehicles every day of the week, however, any period of seven consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours; or

(D) Drive for any period following 80 hours on-duty in any eight consecutive days if the employing motor carrier operates commercial motor vehicles every day of the week, however, any period of eight consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours.

(j) The provisions of subsections (g) through (i) of this section are not applicable to the transportation of hazardous materials of a type or quantity requiring placarding. Motor carriers transporting hazardous materials of a type or quantity requiring placarding must comply with Part 395.

(k) The provisions of Parts 396.17 through 396.23 (Periodic Inspection Requirements), are not applicable to operations conducted wholly in intrastate commerce.

(3) The provisions of Part 386.83(a)(1) and Part 386.84(a)(1), related to sanctions for failure to pay civil monetary penalties are adopted for operations conducted in intrastate commerce, and apply to penalties and sanctions found in ORS Chapter 825, pursuant to the provisions of ORS Chapter 183.

ADMINISTRATIVE RULES

(4) The intracity operation exemption adopted by the US Department of Transportation found in Part 391.62 is not adopted and prescribed.

(5) Wherever reference is made in Title 49 of the CFR as adopted by this rule to a federal entity, including but not limited to "Federal Highway Administrator," "Regional Director," "Special Agent of the Federal Highway Administration" or the "Federal Motor Carrier Safety Administration," it shall be construed to mean the Oregon Department of Transportation or a person authorized by the Oregon Department of Transportation to act on its behalf.

(6) Copies of the federal regulations referred to in this rule are available from ODOT Motor Carrier Transportation Division or may be accessed on the Federal Motor Carrier Safety Administration website, www.fmcsa.dot.gov.

Stat. Auth.: ORS 823.011, 825.137, 825.210, 825.232 & 825.252

Stats. Implemented: ORS 825.210, 825.250 & 825.252

Hist.: PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); PUC 4-1979, f. & ef. 9-21-79 (Order No. 79-641); PUC 5-1979, f. & ef. 9-21-79 (Order No. 79-635); PUC 2-1980, f. & ef. 3-27-80 (Order No. 80-179); PUC 3-1980, Part 1, f. & ef. 6-30-80 (Order No. 79-805); Part 2, f. & ef. 6-30-80 (Order No. 80-475); PUC 7-1980, f. & ef. 11-6-80 (Order No. 80-845); Renumbered from 860-035-0010; PUC 12-1981, f. & ef. 12-16-81 (Order No. 81-880); PUC 12-1982(Temp), f. 12-20-82, ef. 1-1-83 (Order No. 82-872); PUC 1-1983, f. & ef. 1-17-83 (Order No. 83-024); PUC 2-1983, f. & ef. 3-1-83 (Order No. 83-117); PUC 13-1984, f. & ef. 7-26-84 (Order No. 84-546); PUC 19-1984, f. & ef. 9-10-84 (Order No. 84-713); PUC 8-1985, f. & ef. 6-10-85 (Order No. 85-499); PUC 17-1986 (Temp), f. & ef. 12-3-86; (Order No. 86-1239); PUC 2-1987 (Temp), f. & ef. 2-25-87 (Order No. 87-248); PUC 4-1987, f. & ef. 6-9-87 (Order No. 87-509); PUC 16-1987(Temp), f. & ef. 12-11-87 (Order No. 87-1244); PUC 4-1988(Temp), f. & cert. ef. 2-12-88 (Order No. 88-161); PUC 6-1988(Temp), f. & cert. ef. 3-9-88 (Order No. 88-818); PUC 14-1988, f. & cert. ef. 7-22-88 (Order No. 88-245); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (and corrected 1-31-91) (Order No. 91-20); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 13-1992(Temp), f. & cert. ef. 9-4-92 (Order No. 92-1303); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0010; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 5-1996, f. & cert. ef. 9-17-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCT 2-1997, f. & cert. ef. 5-9-97; MCT 6-1997, f. & cert. ef. 8-26-97; MCT 10-1997, f. & cert. ef. 12-22-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 2-1998, f. & cert. ef. 8-20-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03; MCTD 6-2003, f. & 11-18-03, cert. ef. 1-1-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 5-2005(Temp), f. 9-16-05, cert. ef. 10-1-05 thru 3-29-06; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09

740-100-0060

Operation of Motor Vehicles, Out-of-Service Conditions Prohibited

(1) No motor carrier shall permit or require any person to operate nor shall any person operate a motor vehicle over the public highways of the State of Oregon unless the vehicle is free from each defect listed in OAR 740-100-0070. (North American Standard Vehicle Out-of-Service Criteria.)

(2) In addition to the requirements of section (1) of this rule, a vehicle transporting hazardous materials shall be free from each defect listed in OAR 740-100-0080. (North American Standard Hazardous Materials Out-of-Service Criteria.)

(3) Except as provided in section (5) of this rule, in addition to the requirements of sections (1), (2) and (4) of this rule, no motor carrier shall permit or require the operation of a motor vehicle nor shall any driver operate a motor vehicle in violation of OAR 740-100-0090. (North American Standard Driver Out-of-Service Criteria.)

(4) In addition to the requirements of section (1) of this rule, a vehicle transporting transuranic waste and highway route controlled quantities of radioactive material shall be free from each defect listed in OAR 740-100-0085. (North American Standard Out-of-Service Criteria for Transuranic Waste and Highway Route Controlled Quantities (HRCQ) of Radioactive Material.)

(5) No motor carrier engaged in intrastate transportation shall permit or require the operation of a motor vehicle nor shall any driver operate a motor vehicle in violation of intrastate hours-of-service limits found in OAR 740-100-0010(2)(g) through (j) or rules regarding an intrastate driver operating with a Waiver of Physical Disqualification issued under OAR 735-063-0070.

(6) Each defect which exists in each applicable standard shall be deemed a separate and distinct violation of this rule.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 1-1987(Temp), f. & ef. 1-5-87 (Order No. 87-006); PUC 3-1987, f. & ef. 3-24-87 (Order No. 87-359); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1990, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1991, f. & cert. ef. 4-9-91 (Order No. 91-455); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0028; MCT 2-1997, f. & cert. ef. 5-9-97; MCTD 6-2003, f. & 11-18-03, cert. ef. 1-1-04; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09

740-100-0065

North American Standard Administrative Out-of-Service Criteria

(1) The North American Standard Administrative Out-of-Service Criteria, published by the Commercial Vehicle Safety Alliance, in effect April 1, 2009, is adopted and incorporated into this rule. Inspection violations identified in the chart may be subject to out-of-service action. Condition(s) categorized as "Out-of-Service" shall not be allowed to continue in commerce until the condition(s) is/are corrected and the shipment complies with Title 49, CFR. If at the discretion of the inspector, it is less hazardous to the public to relocate the vehicle, it shall be towed, transported, or escorted to a safe location only at the direction of an official authority.

(2) Copies of the North American Standard Administrative Out-of-Service Criteria are available from the Commercial Vehicle Safety Alliance at: 1101 17th St NW, Suite 803, Washington, DC 20036.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.210 & 825.252

Hist.: MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09

740-100-0070

North American Standard Vehicle Out-of-Service Criteria

(1) The North American Standard Vehicle Out-of-Service Criteria, published by the Commercial Vehicle Safety Alliance, in effect April 1, 2009, is adopted by and incorporated into this rule. Inspection violations identified in the chart may be subject to one or more of the following:

(a) Out-of-Service Condition: When any motor vehicle by reason of its mechanical condition or loading, is determined to be so unsafe as to likely cause an accident or breakdown, or when such conditions would likely contribute to loss of control of the vehicle by the driver, said vehicle shall be placed out-of-service. No motor carrier shall permit or require nor shall any person operate any motor vehicle declared and marked "out-of-service" until all required repairs of violations which resulted in the out-of-service condition have been completed. If, at the discretion of the inspector, it is less hazardous to the public to relocate the vehicle, it shall be towed, transported, or escorted only at the direction of an official authority.

(b) Other: Violations other than out-of-service conditions detected during the inspection process will not preclude the completion of the current trip or dispatch. However, such violations must be corrected or repaired prior to redispach.

(2) Copies of the North American Standard Vehicle Out-of-Service Criteria are available from the Commercial Vehicle Safety Alliance at: 1101 17th St NW, Suite 803, Washington, DC 20036.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.250 & 825.252

Hist.: PUC 3-1986, f. & ef. 4-18-86 (Order No. 86-372); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1991, f. & cert. ef. 4-9-91 (Order No. 91-455); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 15-1993(Temp), f. & cert. ef. 8-19-93 (Order No. 93-1156); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0030; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03; MCTD 6-2003, f. & 11-18-03, cert. ef. 1-1-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09

740-100-0080

North American Standard Hazardous Material Out-of-Service Criteria

(1) The North American Standard Hazardous Materials Out-of-Service Criteria, published by the Commercial Vehicle Safety Alliance, in effect April 1, 2009, is adopted and incorporated in this rule. Inspection violations identified in the chart may be subject to out-of-service action. Condition(s) categorized as "Out-of-Service" shall not be allowed to continue in commerce until the condition(s) is/are corrected and the shipment complies with Title 49, CFR. If at the discretion of the inspector, it is less hazardous to the public to relocate the vehicle, it shall be towed, transported, or escorted to a safe location only at the direction of an official authority.

(2) Copies of the North American Standard Hazardous Materials Out-of-Service Criteria are available from the Commercial Vehicle Safety Alliance at: 1101 17th St NW, Suite 803, Washington, DC 20036.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.250, 825.258 & 825.260

Hist.: PUC 3-1986, f. & ef. 4-18-86 (Order No. 86-377); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1991, f. & cert. ef. 4-9-91 (Order No. 91-455); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 15-1993(Temp), f. & cert. ef. 8-19-93 (Order No. 93-1156); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96;

ADMINISTRATIVE RULES

Renumbered from 860-065-0035; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03; MCTD 6-2003, f. & 11-18-03, cert. ef. 1-1-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09

740-100-0085

North American Standard Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials

(1) The North American Standard Out-of-Service Criteria Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials, published by the Commercial Vehicle Safety Alliance, in effect April 1, 2009, is adopted and incorporated in this rule. Inspection violations identified in the chart may be subject to out-of-service action. Condition(s) categorized as "Out-of-Service" shall not be allowed to continue in commerce until the condition(s) is/are corrected and the shipment complies with Title 49, CFR. If at the discretion of the inspector, it is less hazardous to the public to relocate the vehicle, it shall be towed, transported, or escorted to a safe location only at the direction of an official authority.

(2) Copies of North American Standard Out-of-Service Criteria are available from the Commercial Vehicle Safety Alliance at: 1101 17th St NW, Suite 803, Washington, DC 20036.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.250, 825.258 & 825.260

Hist.: MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09

740-100-0090

North American Standard Driver Out-of-Service Criteria

(1) The North American Standard Driver Out-of-Service Criteria, published by the Commercial Vehicle Safety Alliance, in effect April 1, 2009, is adopted and incorporated in this rule. Inspection violations identified in the chart may be subject to one or both of the following:

(a) Out-of-Service Violation: Drivers with violations under this category shall not operate a commercial motor vehicle for a specified period of time or for some violations until a required condition is met.

(b) Other: Violations other than out-of-service violations require no immediate action by the driver or motor carrier. The carrier must certify in accordance with the terms contained on the inspection document and return it to the Department of Transportation within 15 days.

(2) Copies of the North American Standard Driver Out-of-Service Criteria are available from the Commercial Vehicle Safety Alliance at: 1101 17th St NW, Suite 803, Washington, DC 20036.

Stat. Auth.: ORS 823.011 & 825.232

Stats. Implemented: ORS 825.250 & 825.252

Hist.: PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1991, f. & cert. ef. 4-9-91 (Order No. 91-455); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 15-1993(Temp), f. & cert. ef. 8-19-93 (Order No. 93-1156); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0040; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03; MCTD 6-2003, f. & 11-18-03, cert. ef. 1-1-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09

740-100-0100

Maximum Fine Schedule

(1) The Maximum Fine Schedule, published by the Commercial Vehicle Safety Alliance, revised March 2008, is adopted and incorporated in this rule.

(2) Except as provided in sections (3) and (4) of this rule, the foundation fine for a violation described in the Maximum Fine Schedule shall be the lesser of the amount specified in the Maximum Fine Schedule for One Driver Violation or 40 percent of the maximum fine for a Class A traffic violation established in ORS 153.018.

(3) Violations of OAR 740-100-0040 related to failure to carry traction devices shall have a minimum foundation fine of \$60. Violations of 740-100-0040, related to failure to use traction devices when required, shall be subject to the fine established in section (5) of this rule.

(4) Except as provided in section (3) of this rule, violations of commercial motor carrier safety regulations found in OAR 740-100, 740-0105 and 740-100-0110, not specifically addressed in the Maximum Fine Schedule shall carry a foundation penalty equal to the amount for a Group 3 violation contained in the Maximum Fine Schedule.

(5) In the event that a violation was a substantial contributing factor to an accident or created substantial risk of injury to another person, the foundation fine shall be 60 percent of the maximum fine for a Class A traffic violation.

(6) Unitary assessments and county assessments required by ORS 137.290 and 137.309 are in addition to foundation fines specified in this rule.

(7) Copies of the Maximum Fine Schedule are available from the Commercial Vehicle Safety Alliance: 1101 17th St. NW, Suite 803, Washington DC 20036.

Stat. Auth.: ORS 153.022, 823.011, 825.252 & 825.990

Stats. Implemented: ORS 825.252

Hist.: PUC 4-1995, f. & ef. 6-19-95 (Order No. 95-517); MCT 2-1996, f. & cert. ef. 2-16-96; Renumbered from 860-065-0050; MCT 3-1996, f. & cert. ef. 3-14-96; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 4-1999(Temp), f. 12-21-99, cert. ef. 1-1-00 thru 6-28-00; MCTB 2-2000, f. & cert. ef. 4-28-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09

740-110-0010

Adoption of United States Department of Transportation Hazardous Materials Regulations

(1) Any person subject to ORS Chapter 825 who transports a hazardous material and any person subject to 823.061 who causes to be transported a hazardous material shall comply with the rules and regulations governing the transportation of hazardous materials as prescribed by the United States Department of Transportation in Title 49, Code of Federal Regulations, Part 397 and such portions of Parts 107-178 and 180 as are applicable, and amendments thereto, in effect on April 1, 2009.

(2) Copies of the federal regulations referred to in this rule are available from ODOT, Motor Carrier Transportation Division or may be accessed on the Federal Motor Carrier Safety Administration website, www.fmcsa.dot.gov.

Stat. Auth.: ORS 823.011, 823.061 & 825.258

Stats. Implemented: ORS 825.258

Hist.: Refiled in PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 98, f. 1-18-61, ef. 1-12-61 (Order No. 37620); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 132, f. 3-29-65, ef. 4-1-65 (Order No. 41035); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 150, f. 11-7-68, ef. 12-1-68 (Order No. 45141); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); PUC 2-1980, f. & ef. 3-27-80 (Order No. 80-179); PUC 3-1980, Part 1, f. & ef. 6-30-80 (Order No. 79-805); PUC 5-1980, f. & ef. 10-13-80 (Order No. 80-758); Renumbered from 860-036-0055; PUC 1-1981, f. & ef. 2-9-81; PUC 12-1981, f. & ef. 12-16-81 (Order No. 81-880); PUC 6-1982, f. & ef. 5-6-82 (Order No. 82-336); PUC 1-1983, f. & ef. 1-17-83 (Order No. 83-024); PUC 1-1984, f. & ef. 2-9-84 (Order No. 84-076); PUC 13-1984, f. & ef. 7-26-84 (Order No. 84-546); PUC 8-1985, f. & ef. 6-10-85 (Order No. 85-499); PUC 7-1986(Temp), f. & ef. 7-25-86 (Order No. 86-736); PUC 13-1986, f. & ef. 10-30-86 (Order No. 86-1106); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (Order No. 91-20); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 1-1996, f. 2-16-96, cert. ef. 4-1-96; Renumbered from 860-066-0055; MCT 3-1996, f. & cert. ef. 3-14-96; MCT 5-1996, f. & cert. ef. 9-17-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03; MCTD 6-2003, f. 11-18-03, cert. ef. 1-1-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09

740-110-0080

Inspections

(1) Notwithstanding 49 CFR 385.415(b)(1), Oregon Department of Transportation, Motor Carrier Transportation Division, in its discretion, may require the inspection of any vehicle, driver and:

(a) Shipment of "irradiated reactor fuel" as defined in Title 10 Code of Federal Regulations (CFR), Part 73.37;

(b) "Highway route controlled shipment" as defined in Title 49 CFR Part 173.403;

(c) Any shipment transported under an Oregon Radioactive Materials Transport Permit; and

(d) Any other shipment of "radioactive material" as defined in Title 49 CFR Part 173.403.

(2) A determination of the need, and arrangements, for inspection will be made at the time of notice required in OAR 740-110-0090(2).

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

Stat. Auth.: ORS 469.470, 823.011, 825.252 & 825.258

Stats. Implemented: ORS 825.258

Hist.: PUC 4-1991, f. & cert. ef. 3-14-91 (Order No. 91-310); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-066-0075; MCTB 3-2000, f. & cert. ef. 4-28-00; MCTD 2-2004, f. & cert. ef. 3-26-04; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09

ADMINISTRATIVE RULES

Land Conservation and Development Department Chapter 660

Rule Caption: Permanent Measure 49 Rules Clarifying Requirements for Measure 49 Authorizations, Including Notice to State.

Adm. Order No.: LCDD 1-2009

Filed with Sec. of State: 4-2-2009

Certified to be Effective: 4-2-09

Notice Publication Date: 2-1-2009

Rules Adopted: 660-041-0170

Rules Amended: 660-041-0010, 660-041-0110

Subject: The adopted and amended permanent rules amend OAR chapter 660, division 41. The purpose of these rules is twofold. First, the rules clarify the requirements and process for evaluating Elections under Section 6 of Measure 49 for home site authorizations. There is uncertainty as to whether certain Measure 37 claimants who sought relief under Measure 49 were lawfully permitted to establish the number of home sites for which Elections have been submitted. These rules clarify how lawfully permitted uses are evaluated and determined. Second, the proposed rules also require local governments to notify DLCD of land use applications and decisions approving home sites authorized under Measure 49. This will ensure that state and local actions on Measure 49 Elections, including county land use approvals based on Measure 49 authorizations, and clustering and 20-homesite limitation requirements under Measure 49, are coordinated and consistent.

Rules Coordinator: Bryan Cruz Gonzalez—(503) 373-0050, ext. 322

660-041-0010

Definitions

The following definitions apply to OAR 660-041-0000 to 660-041-0160:

(1) “Agency” has the meaning provided by ORS 183.310.

(2) “Claim” means a written demand for compensation under ORS 197.352 (2005) that was filed with the State of Oregon before December 6, 2007. If the Claim was filed with the State of Oregon after June 28, 2007, it qualifies as a Claim only if a corresponding Claim for the Measure 37 Claim Property was filed prior to that date with the city or county with land use jurisdiction over the Measure 37 Claim Property.

(3) “Claimant” means a person who submitted a Claim.

(4) “DAS” means the Department of Administrative Services.

(5) “DLCD” means the Department of Land Conservation and Development.

(6) “DLCD Measure 37 Waiver” means a decision by LCDC or DLCD that was made before December 6, 2007 under ORS 197.352 (2005) to modify, remove or not apply one or more DLCD Regulations to allow a Claimant to use the Measure 37 Claim Property for a use that was permitted when the Claimant acquired the Measure 37 Claim Property.

(7) “DLCD Regulation” means a Land Use Regulation that is also a state statute codified in ORS chapter 92, 195, 197, 215 or 227, a Statewide Planning Goal, or an LCDC rule. An “Existing DLCD Regulation” means a DLCD Regulation that was enacted by the State of Oregon or adopted by LCDC with an effective date prior to December 2, 2004. A “New DLCD Regulation” means a DLCD Regulation that was enacted by the State of Oregon or adopted by LCDC with an effective date of on or after December 2, 2004.

(8) “Elected” means signed and filed the form provided by DLCD with a box checked.

(9) “Land Use Application” means an application for a “land use decision,” a “limited land use decision,” or an “expedited land division,” as those terms are defined by ORS 197.015 and 197.360, or an application for a permit or zone change under ORS 227.160 to 227.187 or under 215.402 to 215.437.

(10) “Land Use Regulation” has the meaning provided by ORS 197.352(11) (2005).

(11) “LCDC” means the Land Conservation and Development Commission.

(12) “Measure 37 Claim Property” means the private real property described in a Measure 37 Claim.

(13) “Measure 37 Permit” means a final decision by a city, a county, or by Metro to authorize the development, division or other use of Measure

37 Claim Property pursuant to a Measure 37 Waiver. A Measure 37 Permit may be a land use decision, a limited land use decision, an expedited land use decision, a permit (as that term is defined in ORS 215.402 and 227.160), a zone change, or a comprehensive plan amendment. A Measure 37 Permit also includes a final decision by a city, a county, or by Metro that a person has a vested right to complete or continue a use based on a Measure 37 Waiver.

(14) “Measure 37 Waiver” means a decision by a city, a county, Metro or the State of Oregon that was made before December 6, 2007 under ORS 197.352 (2005) to modify, remove or not apply one or more Land Use Regulations to allow a Claimant to use the Measure 37 Claim Property for a use that was permitted when the Claimant acquired the Measure 37 Claim Property.

(15) “Measure 49” means Chapter 424, Oregon Laws 2007.

(16) “Measure 49 Authorization” means a final order and authorization issued by the department under Measure 49 that authorizes a claimant to seek local approval of one or more home sites.

(17) “Supplemental Information” means information needed by DLCD, under section 8(3) of Measure 49, to proceed with the Supplemental Review of a Claim.

(18) “Supplemental Review” means review by DLCD of a Claim under either section 6 or section 7 of Measure 49.

Stat. Auth.: ORS 197.040, 197.065 & 2007 OL Ch. 424

Stats. Implemented: ORS 195.300 - 195.336, 197.015, 197.040, 197.065, 197.353 & 2007 OL Ch. 424

Hist.: LCDD 10-2006(Temp), f. 12-1-06, cert. ef. 12-4-06 thru 6-2-07; LCDD 1-2007, f. 2-5-07, cert. ef. 2-9-07; LCDD 2-2007(Temp), f. & cert. ef. 12-10-07 thru 6-7-08; LCDD 2-2008(Temp), f. & cert. ef. 2-21-08 thru 6-10-08; LCDD 4-2008, f. & cert. ef. 5-23-08; LCDD 1-2009, f. & cert. ef. 4-2-09

660-041-0110

Determining What Was Lawfully Permitted on the Claimant’s Acquisition Date

(1) A Claimant lawfully was permitted to establish one or more lots, parcels or dwellings on the Claimant’s acquisition date if DLCD determines that the characteristics of the Measure 37 Claim Property as it existed on that date, including the size, soil quality and location of the Measure 37 Claim Property, would have allowed the Claimant to satisfy the standards and criteria for approval of the lot, parcel or dwelling in effect on that date.

(2) Based on the Claimant’s acquisition date, as determined under ORS 195.328, DLCD will apply the following standards and criteria to determine the number of lots, parcels or dwellings that were lawfully permitted:

(a) If the Claimant’s acquisition date is prior to January 25, 1975, DLCD will apply the applicable local land use regulations and comprehensive plan provisions, if any, along with any directly-applicable state statutes;

(b) If the Claimant’s acquisition date is on or after January 25, 1975 but before the date the county with land use jurisdiction over the Measure 37 Claim Property had its applicable comprehensive plan and land use regulations acknowledged by LCDC for compliance with the Statewide Planning Goals, DLCD will directly apply the Statewide Planning Goals, applicable state statutes and existing DLCD regulations. To determine the number of lots, parcels or dwellings that were lawfully permitted under the Statewide Planning Goals, DLCD will apply the first acknowledged local land use regulations, unless the evidence in the record, including but not limited to, county Measure 37 waivers or local land use determinations issued at the time the property was acquired, establishes that a greater number of lots, parcels or dwellings would have been lawfully permitted; and

(c) If the Claimant’s acquisition date is on or after the date the county with land use jurisdiction over the Measure 37 Claim Property had its applicable comprehensive plan and local land use regulations acknowledged by LCDC for compliance with the Statewide Planning Goals, DLCD will apply the applicable local land use regulations and comprehensive plan provisions along with any directly-applicable state statutes, Statewide Planning Goals, or LCDC rules.

Stat. Auth.: ORS 197.040, 197.065 & 2007 OL Ch. 424

Stats. Implemented: ORS 195.300 - 195.336, 197.015, 197.040, 197.065, 197.353 & 2007 OL Ch. 424

Hist.: LCDD 4-2008, f. & cert. ef. 5-23-08; LCDD 1-2009, f. & cert. ef. 4-2-09

660-041-0170

Notice of County Applications and Decisions Under Measure 49

(1) The county with land use jurisdiction over property for which a Measure 49 Authorization has been issued must provide written notice to DLCD of any land use application that seeks approval of one or more home sites under the Measure 49 Authorization, and all final written decisions on home site approvals based on a Measure 49 Authorization.

ADMINISTRATIVE RULES

(2) Notice of an application for home site approval(s) under a Measure 49 Authorization, required under section (1) of this rule, must be mailed to DLCD's Salem office at least ten (10) calendar days before any deadline for comment on the application for a home site approval. If there is no opportunity for comment, then the notice must be sent ten (10) days before the decision becomes final. The notice must include:

- (a) A copy of any notice provided under ORS 197.195, 197.365, 197.615, 197.763, 227.175 or 215.416;
 - (b) The claim number of the Measure 49 Authorization issued by the State of Oregon; and
 - (c) The name of the present owner of the Measure 49 Claim Property.
- Stat. Auth.: ORS 197.040 & 197.065
Stats. Implemented: ORS 195.300 - 195.336, 197.015, 197.040, 197.065, 197.353 & 2007 OL Ch. 424
Hist.: LCDD 1-2009, f. & cert. ef. 4-2-09

Rule Caption: New and Amended Rules regarding Urban Growth Boundary Adoption/Amendment and Review of Such Actions.

Adm. Order No.: LCDD 2-2009

Filed with Sec. of State: 4-8-2009

Certified to be Effective: 4-16-09

Notice Publication Date: 2-1-2009

Rules Adopted: 660-024-0080

Rules Amended: 660-024-0000, 660-024-0010, 660-024-0020, 660-024-0030, 660-024-0040, 660-024-0050, 660-024-0060, 660-024-0070

Subject: These rules clarify Goal 14 and other requirements of law regarding the adoption and amendment of urban growth boundaries (UGBs), provide new "safe harbors" intended to reduce local government time and cost in amending a UGB, especially with regard to determination of housing need, housing density and housing mix, employment need, and related topics. The rules also clarify procedures for LCDC review of urban growth boundaries in the manner of periodic review under ORS 197.626, and clarify procedures in OAR 660, division 24, regarding UGB adjustments.

Rules Coordinator: Bryan Cruz Gonzalez—(503) 373-0050, ext. 322

660-024-0000

Purpose and Applicability

(1) The rules in this division clarify procedures and requirements of Goal 14 regarding a local government adoption or amendment of an urban growth boundary (UGB).

(2) The rules in this division interpret Goal 14 as amended by Land Conservation and Development Commission (the Commission) on or after April 28, 2005, and are not applicable to plan amendments or land use decisions governed by previous versions of Goal 14 still in effect.

(3) The rules in this division adopted on October 5, 2006, are effective April 5, 2007. The rules in this division amended on March 20, 2008, are effective April 18, 2008. The rules in this division adopted March 13, 2009, and amendments to rules in this division adopted on that date, are effective April 16, 2009, except as follows:

(a) A local government may choose to not apply this division to a plan amendment concerning the evaluation or amendment of a UGB, regardless of the date of that amendment, if the local government initiated the evaluation or amendment of the UGB prior to April 5, 2007;

(b) For purposes of this rule, "initiated" means that the local government either:

(A) Issued the public notice specified in OAR 660-018-0020 for the proposed plan amendment concerning the evaluation or amendment of the UGB; or

(B) Received LCDC approval of a periodic review work program that includes a work task to evaluate the UGB land supply or amend the UGB;

(c) A local government choice whether to apply this division must include the entire division and may not differ with respect to individual rules in the division.

Stat. Auth.: ORS 197.040, Statewide Planning Goal 14
Stats. Implemented: ORS 195.015, 195.036, 197.295 - 197.314, 197.610 - 197.650, 197.764
Hist.: LCDD 8-2006, f. 10-19-06, cert. ef. 4-5-07; LCDD 2-2009, f. 4-8-09, cert. ef. 4-16-09

660-024-0010

Definitions

In this division, the definitions in the statewide goals and the following definitions apply:

(1) "Buildable Land" is a term applying to residential land only, and has the same meaning as provided in OAR 660-008-0005(2).

(2) "EOA" means an economic opportunities analysis carried out under OAR 660-009-0015.

(3) "Housing need" or "housing need analysis" refers to a local determination as to the needed amount, types and densities of housing that will be:

(a) Commensurate with the financial capabilities of present and future area residents of all income levels during the 20-year planning period;

(b) Consistent with any adopted regional housing standards, state statutes regarding housing need and with Goal 10 and rules interpreting that goal; and

(c) Consistent with Goal 14 requirements.

(4) "Local government" means a city or county, or a metropolitan service district described in ORS 197.015(13).

(5) "Metro boundary" means the boundary of a metropolitan service district defined in ORS 197.015(13).

(6) "Net Buildable Acre" consists of 43,560 square feet of residentially designated buildable land after excluding future rights-of-way for streets and roads.

(7) "Safe harbor" means an optional course of action that a local government may use to satisfy a requirement of Goal 14. Use of a safe harbor prescribed in this division will satisfy the requirement for which it is prescribed. A safe harbor is not the only way or necessarily the preferred way to comply with a requirement and it is not intended to interpret the requirement for any purpose other than applying a safe harbor within this division.

(8) "Suitable vacant and developed land" describes land for employment opportunities, and has the same meaning as provided in OAR 660-009-0005 section (1) for "developed land," section (12) for "suitable," and section (14) for "vacant land."

(9) "UGB" means "urban growth boundary."

(10) "Urban area" means the land within a UGB.

Stat. Auth.: ORS 197.040, Statewide Planning Goal 14
Stats. Implemented: ORS 195.015, 195.036, 197.295 - 197.314, 197.610 - 197.650, 197.764
Hist.: LCDD 8-2006, f. 10-19-06, cert. ef. 4-5-07; LCDD 2-2009, f. 4-8-09, cert. ef. 4-16-09

660-024-0020

Adoption or Amendment of a UGB

(1) All statewide goals and related administrative rules are applicable when establishing or amending a UGB, except as follows:

(a) The exceptions process in Goal 2 and OAR chapter 660, division 4, is not applicable unless a local government chooses to take an exception to a particular goal requirement, for example, as provided in OAR 660-004-0010(1);

(b) Goals 3 and 4 are not applicable;

(c) Goal 5 and related rules under OAR chapter 660, division 23, apply only in areas added to the UGB, except as required under OAR 660-023-0070 and 660-023-0250;

(d) The transportation planning rule requirements under OAR 660-012-0060 need not be applied to a UGB amendment if the land added to the UGB is zoned as urbanizable land, either by retaining the zoning that was assigned prior to inclusion in the boundary or by assigning interim zoning that does not allow development that would generate more vehicle trips than development allowed by the zoning assigned prior to inclusion in the boundary;

(e) Goal 15 is not applicable to land added to the UGB unless the land is within the Willamette River Greenway Boundary;

(f) Goals 16 to 18 are not applicable to land added to the UGB unless the land is within a coastal shorelands boundary;

(g) Goal 19 is not applicable to a UGB amendment.

(2) The UGB and amendments to the UGB must be shown on the city and county plan and zone maps at a scale sufficient to determine which particular lots or parcels are included in the UGB. Where a UGB does not follow lot or parcel lines, the map must provide sufficient information to determine the precise UGB location.

Stat. Auth.: ORS 197.040, Statewide Planning Goal 14
Stats. Implemented: ORS 195.015, 195.036, 197.295 - 197.314, 197.610 - 197.650, 197.764
Hist.: LCDD 8-2006, f. 10-19-06, cert. ef. 4-5-07; LCDD 2-2009, f. 4-8-09, cert. ef. 4-16-09

660-024-0030

Population Forecasts

(1) Counties must adopt and maintain a coordinated 20-year population forecast for the county and for each urban area within the county consistent with statutory requirements for such forecasts under ORS 195.025 and 195.036. Cities must adopt a 20-year population forecast for the urban area consistent with the coordinated county forecast, except that a metropolitan service district must adopt and maintain a 20-year population fore-

ADMINISTRATIVE RULES

cast for the area within its jurisdiction. In adopting the coordinated forecast, local governments must follow applicable procedures and requirements in ORS 197.610 to 197.650 and must provide notice to all other local governments in the county. The adopted forecast must be included in the comprehensive plan or in a document referenced by the plan.

(2) The forecast must be developed using commonly accepted practices and standards for population forecasting used by professional practitioners in the field of demography or economics, and must be based on current, reliable and objective sources and verifiable factual information, such as the most recent long-range forecast for the county published by the Oregon Office of Economic Analysis (OEA). The forecast must take into account documented long-term demographic trends as well as recent events that have a reasonable likelihood of changing historical trends. The population forecast is an estimate which, although based on the best available information and methodology, should not be held to an unreasonably high level of precision.

(3) For a population forecast used as a basis for a decision adopting or amending a UGB submitted under ORS 197.626, the director or Commission may approve the forecast if they determine that a failure to meet a particular requirement of section (2) of this rule is insignificant in nature and is unlikely to have a significant effect on the needs determined under OAR 660-024-0040.

(4) A city and county may apply one of the safe harbors in subsections (a), (b), or (c) of this section, if applicable, in order to develop and adopt a population forecast for an urban area:

(a) If a coordinated population forecast was adopted by a county within the previous 10 years but does not provide a 20-year forecast for an urban area at the time a city initiates an evaluation or amendment of the UGB, a city and county may adopt an updated forecast for the urban area consistent with this section. The updated forecast is deemed to comply with applicable goals and laws regarding population forecasts for purposes of the current UGB evaluation or amendment provided the forecast:

(A) Is adopted by the city and county in accordance with the notice, procedures and requirements described in section (1) of this rule; and

(B) Extends the current urban area forecast to a 20-year period commencing on the date determined under OAR 660-024-0040(2) by using the same growth trend for the urban area assumed in the county's current adopted forecast.

(b) A city and county may adopt a 20-year forecast for an urban area consistent with this section. The forecast is deemed to comply with applicable goals and laws regarding population forecasts for purposes of the current UGB evaluation or amendment provided the forecast:

(A) Is adopted by the city and county in accordance with the notice, procedures and requirements described in section (1) of this rule;

(B) Is based on OEA's population forecast for the county for a 20-year period commencing on the date determined under OAR 660-024-0040(2); and

(C) Is developed by assuming that the urban area's share of the forecasted county population determined in subsection (B) of this rule will be the same as the urban area's current share of county population based on the most recent certified population estimates from Portland State University and the most recent data for the urban area published by the U.S. Census Bureau.

(c) A city may adopt a revised 20-year forecast for its urban area by following the requirements in ORS 195.034.

Stat. Auth.: ORS 197.040, Statewide Planning Goal 14, 195.034

Stats. Implemented: ORS 195.015, 195.036, 197.295 - 197.314, 197.610 - 197.650, 197.764, 195.034

Hist.: LCDD 8-2006, f. 10-19-06, cert. ef. 4-5-07; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 2-2009, f. 4-8-09, cert. ef. 4-16-09

660-024-0040 Land Need

(1) The UGB must be based on the adopted 20-year population forecast for the urban area described in OAR 660-024-0030, and must provide for needed housing, employment and other urban uses such as public facilities, streets and roads, schools, parks and open space over the 20-year planning period consistent with the land need requirements of Goal 14 and this rule. The 20-year need determinations are estimates which, although based on the best available information and methodologies, should not be held to an unreasonably high level of precision.

(2) If the UGB analysis or amendment is conducted as part of a periodic review work program, the 20-year planning period must commence on the date initially scheduled for completion of the appropriate work task. If the UGB analysis or amendment is conducted as a post-acknowledgement plan amendment under ORS 197.610 to 197.625, the 20-year planning period must commence either:

(a) On the date initially scheduled for final adoption of the amendment specified by the local government in the initial notice of the amendment required by OAR 660-018-0020; or

(b) If more recent than the date determined in subsection (a), at the beginning of the 20-year period specified in the coordinated population forecast for the urban area adopted by the city and county pursuant to OAR 660-024-0030, unless ORS 197.296 requires a different date for local governments subject to that statute.

(3) A local government may review and amend the UGB in consideration of one category of land need (for example, housing need) without a simultaneous review and amendment in consideration of other categories of land need (for example, employment need).

(4) The determination of 20-year residential land needs for an urban area must be consistent with the adopted 20-year coordinated population forecast for the urban area, and with the requirements for determining housing needs in Goals 10 and 14, OAR chapter 660, division 7 or 8, and applicable provisions of ORS 197.295 to 197.314 and 197.475 to 197.490.

(5) Except for a metropolitan service district described in ORS 197.015(13), the determination of 20-year employment land need for an urban area must comply with applicable requirements of Goal 9 and OAR chapter 660, division 9, and must include a determination of the need for a short-term supply of land for employment uses consistent with OAR 660-009-0025. Employment land need may be based on an estimate of job growth over the planning period; local government must provide a reasonable justification for the job growth estimate but Goal 14 does not require that job growth estimates necessarily be proportional to population growth.

(6) Cities and counties may jointly conduct a coordinated regional EOA for more than one city in the county or for a defined region within one or more counties, in conformance with Goal 9, OAR chapter 660, division 9, and applicable provisions of ORS 195.025. A defined region may include incorporated and unincorporated areas of one or more counties.

(7) The determination of 20-year land needs for transportation and public facilities for an urban area must comply with applicable requirements of Goals 11 and 12, rules in OAR chapter 660, divisions 11 and 12, and public facilities requirements in ORS 197.712 and 197.768. The determination of school facility needs must also comply with ORS 195.110 and 197.296 for local governments specified in those statutes.

(8) The following safe harbors may be applied by a local government to determine housing need under this division:

(a) A local government may estimate persons per household for the 20-year planning period using the persons per household for the urban area indicated in the most current data for the urban area published by the U.S. Census Bureau.

(b) If a local government does not regulate government-assisted housing differently than other housing types, it is not required to estimate the need for government-assisted housing as a separate housing type.

(c) If a local government allows manufactured homes on individual lots as a permitted use in all residential zones that allow 10 or fewer dwelling units per net buildable acre, it is not necessary to provide an estimate of the need for manufactured dwellings on individual lots.

(d) If a local government allows manufactured dwelling parks required by ORS 197.475 to 197.490 in all areas planned and zoned for a residential density of six to 12 units per acre, a separate estimate of the need for manufactured dwelling parks is not required.

(e) A local government outside of the Metro boundary may estimate its housing vacancy rate for the 20-year planning period using the vacancy rate in the most current data published by the U.S. Census Bureau for that urban area that includes the local government.

(f) A local government outside of the Metro boundary may determine housing needs for purposes of a UGB amendment using the combined Housing Density and Housing Mix safe harbors described in this subsection and in Table 1, or in combination with the Alternative Density safe harbor described under subsection (g) of this section and in Table 2. To meet the Housing Density safe harbor in this subsection, the local government may Assume For UGB Analysis that all buildable land in the urban area, including land added to the UGB, will develop at the applicable average overall density specified in column B of Table 1. Buildable land in the UGB, including land added to the UGB, must also be Zoned to Allow at least the average overall maximum density specified as Zone To Allow in column B of Table 1. Finally, the local government must adopt zoning that ensures buildable land in the urban area, including land added to the UGB, cannot develop at an average overall density less than the applicable Required Overall Minimum density specified in column B of Table 1. To meet the Housing Mix safe harbor in this subsection, the local government must

ADMINISTRATIVE RULES

Zone to Allow the applicable percentages of low, medium and high density residential specified in column C of Table 1.

(g) When using the safe harbor in subsection (f), a local government may choose to also use the applicable Alternative Density safe harbors for Small Exception Parcels and High Value Farm Land specified in Table 2. If a local government chooses to use the Alternative Density safe harbors described in Table 2, it must

(A) Apply the applicable Small Exception Parcel density assumption and the High Value Farm Land density assumption measures specified in the table to all buildable land that is within these categories, and

(B) Apply the Housing Density and Mix safe harbors specified in subsection (f) of this section and specified in Table 1 to all buildable land in the urban area that does not consist of Small Exception Parcels or High Value Farm Land.

(h) As an alternative to the density safe harbors in subsection (f) and, if applicable, subsection (g), of this section, a local government outside of the Metro boundary may assume that the average overall density of buildable residential land in the urban area for the 20-year planning period will increase by 25 percent over the average overall density of developed residential land in the urban area at the time the local government initiated the evaluation or amendment of the UGB. If a local government uses this Incremental Housing Density safe harbor, it must also meet the applicable Zoned to Allow density and Required Overall Minimum density requirements in Column B of Table 1 and, if applicable, Table 2, and must use the Housing Mix safe harbor in Column C of Table 1.

(i) As an alternative to the Housing Mix safe harbor required in subsection (f) of this section and in Column C of Table 1, a local government outside the Metro boundary that uses the housing density safe harbor in either subsection (f), (g) or (h) of this section may estimate housing mix using the Incremental Housing Mix safe harbor described in paragraphs (A) to (C) of this subsection, as illustrated in Table 3:

(A) Determine the existing percentages of low density, medium density, and high density housing on developed land (not "buildable land") in the urban area at the time the local government initiated the evaluation or amendment of the UGB;

(B) Increase the percentage of medium density housing estimated in paragraph (A) of this subsection by 10 percent, increase the percentage of high density housing estimated in paragraph (A) of this subsection by five percent, as illustrated in Table 3, and decrease the percentage of low density single family housing by a proportionate amount so that the overall mix total is 100 percent, and

(C) Zone to Allow the resultant housing mix determined under subparagraphs (A) and (B) of this subsection.

(j) Tables 1, 2 and 3 are adopted as part of this rule, and the following definitions apply to terms used in the tables:

(A) "Assume For UGB Analysis" means the local government may assume that the UGB will develop over the 20-year planning period at the applicable overall density specified in Column B of Tables 1 and 2.

(B) "Attached housing" means housing where each unit shares a common wall, ceiling or floor with at least one other unit. "Attached housing" includes, but is not limited to, apartments, condominiums, and common-wall dwellings or row houses where each dwelling unit occupies a separate lot.

(C) "Average Overall Density" means the average density of all buildable land in the UGB, including buildable land already inside the UGB and buildable land added to the UGB, including land zoned for residential use that is presumed to be needed for schools, parks and other institutional uses.

(D) "Coordinated 20-year Population Forecast" under Column A of the Tables refers to the population forecast for the urban area described under OAR 660-024-0030.

(E) "Density" means the number of dwelling units per net buildable acre.

(F) "High Value Farm Land" has the same meaning as the term defined in ORS 195.300(10).

(G) "Required Overall Minimum" means a minimum allowed overall average density, or a "density floor," that must be ensured in the applicable residential zones with respect to the overall supply of buildable land for that zone in the urban area for the 20-year planning period.

(H) "Single Family Detached Housing" means a housing unit that is free standing and separate from other housing units, including mobile homes and manufactured dwellings under ORS 197.475 to 197.492.

(I) "Small Exception Parcel" means a residentially zoned parcel five acres or less with a house on it, located on land that is outside a UGB prior to a proposed UGB expansion, subject to an acknowledged exception to Goal 3 or 4 or both.

(J) "Zone To Allow" or "Zoned to Allow" means that the comprehensive plan and implementing zoning shall allow the specified housing types and densities under clear and objective standards and other requirements specified in ORS 197.307(3)(b) and (6).

(9) The following safe harbors may be applied by a local government to determine its employment needs for purposes of a UGB amendment under this rule, Goal 9, OAR chapter 660, division 9, Goal 14 and, if applicable, ORS 197.296.

(a) A local government may estimate that the current number of jobs in the urban area will grow during the 20-year planning period at a rate equal to either:

(A) The county or regional job growth rate provided in the most recent forecast published by the Oregon Employment Department; or

(B) The population growth rate for the urban area in the adopted 20-year coordinated population forecast specified in OAR 660-024-0030.

(b) A local government with a population of 10,000 or less may assume that retail and service commercial land needs will grow in direct proportion to the forecasted urban area population growth over the 20-year planning period. This safe harbor may not be used to determine employment land needs for sectors other than retail and service commercial.

(10) As a safe harbor during periodic review or other legislative review of the UGB, a local government may estimate that the 20-year land needs for streets and roads, parks and school facilities will together require an additional amount of land equal to 25 percent of the net buildable acres determined for residential land needs under section (4) of this rule, and in conformance with the definition of "Net Buildable Acre" as defined in OAR 660-024-0010(6).

Stat. Auth.: ORS 197.040, Statewide Planning Goal 14
Stats. Implemented: ORS 195.015, 195.036, 197.295 - 197.314, 197.610 - 197.650, 197.764
Hist.: LCDD 8-2006, f. 10-19-06, cert. ef. 4-5-07; LCDD 2-2009, f. 4-8-09, cert. ef. 4-16-09

660-024-0050

Land Inventory and Response to Deficiency

(1) When evaluating or amending a UGB, a local government must inventory land inside the UGB to determine whether there is adequate development capacity to accommodate 20-year needs determined in OAR 660-024-0040. For residential land, the buildable land inventory must include vacant and redevelopable land, and be conducted in accordance with OAR 660-007-0045 or 660-008-0010, whichever is applicable, and ORS 197.296 for local governments subject to that statute. For employment land, the inventory must include suitable vacant and developed land designated for industrial or other employment use, and must be conducted in accordance with OAR 660-009-0015.

(2) As safe harbors, a local government, except a city with a population over 25,000 or a metropolitan service district described in ORS 197.015(13), may use the following assumptions to inventory the capacity of buildable lands to accommodate housing needs:

(a) The infill potential of developed residential lots or parcels of one-half acre or more may be determined by subtracting one-quarter acre (10,890 square feet) for the existing dwelling and assuming that the remainder is buildable land;

(b) Existing lots of less than one-half acre that are currently occupied by a residence may be assumed to be fully developed.

(3) As safe harbors when inventorying land to accommodate industrial and other employment needs, a local government may assume that a lot or parcel is vacant if it is:

(a) Equal to or larger than one-half acre, if the lot or parcel does not contain a permanent building; or

(b) Equal to or larger than five acres, if less than one-half acre of the lot or parcel is occupied by a permanent building.

(4) If the inventory demonstrates that the development capacity of land inside the UGB is inadequate to accommodate the estimated 20-year needs determined under OAR 660-024-0040, the local government must amend the plan to satisfy the need deficiency, either by increasing the development capacity of land already inside the city or by expanding the UGB, or both, and in accordance with ORS 197.296 where applicable. Prior to expanding the UGB, a local government must demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the UGB. If the local government determines there is a need to expand the UGB, changes to the UGB must be determined by evaluating alternative boundary locations consistent with Goal 14 and OAR 660-024-0060.

(5) In evaluating an amendment of a UGB submitted under ORS 196.626, the director or the Commission may determine that a difference between the estimated 20-year needs determined under OAR 660-024-0040 and the amount of land and development capacity added to the UGB by the

ADMINISTRATIVE RULES

submitted amendment is unlikely to significantly affect land supply or resource land protection, and as a result, may determine that the proposed amendment complies with section (4) of this rule.

(6) When land is added to the UGB, the local government must assign appropriate urban plan designations to the added land, consistent with the need determination. The local government must also apply appropriate zoning to the added land consistent with the plan designation or may maintain the land as urbanizable land until the land is rezoned for the planned urban uses, either by retaining the zoning that was assigned prior to inclusion in the boundary or by applying other interim zoning that maintains the land's potential for planned urban development. The requirements of ORS 197.296 regarding planning and zoning also apply when local governments specified in that statute add land to the UGB.

(7) As a safe harbor regarding requirements concerning "efficiency," a local government that chooses to use the density and mix safe harbors in OAR 660-024-0040(8) is deemed to have met the Goal 14 efficiency requirements under:

(a) Sections (1) and (4) of this rule regarding evaluation of the development capacity of residential land inside the UGB to accommodate the estimated 20-year needs; and

(b) Goal 14 regarding a demonstration that residential needs cannot be reasonably accommodated on residential land already inside the UGB, but not with respect to:

(A) A demonstration that residential needs cannot be reasonably accommodated by rezoning non-residential land, and

(B) Compliance with Goal 14 Boundary Location factors.

Stat. Auth.: ORS 197.040, Statewide Planning Goal 14

Stats. Implemented: ORS 195.015, 195.036, 197.295 - 197.314, 197.610 - 197.650, 197.764

Hist.: LCDD 8-2006, f. 10-19-06, cert. ef. 4-5-07; LCDD 2-2009, f. 4-8-09, cert. ef. 4-16-09

660-024-0060

Boundary Location Alternatives Analysis

(1) When considering a UGB amendment, a local government must determine which land to add by evaluating alternative boundary locations. This determination must be consistent with the priority of land specified in ORS 197.298 and the boundary location factors of Goal 14, as follows:

(a) Beginning with the highest priority of land available, a local government must determine which land in that priority is suitable to accommodate the need deficiency determined under OAR 660-024-0050.

(b) If the amount of suitable land in the first priority category exceeds the amount necessary to satisfy the need deficiency, a local government must apply the location factors of Goal 14 to choose which land in that priority to include in the UGB.

(c) If the amount of suitable land in the first priority category is not adequate to satisfy the identified need deficiency, a local government must determine which land in the next priority is suitable to accommodate the remaining need, and proceed using the same method specified in subsections (a) and (b) of this section until the land need is accommodated.

(d) Notwithstanding subsection (a) to (c) of this section, a local government may consider land of lower priority as specified in ORS 197.298(3).

(e) For purposes of this rule, the determination of suitable land to accommodate land needs must include consideration of any suitability characteristics specified under section (5) of this rule, as well as other provisions of law applicable in determining whether land is buildable or suitable.

(2) Notwithstanding OAR 660-024-0050(4) and subsection (1)(c) of this rule, except during periodic review or other legislative review of the UGB, a local government may approve an application under ORS 197.610 to 197.625 for a UGB amendment proposing to add an amount of land less than necessary to satisfy the land need deficiency determined under OAR 660-024-0050(4), provided the amendment complies with all other applicable requirements.

(3) The boundary location factors of Goal 14 are not independent criteria. When the factors are applied to compare alternative boundary locations and to determine the UGB location, a local government must show that all the factors were considered and balanced.

(4) In determining alternative land for evaluation under ORS 197.298, "land adjacent to the UGB" is not limited to those lots or parcels that abut the UGB, but also includes land in the vicinity of the UGB that has a reasonable potential to satisfy the identified need deficiency.

(5) If a local government has specified characteristics such as parcel size, topography, or proximity that are necessary for land to be suitable for an identified need, the local government may limit its consideration to land that has the specified characteristics when it conducts the boundary location alternatives analysis and applies ORS 197.298.

(6) The adopted findings for UGB adoption or amendment must describe or map all of the alternative areas evaluated in the boundary location alternatives analysis. If the analysis involves more than one parcel or area within a particular priority category in ORS 197.298 for which circumstances are the same, these parcels or areas may be considered and evaluated as a single group.

(7) For purposes of Goal 14 Boundary Location Factor 2, "public facilities and services" means water, sanitary sewer, storm water management, and transportation facilities.

(8) The Goal 14 boundary location determination requires evaluation and comparison of the relative costs, advantages and disadvantages of alternative UGB expansion areas with respect to the provision of public facilities and services needed to urbanize alternative boundary locations. This evaluation and comparison must be conducted in coordination with service providers, including the Oregon Department of Transportation with regard to impacts on the state transportation system. "Coordination" includes timely notice to service providers and the consideration of evaluation methodologies recommended by service providers. The evaluation and comparison must include:

(a) The impacts to existing water, sanitary sewer, storm water and transportation facilities that serve nearby areas already inside the UGB;

(b) The capacity of existing public facilities and services to serve areas already inside the UGB as well as areas proposed for addition to the UGB; and

(c) The need for new transportation facilities, such as highways and other roadways, interchanges, arterials and collectors, additional travel lanes, other major improvements on existing roadways and, for urban areas of 25,000 or more, the provision of public transit service.

Stat. Auth.: ORS 197.040, Statewide Planning Goal 14

Stats. Implemented: ORS 195.015, 195.036, 197.295 - 197.314, 197.610 - 197.650, 197.764

Hist.: LCDD 8-2006, f. 10-19-06, cert. ef. 4-5-07; LCDD 2-2009, f. 4-8-09, cert. ef. 4-16-09

660-024-0070

UGB Adjustments

(1) A local government may adjust the UGB at any time to better achieve the purposes of Goal 14 and this division. Such adjustment may occur by adding or removing land from the UGB, or by exchanging land inside the UGB for land outside the UGB. The requirements of section (2) of this rule apply when removing land from the UGB. The requirements of Goal 14, this division, and ORS 197.298 apply when land is added to the UGB, including land added in exchange for land removed. The requirements of ORS 197.296 may also apply when land is added to a UGB, as specified in that statute. If a local government exchanges land inside the UGB for land outside the UGB, the applicable local government must adopt appropriate rural zoning designations for the land removed from the UGB before the local government applies ORS 197.298 and other UGB location requirements necessary for adding land to the UGB.

(2) A local government may remove land from a UGB following the procedures and requirements of ORS 197.764. Alternatively, a local government may remove land from the UGB following the procedures and requirements of ORS 197.610 to 197.650, provided it determines:

(a) The removal of land would not violate applicable statewide planning goals;

(b) The UGB would provide a 20-year supply of land for estimated needs after the land is removed, taking into consideration land added to the UGB at the same time;

(c) Public facilities agreements adopted under ORS 195.020 do not provide for urban services on the subject land unless the public facilities provider agrees to removal of the land from the UGB;

(d) Removal of the land does not preclude the efficient provision of urban services to any other buildable land that remains inside the UGB; and

(e) The land removed from the UGB is planned and zoned for rural use consistent with all applicable laws.

(3) Notwithstanding sections (1) and (2) of this rule, a local government considering an exchange of land may rely on its acknowledged population forecast and land needs analysis, rather than adopt a new forecast and need analysis, provided:

(a) The amount of buildable land added to the UGB to meet a specific type of residential need is substantially equivalent to the amount of buildable land removed, or the amount of suitable and developed employment land added to the UGB to meet a specific type of employment need is substantially equivalent to the amount of suitable and developed employment land removed, and

(b) The local government applies the same comprehensive plan designations and, if applicable, the same urban zoning to the land added to the

ADMINISTRATIVE RULES

UGB such that the land added is designated for the same uses and at the same housing or employment density as the land removed from the UGB.

Stat. Auth.: ORS 197.040, Statewide Planning Goal 14
Stats. Implemented: ORS 195.015, 195.036, 197.295 - 197.314, 197.610 - 197.650, 197.764
Hist.: LCDD 8-2006, f. 10-19-06, cert. ef. 4-5-07; LCDD 2-2009, f. 4-8-09, cert. ef. 4-16-09

660-024-0080

LCDC Review Required for UGB Amendments

A metropolitan service district that amends its UGB to include more than 100 acres, or a city with a population of 2,500 or more within its UGB that amends the UGB to include more than 50 acres shall submit the amendment to the Commission in the manner provided for periodic review under ORS 197.628 to 197.650 and OAR 660-025-0175.

Stat. Auth.: ORS 197.040, Other Auth. Statewide Planning Goal 14
Stats. Implemented: ORS 197.626
Hist.: LCDD 2-2009, f. 4-8-09, cert. ef. 4-16-09

Oregon Criminal Justice Commission Chapter 213

Rule Caption: Amends Oregon sentencing guidelines to add definition of "straight jail."

Adm. Order No.: CJC 1-2009(Temp)

Filed with Sec. of State: 3-24-2009

Certified to be Effective: 1-1-10 thru 6-29-10

Notice Publication Date:

Rules Amended: 213-003-0001

Subject: Under OAR 213-005-0007, for offenders who commit crimes on or after November 1, 1989 and whose presumptive sentence is that of probation, the sentencing court at its discretion may impose either the presumptive probationary sentence or, in the alternative, "straight jail," i.e. a term of jail confinement with no subsequent supervision. Under the language of OAR 213-005-0007, possible confusion exists as to whether sentencing courts are required to impose supervision terms when they sentence offenders to "straight jail." Under ORS 137.667(2), the Oregon Criminal Justice Commission may adopt amendments to the sentencing guidelines. The Commission is amending the guidelines by adding a definition of "straight jail" which clarifies that when a sentencing court imposes of "straight jail" sentence, such a sentence is not followed by a term of supervision. The new definition of "straight jail" will enable judges, district attorneys, and defense attorneys to apply "straight jail" sentences uniformly. IF the rule change is not approved by the Legislative Assembly, it will not go into effect.

Rules Coordinator: Craig Prins—(503) 378-4830

213-003-0001

Definitions

As used in these rules:

(1) "Bench probation" means a probationary sentence, which directs the probationer to remain under the supervision and control of the sentencing judge.

(2) "Board" means the State Board of Parole and Post-Prison Supervision.

(3) "Correctional supervision status" means any form of incarcerative or non-incarcerative supervision which is served by an offender as part of a sentence for a criminal conviction.

(4) "Department" means the Department of Corrections.

(5) "Departure" means a sentence, except an optional probationary sentence, which is inconsistent with the presumptive sentence for an offender.

(6) "Dispositional departure" means a sentence which imposes probation when the presumptive sentence is prison or prison when the presumptive sentence is probation. An optional probationary sentence is not a dispositional departure.

(7) "Dispositional line" means the solid black line on the Sentencing Guidelines Grid (Appendix 1) which separates the grid blocks in which the presumptive sentence is a term of imprisonment and post-prison supervision from the grid blocks in which the presumptive sentence is probation which may include local custodial sanctions. [Appendix not included. See ED. NOTE.]

(8) "Durational departure" means a sentence which is inconsistent with the presumptive sentence as to term of incarceration, term of supervised probation or number of sanction units which may be imposed as a condition of probation.

(9) "Grid" means the Sentencing Guidelines Grid set forth as Appendix 1. [Appendix not included. See ED. NOTE.]

(10) "Grid block" means a box on the grid formed by the intersection of the crime seriousness ranking of a current crime of conviction and an offender's criminal history classification.

(11) "Juvenile adjudication" means a formal adjudication or finding by a court that the juvenile has committed an act, which, if committed by an adult, would be punishable as a felony.

(12) "Non-person felonies" are any felonies not defined as a person felony in section (14) of this rule.

(13) "Optional probationary sentence" means any probationary sentence imposed pursuant to OAR 213-005-0006.

(14) "Person felonies" are in numerical statutory order: ORS 162.165 Escape I; ORS 162.185 Supplying Contraband as defined in Crime Categories 6 and 7 (OAR 213-018-0070(1) and (2)); ORS 163.095 Aggravated Murder; ORS 163.115 Murder; ORS 163.115 Felony Murder; ORS 163.118 Manslaughter I; ORS 163.125 Manslaughter II; ORS 163.145 Negligent Homicide; ORS 163.160(3) Felony Domestic Assault; ORS 163.165 Assault III; ORS 163.175 Assault II; ORS 163.185 Assault I; ORS 163.205 Criminal Mistreatment I; ORS 163.207 Female Genital Mutilation; ORS 163.208 Assaulting a Public Safety Officer; ORS 163.213 Use of Stun Gun, Tear Gas, Mace I; ORS 163.225 Kidnapping II; ORS 163.235 Kidnapping I; ORS 163.275 Coercion as defined in Crime Category 7 (OAR 213-018-0035(1)); ORS 163.355 Rape III; ORS 163.365 Rape II; ORS 163.375 Rape I; ORS 163.385 Sodomy III; ORS 163.395 Sodomy II; ORS 163.405 Sodomy I; ORS 163.408 Sexual Penetration II; ORS 163.411 Sexual Penetration I; ORS 163.425 Sexual Abuse II; ORS 163.427 Sexual Abuse I; ORS 163.465 Felony Public Indecency; ORS 163.479 Unlawful Contact with a Child; ORS 163.452 Custodial Sexual Misconduct in the First Degree; ORS 163.525 Incest; ORS 163.535 Abandon Child; ORS 163.537 Buying/Selling Custody of a Minor; ORS 163.547 Child Neglect I; ORS 163.670 Using Child In Display of Sexual Conduct; ORS 163.684 Encouraging Child Sex Abuse I; ORS 163.686 Encouraging Child Sex Abuse II; ORS 163.688, Possession of Material Depicting Sexually Explicit Conduct of Child I; ORS 163.689, Possession of Material Depicting Sexually Explicit Conduct of Child II; ORS 163.732 Stalking; ORS 163.750 Violation of Court's Stalking Order; ORS 164.075 Theft by Extortion as defined in Crime Category 7 (OAR 213-018-0075(1)); ORS 164.225 Burglary I as defined in Crime Categories 8 and 9 (OAR 213-018-0025(1) and (2)); ORS 164.325 Arson I; ORS 164.395 Robbery III; ORS 164.405 Robbery II; ORS 164.415 Robbery I; ORS 164.877(3) Tree Spiking (Injury); ORS 166.087 Abuse of Corpse I; ORS 166.165 Intimidation I; ORS 166.220 Unlawful Use of a Weapon; ORS 166.275 Inmate In Possession of Weapon; ORS 166.385(3), Felony Possession of a Hoax Destructive Device; ORS 166.643 Unlawful Possession of Soft Body Armor as defined in Crime Category 6 (OAR 213-018-0090(1)); ORS 167.012 Promoting Prostitution; ORS 167.017 Compelling Prostitution; ORS 468.951 Environmental Endangerment; ORS 475.984 Causing Another to Ingest a Controlled Substance as defined in Crime Categories 8 and 9 (OAR 213-019-0007 and 0008); ORS 475.986 Unlawful Administration of a Controlled Substance as defined in Crime Categories 5, 8, and 9 (OAR 213-019-0007, 0008, and 0011); ORS 609.990(3)(b) Maintaining Dangerous Dog; ORS 811.705 Hit and Run Vehicle (Injury); ORS 813.010, Felony Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); ORS 830.475(2) Hit and Run Boat; 2007 Oregon Laws Ch 681 Purchase or Sale of a Body Part for Transplantation or Therapy, Alteration of a Document of Gift; 2007 Oregon Laws Ch 811 Subjecting Another Person to Involuntary Servitude I and II, Trafficking in Persons; 2007 Oregon Laws Ch 867 Aggravated Vehicular Homicide; 2007 Oregon Laws Ch 869 Luring a Minor; 2007 Oregon Laws Ch 876 Online Sexual Corruption of a Child I and II; and attempts or solicitations to commit any Class A or Class B person felonies as defined herein.

(15) "Person Class A misdemeanors" are in numerical statutory order: ORS 162.315 Resisting Arrest; ORS 163.160 Assault IV; ORS 163.187 Strangulation; ORS 163.190 Menacing; ORS 163.195 Recklessly Endanger Another; ORS 163.200 Criminal Mistreatment II; ORS 163.212 Use of Stun Gun, Tear Gas, Mace II; ORS 163.415 Sexual Abuse III; ORS 163.454 Custodial Sexual Misconduct in the Second Degree; ORS 163.465, Public Indecency; ORS 163.467 Private Indecency; ORS 163.476 Unlawfully Being in a Location Where Children Regularly Congregate; ORS 163.545 Child Neglect II; ORS 163.575 Endanger Welfare of Minor; ORS 163.687 Encouraging Child Sex Abuse III; ORS 163.700 Invasion of Personal Privacy; ORS 163.709 Unlawfully Directing a Laser Pointer; ORS 163.732(1) Stalking; ORS 163.750(1) Violating Court's Stalking Order;

ADMINISTRATIVE RULES

ORS 165.572 Interfering with Making a Police Report; ORS 166.065(4) Harassment/Offensive Sexual Contact; ORS 166.155 Intimidation II; ORS 166.385(2) Misdemeanor Possession of a Hoax Destructive Device; ORS 475.986(1)(d) Unlawful Administration of a Controlled Substance; ORS 609.990(3)(a) Maintaining Dangerous Dog; ORS 813.010, Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); 2007 Oregon Laws Ch 869 Furnishing Sexually Explicit Material to a Child; and attempts or solicitations to commit any Class C person felonies as defined in section (14) of this rule.

(16) "Presumptive sentence" means the sentence provided in a grid block for an offender classified in that grid block by the combined effect of the crime seriousness ranking of the current crime of conviction and the offender's criminal history or a sentence designated as a presumptive sentence by statute.

(17) "Primary offense" means the offense of conviction with the highest crime seriousness ranking. If more than one offense of conviction is classified in the same crime category, the sentencing judge shall designate which offense is the primary offense.

(18) "Supervisory agent" means the local community corrections agency responsible for supervising the offender.

(19) "Supervisory authority" means the state and local corrections agency or official designated in each county by that county's Board of County Commissioners or county court to operate corrections supervision services, custodial facilities or both.

(20) "Straight jail" means a sentence of jail imposed instead of a presumptive probationary sentence that is not followed by a term of post-prison supervision defined in OAR 213-005-0002.

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

Stat. Auth.: ORS 137.667 - 137.669, 475.986, 475.998 2001 OL Ch. 387 & 2003 OL Ch. 453
Stats. Implemented: ORS 137.667 - 137.669, 2001 OL Ch. 387, 510, 635, 828, 857, 884 & 2003 OL Ch. 453, 577 & 2007 OL Ch. 681, 811, 867, 869, 876
Hist.: SSGB 2-1988, f. 12-30-88, cert. ef. 9-1-89; SSGB 1-1989, f. 5-25-89, cert. ef. 9-1-89; SSGB 2-1993, f. 10-28-93, cert. ef. 11-1-93; CJC 2-1995, f. & cert. ef. 11-2-95; CJC 1-1996, f. 3-6-96, cert. ef. 3-8-96, Renumbered from 253-003-0001; CJC 3-1997, f. 10-29-97, cert. ef. 11-1-97; CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 1-2009(Temp), f. 3-24-09, cert. ef. 1-1-10 thru 6-29-10

Rule Caption: Amends Oregon sentencing guidelines to change animal abuse classifications.

Adm. Order No.: CJC 2-2009(Temp)

Filed with Sec. of State: 3-24-2009

Certified to be Effective: 1-1-10 thru 6-29-10

Notice Publication Date:

Rules Amended: 213-003-0001, 213-017-0004, 213-017-0006, 213-017-0009

Subject: Under ORS 137.667(2), the Criminal Justice Commission may adopt changes to the sentencing guidelines. Currently the offenses of Felony Animal abuse I (ORS 167.320(4)) and Aggravated Animal Abuse I (ORS 137.332) are classified at Crime Category 3 of the Crime Seriousness Scale. OAR 213-017-0009. This rule changes the classification of Felony Animal abuse I to a Crime Category 6, and changes the classification of Aggravated Animal abuse I to a Crime Category 8. The rule change also changes the definition of "person felony" in OAR 213-003-0001 to include both Felony Animal Abuse I and Aggravated Animal Abuse I.

Rules Coordinator: Craig Prins—(503) 378-4830

213-003-0001

Definitions

As used in these rules:

(1) "Bench probation" means a probationary sentence, which directs the probationer to remain under the supervision and control of the sentencing judge.

(2) "Board" means the State Board of Parole and Post-Prison Supervision.

(3) "Correctional supervision status" means any form of incarcerative or non-incarcerative supervision which is served by an offender as part of a sentence for a criminal conviction.

(4) "Department" means the Department of Corrections.

(5) "Departure" means a sentence, except an optional probationary sentence, which is inconsistent with the presumptive sentence for an offender.

(6) "Dispositional departure" means a sentence which imposes probation when the presumptive sentence is prison or prison when the pre-

sumptive sentence is probation. An optional probationary sentence is not a dispositional departure.

(7) "Dispositional line" means the solid black line on the Sentencing Guidelines Grid (Appendix 1) which separates the grid blocks in which the presumptive sentence is a term of imprisonment and post-prison supervision from the grid blocks in which the presumptive sentence is probation which may include local custodial sanctions. [Appendix not included. See ED. NOTE.]

(8) "Durational departure" means a sentence which is inconsistent with the presumptive sentence as to term of incarceration, term of supervised probation or number of sanction units which may be imposed as a condition of probation.

(9) "Grid" means the Sentencing Guidelines Grid set forth as Appendix 1. [Appendix not included. See ED. NOTE.]

(10) "Grid block" means a box on the grid formed by the intersection of the crime seriousness ranking of a current crime of conviction and an offender's criminal history classification.

(11) "Juvenile adjudication" means a formal adjudication or finding by a court that the juvenile has committed an act, which, if committed by an adult, would be punishable as a felony.

(12) "Non-person felonies" are any felonies not defined as a person felony in section (14) of this rule.

(13) "Optional probationary sentence" means any probationary sentence imposed pursuant to OAR 213-005-0006.

(14) "Person felonies" are in numerical statutory order: ORS 162.165 Escape I; ORS 162.185 Supplying Contraband as defined in Crime Categories 6 and 7 (OAR 213-018-0070(1) and (2)); ORS 163.095 Aggravated Murder; ORS 163.115 Murder; ORS 163.115 Felony Murder; ORS 163.118 Manslaughter I; ORS 163.125 Manslaughter II; ORS 163.145 Negligent Homicide; ORS 163.160(3) Felony Domestic Assault; ORS 163.165 Assault III; ORS 163.175 Assault II; ORS 163.185 Assault I; ORS 163.205 Criminal Mistreatment I; ORS 163.207 Female Genital Mutilation; ORS 163.208 Assaulting a Public Safety Officer; ORS 163.213 Use of Stun Gun, Tear Gas, Mace I; ORS 163.225 Kidnapping II; ORS 163.235 Kidnapping I; ORS 163.275 Coercion as defined in Crime Category 7 (OAR 213-018-0035(1)); ORS 163.355 Rape III; ORS 163.365 Rape II; ORS 163.375 Rape I; ORS 163.385 Sodomy III; ORS 163.395 Sodomy II; ORS 163.405 Sodomy I; ORS 163.408 Sexual Penetration II; ORS 163.411 Sexual Penetration I; ORS 163.425 Sexual Abuse II; ORS 163.427 Sexual Abuse I; ORS 163.465 Felony Public Indecency; ORS 163.479 Unlawful Contact with a Child; ORS 163.452 Custodial Sexual Misconduct in the First Degree; ORS 163.525 Incest; ORS 163.535 Abandon Child; ORS 163.537 Buying/Selling Custody of a Minor; ORS 163.547 Child Neglect I; ORS 163.670 Using Child In Display of Sexual Conduct; ORS 163.684 Encouraging Child Sex Abuse I; ORS 163.686 Encouraging Child Sex Abuse II; ORS 163.688, Possession of Material Depicting Sexually Explicit Conduct of Child I; ORS 163.689, Possession of Material Depicting Sexually Explicit Conduct of Child II; ORS 163.732 Stalking; ORS 163.750 Violation of Court's Stalking Order; ORS 164.075 Theft by Extortion as defined in Crime Category 7 (OAR 213-018-0075(1)); ORS 164.225 Burglary I as defined in Crime Categories 8 and 9 (OAR 213-018-0025(1) and (2)); ORS 164.325 Arson I; ORS 164.395 Robbery III; ORS 164.405 Robbery II; ORS 164.415 Robbery I; ORS 164.877(3) Tree Spiking (Injury); ORS 166.087 Abuse of Corpse I; ORS 166.165 Intimidation I; ORS 166.220 Unlawful Use of a Weapon; ORS 166.275 Inmate In Possession of Weapon; ORS 166.385(3), Felony Possession of a Hoax Destructive Device; ORS 166.643 Unlawful Possession of Soft Body Armor as defined in Crime Category 6 (OAR 213-018-0090(1)); ORS 167.012 Promoting Prostitution; ORS 167.017 Compelling Prostitution; ORS 167.320(4) Felony Animal Abuse I; ORS 167.322 Aggravated Animal Abuse I; ORS 468.951 Environmental Endangerment; ORS 475.984 Causing Another to Ingest a Controlled Substance as defined in Crime Categories 8 and 9 (OAR 213-019-0007 and 0008); ORS 475.986 Unlawful Administration of a Controlled Substance as defined in Crime Categories 5, 8, and 9 (OAR 213-019-0007, 0008, and 0011); ORS 609.990(3)(b) Maintaining Dangerous Dog; ORS 811.705 Hit and Run Vehicle (Injury); ORS 813.010, Felony Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); ORS 830.475(2) Hit and Run Boat; 2007 Oregon Laws Ch 681 Purchase or Sale of a Body Part for Transplantation or Therapy, Alteration of a Document of Gift; 2007 Oregon Laws Ch 811 Subjecting Another Person to Involuntary Servitude I and II, Trafficking in Persons; 2007 Oregon Laws Ch 867 Aggravated Vehicular Homicide; 2007 Oregon Laws Ch 869 Luring a Minor; 2007 Oregon Laws Ch 876 Online Sexual Corruption of a Child I

ADMINISTRATIVE RULES

and II; and attempts or solicitations to commit any Class A or Class B person felonies as defined herein.

(15) "Person Class A misdemeanors" are in numerical statutory order: ORS 162.315 Resisting Arrest; ORS 163.160 Assault IV; ORS 163.187 Strangulation; ORS 163.190 Menacing; ORS 163.195 Recklessly Endanger Another; ORS 163.200 Criminal Mistreatment II; ORS 163.212 Use of Stun Gun, Tear Gas, Mace II; ORS 163.415 Sexual Abuse III; ORS 163.454 Custodial Sexual Misconduct in the Second Degree; ORS 163.465, Public Indecency; ORS 163.467 Private Indecency; ORS 163.476 Unlawfully Being in a Location Where Children Regularly Congregate; ORS 163.545 Child Neglect II; ORS 163.575 Endanger Welfare of Minor; ORS 163.687 Encouraging Child Sex Abuse III; ORS 163.700 Invasion of Personal Privacy; ORS 163.709 Unlawfully Directing a Laser Pointer; ORS 163.732(1) Stalking; ORS 163.750(1) Violating Court's Stalking Order; ORS 165.572 Interfering with Making a Police Report; ORS 166.065(4) Harassment/Offensive Sexual Contact; ORS 166.155 Intimidation II; ORS 166.385(2) Misdemeanor Possession of a Hoax Destructive Device; ORS 475.986(1)(d) Unlawful Administration of a Controlled Substance; ORS 609.990(3)(a) Maintaining Dangerous Dog; ORS 813.010, Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); 2007 Oregon Laws Ch 869 Furnishing Sexually Explicit Material to a Child; and attempts or solicitations to commit any Class C person felonies as defined in section (14) of this rule.

(16) "Presumptive sentence" means the sentence provided in a grid block for an offender classified in that grid block by the combined effect of the crime seriousness ranking of the current crime of conviction and the offender's criminal history or a sentence designated as a presumptive sentence by statute.

(17) "Primary offense" means the offense of conviction with the highest crime seriousness ranking. If more than one offense of conviction is classified in the same crime category, the sentencing judge shall designate which offense is the primary offense.

(18) "Supervisory agent" means the local community corrections agency responsible for supervising the offender.

(19) "Supervisory authority" means the state and local corrections agency or official designated in each county by that county's Board of County Commissioners or county court to operate corrections supervision services, custodial facilities or both.

(20) "Straight jail" means a sentence of jail imposed instead of a presumptive probationary sentence that is not followed by a term of post-prison supervision defined in.

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

Stat. Auth.: ORS 137.667, 475.986, 475.998 & 2003 OL Ch. 453

Stats. Implemented: ORS 137.667 - 137.669, 2001 OL Ch. 387, 510, 635, 828, 857, 884 & 2003 OL Ch. 453, 577 & 2007 OL Ch. 681, 811, 867, 869, 876

Hist.: SSGB 2-1988, f. 12-30-88, cert. ef. 9-1-89; SSGB 1-1989, f. 5-25-89, cert. ef. 9-1-89; SSGB 2-1993, f. 10-28-93, cert. ef. 11-1-93; CJC 2-1995, f. & cert. ef. 11-2-95; CJC 1-1996, f. 3-6-96, cert. ef. 3-8-96, Renumbered from 253-003-0001; CJC 3-1997, f. 10-29-97, cert. ef. 11-1-97; CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 1-2009(Temp), f. 3-24-09, cert. ef. 1-1-10 thru 6-29-10; CJC 2-2009(Temp), f. 3-24-09, cert. ef. 1-1-10 thru 6-29-10

213-017-0004

Crime Category 8

The following offenses are classified at crime category 8 on the Crime Seriousness Scale:

- (1) AGGRAVATED DRUG OFFENSES (See division 19).
- (2) ORS 163.125 — MANSLAUGHTER II — (B). (If not categorized at CC 9.)
- (3) ORS 163.145 — NEGLIGENT HOMICIDE — (B). (If not categorized at CC 9.)
- (4) ORS 163.207 — FEMALE GENITAL MUTILATION — (B).
- (5) ORS 163.365 — RAPE II — (B).
- (6) ORS 163.395 — SODOMY II — (B).
- (7) ORS 163.408 — SEXUAL PENETRATION II — (B).
- (8) ORS 163.427 — SEXUAL ABUSE I — (B).
- (9) ORS 163.537 — BUYING/SELLING THE CUSTODY OF A MINOR — (B). (If the conduct is likely to endanger the health or welfare of the child, otherwise CC 5).
- (10) ORS 163.670 — USING CHILD IN DISPLAY OF SEXUAL CONDUCT — (A).
- (11) ORS 163.684 — ENCOURAGING CHILD SEX ABUSE I — (B).
- (12) ORS 163.732 — STALKING — (C).
- (13) ORS 163.750 — VIOLATE COURT STALKING ORDER — (C).
- (14) ORS 164.225 — BURGLARY I — (A).

(If offender did not cause, threaten or attempt physical injury and was not armed with a deadly weapon (CC 9) but the offense was committed while the dwelling was occupied; otherwise CC 7.)

(15) ORS 164.325 — ARSON I — (A).

(If the offense did not represent a threat of serious physical injury (CC 10) and economic loss is \$25,000 or more but less than \$50,000; otherwise CC 9 or CC 7.)

(16) ORS 164.877(3) — TREE SPIKING-INJURY — (B).

(17) ORS 166.275 — INMATE POSSESSION OF WEAPON — (A). (If firearm, otherwise CC 7.)

(18) ORS 167.012 — PROMOTING PROSTITUTION — (C).

(19) ORS 167.017 — COMPELLING PROSTITUTION — (B).

(20) ORS 167.262 — USING A MINOR IN CONTROLLED SUBSTANCE OFFENSE — (A).

(CC 4 if minor less than 3 yrs. younger than offender).

(21) ORS 167.322 — AGGRAVATED ANIMAL ABUSE I — (C).

(22) ORS 811.705 — HIT & RUN VEHICLE (DEATH/SERIOUS INJURY) — (B).

(23) 2007 Oregon Laws Ch 876 — ONLINE SEXUAL CORRUPTION OF A CHILD I — (B).

Stat. Auth.: ORS 137.667, 811.707 & 2003 OL Ch. 453

Stats. Implemented: ORS 137.667 - 137.669, 811.707 & 2003 OL Ch. 453, 815, & 2007 OL Ch. 876

Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 2-2009(Temp), f. 3-24-09, cert. ef. 1-1-10 thru 6-29-10

213-017-0006

Crime Category 6

The following offenses are classified at crime category 6 on the Crime Seriousness Scale:

- (1) Chapter 59 — BLUE SKY LAWS & SECURITIES LAWS* — (C).
- (2) MAJOR DRUG OFFENSES (See division 19.)
- (3) ORS 162.015 — BRIBERY — (B).
- (4) ORS 162.025 — BRIBE RECEIVING — (B).
- (5) ORS 162.065 — PERJURY — (C).
- (6) ORS 162.117 — PUBLIC INVESTMENT FRAUD — (B).
- (7) ORS 162.155 — ESCAPE II — (C).
- (8) ORS 162.185 — SUPPLYING CONTRABAND — (C). (The contraband involves a dangerous weapon not a firearm CC 7; Otherwise CC 4 or 5.)
- (9) ORS 162.265 — BRIBING A WITNESS — (C).
- (10) ORS 162.275 — BRIBE RECEIVING BY WITNESS — (C).
- (11) ORS 162.285 — TAMPERING W/ WITNESS — (C).
- (12) ORS 162.325 — HINDERING PROSECUTION — (C).
- (13) ORS 163.160(3) — FELONY DOMESTIC ASSAULT — (C).
- (14) ORS 163.165 — ASSAULT III — (C).
- (15) ORS 163.208 — ASSAULT OF A PUBLIC SAFETY OFFICER — (C).
- (16) ORS 163.213 — USE OF A STUN GUN, TEAR GAS, MACE I — (C).
- (17) ORS 163.257 — CUSTODIAL INTERFERENCE I — (C).
- (18) ORS 163.264 — SUBJECTING ANOTHER PERSON TO INVOLUNTARY SERVITUDE I — (B). (If offender physically restrained or threatened to physically restrain a person; otherwise CC 9.)
- (19) ORS 163.275 — COERCION — (C). (No threat of physical injury; otherwise CC 7.)
- (20) ORS 163.355 — RAPE III — (C).
- (21) ORS 163.385 — SODOMY III — (C).
- (22) ORS 163.432 — ONLINE SEXUAL CORRUPTION OF A CHILD II — (C).
- (23) ORS 163.465 — FELONY PUBLIC INDECENCY — (C).
- (24) ORS 163.525 — INCEST — (C). (If one of the participants is under the age of 18; otherwise CC 1.)
- (25) ORS 163.547 — CHILD NEGLECT IN THE FIRST DEGREE — (B).
- (26) ORS 163.688 — POSSESSION OF MATERIAL DEPICTING SEX. EXPLICIT CONDUCT OF A CHILD I — (B).
- (27) ORS 164.055 — THEFT I* — (C).
- (28) ORS 164.057 — AGGRAVATED THEFT — (B). (Economic loss was greater than \$50,000; otherwise CC 5.)
- (29) ORS 164.065 — THEFT OF LOST/MISLAID PROPERTY * — (C).
- (30) ORS 164.075 — THEFT BY EXTORTION* — (B).
- (31) ORS 164.085 — THEFT BY DECEPTION* — (C).
- (32) ORS 164.125 — THEFT OF SERVICES* — (C).
- (33) ORS 164.135 — UNAUTHORIZED USE OF VEHICLE* — (C).

ADMINISTRATIVE RULES

(34) ORS 164.138 — CRIMINAL POSSESSION OF A RENTED OR LEASED MOTOR VEHICLE* — (C).

(35) ORS 164.140(4) — POSSESSION OF RENTED PROPERTY* — (C).

(36) ORS 164.162 — MAIL THEFT OR RECEIPT OF STOLEN MAIL — (C).

(37) ORS 164.215 — BURGLARY II* — (C).

(38) ORS 164.315 — ARSON II* — (C).

(39) ORS 164.365 — CRIMINAL MISCHIEF I* — (C).

(40) ORS 164.377 — COMPUTER FRAUD (LOTTERY)* — (C).

(41) ORS 164.377(3) — COMPUTER CRIME* — (C).

(42) ORS 164.868 — UNLAWFUL LABEL SOUND RECORDING* — (C).

(43) ORS 164.869 — UNLAWFUL RECORD LIVE PERFORMANCE* — (C).

(44) ORS 164.872 — UNLAWFUL LABEL VIDEOTAPE* — (C).

(45) ORS 164.877(1) — TREE-SPIKING — (C).

(46) ORS 164.889 — INTERFERE W/ AGRICULTURAL RESEARCH* — (C).

(47) ORS 165.013 — FORGERY I* — (C).

(48) ORS 165.022 — CRIMINAL POSSESSION OF FORGED INSTRUMENT I* — (C).

(49) ORS 165.055(3)(A) — CREDIT CARD FRAUD* — (C).

(50) ORS 165.065 — NEGOTIATING BAD CHECKS* — (C).

(51) ORS 165.074 — UNLAWFUL FACTORING PAYMENT CARD * — (C).

(52) ORS 165.692 — FILING A FALSE CLAIM FOR HEALTH CARE PAYMENT — (C).

(53) ORS 165.800 — IDENTITY THEFT* — (C).

(54) ORS 166.015 — RIOT — (C).

(55) ORS 166.165 — INTIMIDATION I — (C).

(56) ORS 166.220 — UNLAWFUL USE OF WEAPON — (C).

(57) ORS 166.270 — EX-CON IN POSSESSION OF FIREARM — (C).

(58) ORS 166.272 — UNLAWFUL POSSESSION OF FIREARM — (B).

(59) ORS 166.370(1) — INTENT POSS. FIREARM OR DANG. WEAP. IN and (5)(a) — PUBLIC BUILDING; DISCHARGE FIREARM IN SCHOOL — (C).

(60) ORS 166.382 — POSSESSION OF DESTRUCTIVE DEVICE — (C).

(61) ORS 166.384 — UNLAWFUL MANUFACTURE OF DESTRUCTIVE DEVICE — (C).

(62) ORS 166.410 — ILLEGAL MANUFACTURE, IMPORTATION OR TRANSFER OF FIREARMS — (B).

(63) ORS 166.643 — UNLAWFUL POSSESS SOFT BODY ARMOR — (B).

(If offender committed or was attempting to commit a person felony or misdemeanor involving violence, otherwise CC 4.)

(64) ORS 167.057 — LURING A MINOR — (C).

(65) ORS 167.320(4) — FELONY ANIMAL ABUSE — (C).

(66) ORS 167.339 — ASSAULT OF A LAW ENFORCEMENT ANIMAL — (C).

(67) ORS 167.388 — INTERFERE LIVESTOCK PRODUCTION* — (C).

(68) ORS 647.145 — TRADEMARK COUNTERFEITING II* — (C).

(69) ORS 647.150 — TRADEMARK COUNTERFEITING I* — (B).

(70) ORS 811.182 — DRIVING WHILE SUSPENDED/REVOKED — (C).

(71) ORS 811.705 — HIT & RUN VEHICLE (INJURY) — (C).

(72) ORS 813.010 — FELONY DRIVING UNDER THE INFLUENCE — (C).

(73) ORS 819.300 — POSSESSION OF STOLEN VEHICLE* — (C).

(74) ORS 819.310 — TRAFFICKING IN STOLEN VEHICLES — (C).

(If part of an organized operation or if value of property taken from one or more victims was greater than \$50,000; otherwise CC 5.)

(75) ORS 830.475 — HIT AND RUN BOAT — (C).

* Property offenses marked with an asterisk shall be ranked at Crime Category 6 if the value of the property stolen or destroyed was \$50,000 or more, excluding the theft of a motor vehicle used primarily for personal rather than commercial transportation. Stat. Auth.: ORS 137.667 & 2003 OL Ch. 453

Stats. Implemented: ORS 137.667 - 137.669, 2001 OL Ch. 147, 635 & 828 2003 2001 OL Ch. 383, 453, 543, 2005 OL Ch. 708, 2007 OL Ch. 684, 811, 869, & 876, SB 1087 (2008), Ballot Measure 57 (2008)

Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2005(Temp), f. & cert. ef. 10-14-05 thru 4-12-06; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 2-2008(Temp), f. 12-31-08, cert. ef. 1-1-09 thru 6-29-09; CJC 2-2009(Temp), f. 3-24-09, cert. ef. 1-1-10 thru 6-29-10

213-017-0009

Crime Category 3

The following offenses are classified at crime category 3 on the Crime Seriousness Scale:

(1) ORS Chapter 59 — BLUE SKY LAWS & SECURITIES LAWS* — (C).

(2) ORS 162.305(2)(b) — TAMPER LOTTERY RECORDS — (C).

(3) ORS 162.355 — SIMULATING LEGAL PROCESS — (C).

(4) ORS 162.365(3)(b) — CRIMINAL IMPERSONATION OF PEACE OFFICER, JUDGE OR JUSTICE OF THE PEACE — (C).

(5) ORS 162.367 — FALSE LAW ENFORCEMENT ID — (C).

(6) ORS 163.535 — ABANDON CHILD — (C). (If not ranked at CC 7.)

(7) ORS 163.555 — CRIMINAL NONSUPPORT — (C).

(8) ORS 164.055 — THEFT I* — (C).

(9) ORS 164.065 — THEFT OF LOST/MISLAID PROPERTY* — (C).

(10) ORS 164.075 — THEFT BY EXTORTION* — (B).

(11) ORS 164.085 — THEFT BY DECEPTION* — (C).

(12) ORS 164.095 — THEFT BY RECEIVING — (C). (If not ranked at CC 5.)

(13) ORS 164.125 — THEFT OF SERVICES* — (C).

(14) ORS 164.135 — UNAUTHORIZED USE OF VEHICLE * — (C).

(15) ORS 164.140(4) — POSSESSION OF RENTED PROPERTY * — (C).

(16) ORS 164.215 — BURGLARY II* — (C).

(17) ORS 164.315 — ARSON II* — (C).

(18) ORS 164.365 — CRIMINAL MISCHIEF I* — (C).

(19) ORS 164.377(5) — COMPUTER FRAUD (LOTTERY)* — (C).

(20) ORS 164.377(5) — COMPUTER CRIME* — (C).

(21) ORS 164.868 — UNLAWFUL LABEL SOUND RECORDING* — (C).

(22) ORS 164.869 — UNLAWFUL RECORD LIVE PERFORMANCE* — (C).

(23) ORS 164.872 — UNLAWFUL LABEL VIDEOTAPE* — (C).

(24) ORS 164.889 — INTERFERE W/ AGRICULTURAL RESEARCH* — (C).

(25) ORS 165.013 — FORGERY I* — (C).

(26) ORS 165.022 — CRIMINAL POSSESSION OF FORGED INSTRUMENT I* — (C).

(27) ORS 165.055(4)(B) — CREDIT CARD FRAUD* — (C).

(28) ORS 165.065 — NEGOTIATING BAD CHECKS* — (C).

(29) ORS 165.070 — POSSESSION OF FAKE COMMUNICATIONS DEVICE — (C).

(30) ORS 165.074 — UNLAWFUL FACTORING PAYMENT CARD * — (C).

(31) ORS 165.800 — IDENTITY THEFT* — (C).

(32) ORS 166.085 — ABUSE OF CORPSE II — (C).

(33) ORS 167.062(4) — PROMOTING LIVE SEX SHOW — (C).

(34) ORS 167.137 — UNLAWFUL GAMBLING I — (C).

(35) ORS 167.137 — POSSESSION OF GAMBLING RECORDS I — (C).

(36) ORS 167.388 — INTERFERE LIVESTOCK PRODUCTION* — (C).

(37) ORS 647.145 — TRADEMARK COUNTERFEITING II* — (C).

(38) ORS 647.150 — TRADEMARK COUNTERFEITING I* — (B).

(39) ORS 819.300 — POSSESSION OF STOLEN VEHICLE* — (C).

(40) 2003 Oregon Laws Ch 804 UNLAWFUL DISTRIB. CIGARETTES — (C) <60,000.

(41) 2003 Oregon Laws Ch 804 — UNLAWFUL DISTRIB. TOBACCO PRODUCTS — (C).

(42) 2003 Oregon Laws Ch 550 — ORGANIZE SPEED RACING EVENT — (C).

(43) 2003 Oregon Laws Ch 632 — UNLAWFUL POSSESSION FICTITIOUS ID — (C).

(44) 2003 Oregon Laws Ch 633 — UNLAWFUL PRODUCTION ODOT ID CARDS — (C).

ADMINISTRATIVE RULES

(45) 2007 Oregon Laws Ch 684 — CRIMINAL POSSESSION OF A RENTED OR LEASED MOTOR VEHICLE* — (C).

* Property offenses marked with an asterisk shall be ranked at Crime Category 2 if the value of the property stolen or destroyed was less than \$1,000.

Stat. Auth.: ORS 137.667, 2003 OL Ch. 453

Stats. Implemented: ORS 137.667 - 137.669, 164.889, 166.642, 2003 OL Ch. 383, 453, 550, 632, 633, & 2007 OL Ch. 684

Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 2-2009(Temp), f. 3-24-09, cert. ef. 1-1-10 thru 6-29-10

**Oregon Health Licensing Agency,
Board of Licensed Direct Entry Midwifery
Chapter 332**

Rule Caption: Amend continuing education requirements to align with 2 year renewal cycle effective October 1, 2008.

Adm. Order No.: DEM 1-2009

Filed with Sec. of State: 3-31-2009

Certified to be Effective: 4-1-09

Notice Publication Date: 10-1-2008

Rules Amended: 332-015-0070, 332-020-0010

Subject: Amend continuing education requirements to align with 2 year renewal cycle and change Legend Drugs and Devices continuing education to a 4 year requirement. OHLA is streamlining agency business practices and efficiencies by moving to a 2 year renewal and continuing education requirements.

Rules Coordinator: Samantha Patnode—(503) 373-1917

332-015-0070

Approved Legend Drugs and Devices Prescribed Education

To be granted a license endorsement authorizing access to administer legend drugs and devices an applicant or licensee must successfully complete the *Basic Program Curriculum* consisting of 40 clock hours of instruction in the approved curriculum. Each licensed midwife shall also complete the *Renewal Program* every four years, consisting of 12.5 clock hours of continuing education. The *Basic Program* and the *Renewal Program* must be taught by a MEAC accredited or pre-accredited school, the Oregon Midwifery Council or by an organization authorized by the Board to provide continuing education. A list of approved sources of instruction shall be available from the agency. Both the *Basic Program* and the *Renewal Program* are comprised of theory, hands on practice and skills testing for competency.

(1) The Basic Program consists of:

(a) EIGHT CLOCK HOURS in Pharmacology covering drugs listed in OAR 332-025-0040 and 332-025-0050;

- (A) Mechanism of Pharmacological Action;
- (B) Indications;
- (C) Therapeutic Effects;
- (D) Side Effects/Adverse Reactions;
- (E) Contraindications;
- (F) Incompatibilities/Drug Interactions; and
- (G) Drug administration including:
 - (i) Dosage;
 - (ii) Dosage Form and Packaging;
 - (iii) Routes of Administration;
 - (iv) Onset of Action;
 - (v) Peak Effect; and
 - (vi) Duration of Action.

(b) TWO CLOCK HOURS of administration of medications through injection, which includes:

- (A) Universal precautions including the use and disposal of sharps;
- (B) Equipment including:
 - (i) Needles;
 - (ii) Filter Needles (for use with glass ampules);
 - (iii) Syringes;
 - (iv) Skin surface disinfectants; and
 - (v) Medication containers (ampules, multi- and single-use vials).
- (C) Appropriate injection sites;
- (D) Procedures for drawing up and administering drugs;
- (E) Special case: Administration of Medications Intravenously; and
- (F) Care of equipment.

(c) SIXTEEN CLOCK HOURS in advanced treatment of shock, which includes:

- (A) Theory of shock;
- (B) Non-invasive treatment of shock;

- (C) Intravenous fluid therapy;
- (D) Purpose of IV fluid therapy;
- (E) Equipment;
- (F) Appropriate sites;
- (G) Procedure;
- (H) Rate of administration; and
- (I) Care of equipment.

(d) SIX CLOCK HOURS in Maternal and neonatal resuscitation including:

- (A) Basic life support techniques;
 - (B) Cardio-Pulmonary Resuscitation (CPR);
 - (C) Use of oxygen; and
 - (D) Positive pressure ventilation (bag, valve, mask).
- (e) EIGHT CLOCK HOURS in suturing including:
- (A) Assessing the degree of damage for repair;
 - (B) Use of local anesthetic;
 - (C) Equipment including:
 - (i) Suture;
 - (ii) Needles; and
 - (iii) Instruments.
 - (D) Use of needle holder and working with curved needle;
 - (E) Knot tying (Instrument knot);
 - (F) Basic stitching techniques including:
 - (i) Interrupted;
 - (ii) Basting;
 - (iii) Lock Blanket; and
 - (iv) Running mattress.
 - (G) Repairing the simple first-degree tear; and
 - (H) Repairing a second-degree tear.

(2) The Renewal Program consists of 12.5 clock hours drawn for the subjects covered in the Basic Program.

(3) The requirements in subsection (1), for the *Basic Program Curriculum* consisting of 40 clock hours of instruction in the approved curriculum, must be completed within the four years immediately before the date of application for licensed endorsement in legend drugs and devices.

(4) Authority for licensed direct entry midwives to access and administer legend drugs and devices is contingent upon meeting continuing education requirements as a condition of license renewal. Refer to OAR 332-020-0010.

(5) A copy of Board approved curriculum objectives will be retained on file at the agency and made available upon receipt of a written request and payment of an administrative fee for acquiring public records. Refer to OAR 331-010-0030.

Stat. Auth.: ORS 676.615, 687.485 & 687.493

Stats. Implemented: ORS 676.615, 687.485 & 687.493

Hist.: DEM 1-2001(Temp), f. & cert. ef. 10-1-01 thru 3-29-02; DEM 1-2002, f. 2-25-02 cert. ef. 3-1-02; DEM 1-2004, f. 6-29-04, cert. ef. 7-1-04; DEM 2-2008(Temp), f. 9-15-08 cert. ef. 10-1-08 thru 3-30-09; DEM 1-2009, f. 3-31-09, cert. ef. 4-1-09

332-020-0010

Continuing Education

(1)(a) **HOURLY REQUIREMENTS:** To qualify for license renewal a direct entry midwife must complete approved continuing education every two years from the date of initial licensure or as specified for issuance, renewal and reactivation of the license. The number of required hours is as follows:

(b) Thirty (30) clock hours pertaining to scope of practice issues, standards of midwifery care, the law and rules regulating the practice of direct entry midwifery, science, health care professional concerns such as infection control or medical emergencies, ethics, and business practices. Infection control, as used in this rule section, includes but is not limited to appropriate protocols for labeling, handling and disposing of bio-hazard products, including sharps and medical waste; exposure to blood-borne pathogens and prevention of cross-contamination through appropriate sterilization, disinfection, hand-washing and gloving standards, and correct disposal of articles/items in contact with blood and/or bodily fluids.

(2)(a) **HOURLY REQUIREMENTS:** To qualify for license renewal a direct entry midwife must complete approved continuing education every four years from the date of initial licensure or as specified for issuance, renewal and reactivation of the endorsement for administration of legend drugs and devices. The number of required hours is as follows:

(b) Twelve and one half (12.5) clock hours pertaining to Board approved legend drugs and devices as referenced in OAR 332-025-0040, 332-025-0050, and 332-025-0060, which includes current information on approved drugs, administration procedures, treatment of shock including IV therapy, maternal and neonatal resuscitation and suturing. Education must consist of theory, hands on practice, and skills testing for competency

ADMINISTRATIVE RULES

assurance. The 12.5 clock hours of education applies after completion of the initial approved 40 course hours for license endorsement to administer legend drugs and devices.

(3) **CONTINUING EDUCATION PROVIDERS/SPONSORS:** Continuing education includes attendance or participation at an instructional program presented, recognized, or under the auspices of any Board approved permanently organized institution or professional organization or association:

(4) **CONTINUING EDUCATION PATHWAYS:**

(a) Attendance at lectures, post-secondary school or postgraduate courses, scientific sessions at conventions, courses offered by an approved association or licensed/accredited school, classes or courses offered through an institution such as the American Red Cross, hospitals, health care clinics, correspondence courses or internet courses.

(b) Continuing education relating to subject matter listed in subsection (1)(a) of this rule may be also be obtained through research or teaching (provided that no more than half the required hours be in teaching).

(c) Up to nine clock hours of continuing education relating to subject matter listed in subsection (1)(a) of this rule may be completed through self-study and documented on forms provided by the agency.

(5) **DOCUMENTATION REQUIREMENTS:** Submission to the agency of proof of participation in continuing education is the responsibility of the direct entry midwife. The following provisions specify requirements for documenting completion of continuing education:

(a) Documentation shall include the name of the sponsoring institution, association or organization, title of presentation, description of content, name of instructor or presenter, date, duration in hours, and license or statement of attendance or completion provided by the sponsor.

(b) Documentation verifying completion of all required continuing education shall be accumulated and held by the direct entry midwife for two years following any reporting period, or until notification of audit is received. Continuing education documentation must be available and provided to the agency upon request. Refer to OAR 332-020-0015.

(6) **ADDITIONAL REQUIREMENTS AND PROVISIONS:** In addition to other requirements specified in this rule section, the following provisions apply toward meeting continuing education requirements as a condition of license renewal and reactivation:

(a) A midwife who has attended fewer than five births in the previous year shall be required to take an additional 10 hours of continuing education specific to basic midwifery practice outlined in subsection (1)(a) of this rule.

(b) Failing to obtain the prescribed number of clock hours and/or complete appropriate continuing education content must reapply and meet requirements listed in OAR 332-015-0030.

(c) Hours of continuing education that are obtained in "excess" of the minimum requirements listed in subsection (1)(a) and (b) of this rule will not be carried forward as credit for the subsequent license renewal reporting cycle.

(d) Continuing education is required for renewal even if the direct entry midwife license has been inactive, revoked or suspended during that period.

(7) Notwithstanding subsection (1) of this rule, the agency may adjust the requirements for legend drugs and devices continuing education to coincide with the licensee's current continuing education two year reporting period.

Stat. Auth.: ORS 676.615, 687.425 & 687.485
Stats. Implemented: ORS 676.615, 687.425 & 687.485
Hist.: DEM 1-1993(Temp), f. & cert. ef. 12-22-93; DEM 1-1994, f. & cert. ef. 6-15-94; DEM 1-2001(Temp), f. & cert. ef. 10-1-01 thru 3-29-02; DEM 1-2002, f. 2-25-02 cert. ef. 3-1-02; DEM 1-2004, f. 6-29-04, cert. ef. 7-1-04; DEM 2-2008(Temp), f. 9-15-08 cert. ef. 10-1-08 thru 3-30-09; DEM 1-2009, f. 3-31-09, cert. ef. 4-1-09

.....

Oregon Liquor Control Commission Chapter 845

Rule Caption: Amendments to stipulate control of minor patronage and standardize language with temporary sales license rule.

Adm. Order No.: OLCC 1-2009

Filed with Sec. of State: 3-17-2009

Certified to be Effective: 4-1-09

Notice Publication Date: 1-1-2009

Rules Amended: 845-005-0405, 845-005-0410, 845-005-0415

Subject: These three rules describe the qualifications a Full or Limited On-Premises Sales Licensee must meet for the Commission to approve them for small-scale private catering, large-scale private catering, or applying for the temporary use of their license at another location.

er location. Also described is the process a Winery or Grower Sales Privilege licensee must follow to apply for using the privilege of their license on another premises. The amendments match the changes recently made to Minor Posting and Temporary Sales License rules. Those amendments are: deleting "ongoing business operation" language and replacing it with the limitation that the same applicant at a single location can be issued a temporary license for no more than 31 license days per calendar year; definition of key terms; removing references to the Minor Posting rule and instead clarifying requirements in each temporary event rule regarding plans to control minor patronage; and standardizing rule language with Temporary Sales License and Minor Posting rules.

Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-005-0405

Full or Limited On-Premises Licensee Small-Scale Private Catering

(1) ORS 471.184(1) allows the holder of a Full On-Premises Sales or Limited On-Premises Sales license to serve the alcoholic beverages permitted by the license for on-premises consumption at locations other than the licensee's annually licensed premises when catering small-scale temporary events where the licensee will furnish food and beverage services for 100 or fewer guests of the catering client. This rule refers to this type of catering as small-scale private catering.

(2) Definitions. For this rule:

(a) "Bar" means a counter at which the preparation, pouring, serving, sale, or consumption of alcoholic beverages is the primary activity;

(b) "Food counter" means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale, or consumption of food;

(c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day, or any part of a license day.

(d) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II, or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(e) "Social game" means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

(f) "Video lottery game" means a video lottery game terminal authorized by the Oregon State Lottery. Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.

(3) For purposes of this rule, small-scale private catered events are events where:

(a) There is a contract between a client and the licensee to provide alcohol and food service for a specific number of guests or participants;

(b) The number of guests or participants is 100 or fewer;

(c) The licensee is not the client;

(d) Alcoholic beverage service is only in conjunction with food service; and

(e) The provision of alcohol at the catered event must not be more than one license day's duration unless the event is a closed conference or seminar.

(4) ORS 471.184(1) authorizes the Commission to grant pre-approval to provide the service of small-scale private catering. Applicants must apply in writing using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to beginning the service of small-scale private catering. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceeding under ORS 183.310 to 183.550.

(5) General pre-approval to provide the service of small-scale private catering shall not include any event at a particular location more than one license day per week, unless the event is a closed conference or seminar.

ADMINISTRATIVE RULES

(6) An event that does not qualify as a small-scale private catered event under this rule must be approved as a large-scale private catered event or a temporary use of an annual license event under OAR 845-005-0410.

(7) The licensee's application for pre-approval to provide the service of small-scale private catering shall be made in writing and include:

(a) A written, dated, and signed plan the Commission determines adequately manages:

- (A) All events to prevent problems and violations;
- (B) Patronage by minors as set out in subsection (8) of this rule; and
- (C) Alcohol consumption by adults. An application is not complete if this plan is not approved by the Commission. The Commission may use subsection (4) of this rule to refuse to process any application that is not complete;

(b) Identification of the counties and incorporated cities where the licensee will usually cater events authorized under this section;

(c) Identification of any proposed catering location that is owned or controlled by the licensee;

(d) Menu or sample menu showing type of food service proposed to comply with OAR 845-006-0462; and

(e) Identification of premises proposed to be licensed if the request is for specific future events.

(8) A plan for managing patronage by minors under subsection (7)(a) of this rule must meet the following requirements:

(a) If the catered event will be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation of the minor posting, assigned to that premises, room, or area under the annual license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.

(b) If the catered event will not be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.

(9) Minors are prohibited from the catered licensed premises or portions of the catered licensed premises as follows:

(a) Minors may not sit or stand at a bar; however, minors may sit or stand at a food counter;

(b) Minors may not be in an area where there are video lottery games, social games, or nude entertainment or where such activities are visible;

(c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.

(10) The Commission may deny, cancel or restrict temporary off-premises license use for small-scale private catering for any reason for which the Commission may deny, cancel or restrict a regular license.

(11) The Commission may deny, cancel, or restrict temporary off-premises license use for small-scale private catering if the licensee has a serious violation history at small-scale private catering events within the past 36 months.

(12) Full On-Premises Sales or Limited On-Premises Sales licensees may engage in small-scale private catering without having received general pre-approval if the licensee first has given the Commission specific written notice of each event, which notice is received by the Commission within five calendar days of the event and includes the event date, duration, expected attendance, exact location, and a description of the type of event.

(13) When the Commission approves a written plan under subsection (7)(a) of this rule, the licensee must follow that written plan. Failure to follow that written plan is a Category III violation.

(14) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the small-scale private catering licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.730(1) & (5)

Stats. Implemented: ORS 471.184

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 1-2009, f. 3-17-09, cert. ef. 4-1-09

845-005-0410

Full or Limited On-Premises Licensee Large-Scale Private Catered Events and Temporary Use of an Annual License For Events at Another Location

(1) A person must obtain from the Commission a license or authority to sell alcoholic beverages on premises that the Commission has not licensed. ORS 471.405 establishes a prohibition on the sale of alcoholic

beverages without a license or authority. ORS 471.406 defines sale of alcoholic beverages.

(2) Definitions. For this rule:

(a) "Bar" means a counter at which the preparation, pouring, serving, sale, or consumption of alcoholic beverages is the primary activity;

(b) "Food counter" means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale, or consumption of food;

(c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day, or any part of a license day.

(d) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II, or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(e) "Social game" means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

(f) "Video lottery game" means a video lottery game terminal authorized by the Oregon State Lottery. Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.

(3) ORS 471.184(2) allows the holder of a Full On-Premises Sales or Limited On-Premises Sales license to serve the alcoholic beverages permitted by the license for on-premises consumption at locations other than the licensee's annually licensed premises at large-scale catered events or temporary use of an annual license events after having obtained prior written Commission approval. This rule refers to these types of events as either large-scale private catered events or temporary use of an annual license events.

(4) For purposes of this rule, large-scale private catered events are events, such as weddings, receptions, conferences, company picnics and parties, and company sponsored events, that:

(a) Are not open to the general public. However, a large-scale private event may be open to the general public if the purpose of the event is fund raising for a charitable or nonprofit organization that is registered as such with Oregon's Secretary of State;

(b) Are catered for 101 or more guests or participants;

(c) Have a contract between the client and the licensee to provide alcohol and food service for a specific number of guests or participants;

(d) Have alcoholic beverage service as secondary to and in conjunction with food service at the event;

(e) Have the licensee not as the client; and

(f) Have the provision of alcohol at the catered event be not more than one license day's duration unless the event is a closed conference or seminar.

(5) An event that doesn't qualify as a large-scale private catered event under this rule may be approved as a temporary use of an annual license event under this rule.

(6) For purposes of this rule, temporary use of an annual license events are events at which the licensee:

(a) Does not have, or is not eligible for, pre-approval to provide the service of small-scale private catering as per OAR 845-005-0405; and

(b) Does not have, or is not eligible for, pre-approval to provide the service of large-scale private catering as per this rule.

(7) Application. Applicants for events under this rule must apply in writing using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to beginning the service of large-scale private catering or prior to the date of the temporary use event. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceeding under ORS 183.310 to 183.550.

(8) The Commission may grant pre-approval to provide the service of large-scale private catering for events that meet the requirements of section (4) of this rule. The licensee's application for pre-approval for future large-scale private catered events shall be made in writing and include:

ADMINISTRATIVE RULES

(a) A written, dated, and signed plan the Commission determines adequately manages:

- (A) All events to prevent problems and violations;
- (B) Patronage by minors as set out in subsection (10) of this rule; and
- (C) Alcohol consumption by adults. An application is not complete if this plan is not approved by the Commission. The Commission may use subsection (7) of this rule to refuse to process any application that is not complete;

(b) A brief description of the types of events to be catered;

(c) Identification of the counties and incorporated cities where the licensee will usually cater events authorized under this section; and

(d) Menu or sample menu showing type of food service proposed to comply with OAR 845-006-0462.

(9) The Commission does not grant pre-approval for the temporary use of an annual license for events at another location. The licensee may apply for approval of each temporary use of an annual license event as provided in this section. The licensee's application for the temporary use of an annual license at another location must be in writing and must be on a separate application form for each event. The Commission will not approve more than seven license days on a single application. The Commission may limit approval of any application to a single license day or to any number of license days fewer than seven days. The application must include:

(a) A written, dated, and signed plan the Commission determines adequately manages:

- (A) All events to prevent problems and violations;
- (B) Patronage by minors as set out in subsection (10) of this rule; and
- (C) Alcohol consumption by adults. An application is not complete if this plan is not approved by the Commission. The Commission may use subsection (7) of this rule to refuse to process any application that is not complete;

(b) Identification of all individuals to be employed by the licensee to manage the premises proposed for license authority;

(c) Identification of the premises proposed to be licensed;

(d) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, and proposed hours of operation;

(e) A written proposal showing compliance with the food service standards of OAR 845-006-0462;

(f) The recommendation of the local governing body where the licensed premises will be located; and

(g) Processing fee established by Commission rule.

(10) A plan for managing patronage by minors under subsections (8)(a) and (9)(a) of this rule must meet the following requirements:

(a) If the large-scale catered event premises or temporary use of an annual license premises will be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation of the minor posting, assigned to that premises, room, or area under the annual license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.

(b) If the catered or temporary use of an annual licensed premises will not be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.

(11) Minors are prohibited from the large-scale catered event premises or temporary use of an annual licensed premises or portions of the licensed premises as follows:

(a) Minors may not sit or stand at a bar; however, minors may sit or stand at a food counter;

(b) Minors may not be in an area where there are video lottery games, social games, or nude entertainment or where such activities are visible;

(c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.

(12) The Commission may deny, cancel or restrict temporary off-premises license use for large-scale private catering or temporary use of an annual license for any reason for which the Commission may deny, cancel or restrict a regular license.

(13) The Commission may deny or restrict temporary off-premises license use for large-scale private catering or temporary use of an annual license events if the applicant has a serious violation history within the past 36 months.

(14) The Commission shall limit approval of the temporary use of an annual license to the same applicant at the same location to no more than 31 license days from January 1 to December 31 of each year.

(15) When the Commission approves a written plan under subsections (8)(a) or (9)(a) of this rule, the licensee must follow that written plan. Failure to follow that written plan is a Category III violation.

(16) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the large-scale private catering or temporary use licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.730(1) & (5)

Stats. Implemented: ORS 471.184(2)

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 1-2009, f. 3-17-09, cert. ef. 4-1-09

845-005-0415

Special Event Winery and Special Event Grower Sales Licenses

(1) ORS 471.223 authorizes the Commission to issue a Special Events Winery license to a Winery licensee. The special license may allow the licensee to sell wine, malt beverages and cider allowed to be sold under the annual Winery license at retail for consumption on or off the licensed premises at a location other than that designated as the winery's annually licensed premises.

(2) ORS 471.227 authorizes the Commission to issue a Special Events Grower license to a Grower Sales Privilege licensee. The special license may allow the licensee to sell wine and cider allowed to be sold under the annual Grower Sales Privilege license at retail for consumption on or off the licensed premises at a location other than that designated as the grower's annually licensed premises.

(3) Definitions. For this rule:

(a) "Bar" means a counter at which the preparation, pouring, serving, sale, or consumption of alcoholic beverages is the primary activity;

(b) "Food counter" means a counter in an area in which minors are allowed and at which the primary activity at all times is the preparation, serving, sale, or consumption of food;

(c) "License day" means from 7:00 am until 2:30 am on the succeeding calendar day. The license fee is \$10.00 per license day or any part of a license day.

(d) "Serious violation history" means:

(A) Two or more category III or IIIa administrative violations of any type, or category IV violations involving minors. However, if the circumstances of a violation include aggravation, one violation may be sufficient; or

(B) One category I, II, or IIa administrative violation; or

(C) Two or more crimes or offenses involving liquor laws.

(e) "Social game" means a game other than a lottery, if authorized by a local county or city ordinance pursuant to ORS 167.121, between players in a private business, private club, or place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

(f) "Video lottery game" means a video lottery game terminal authorized by the Oregon State Lottery. Examples include but are not limited to video poker and video slots. Keno monitors are not considered a video lottery game.

(4) The Commission will not approve more than seven license days on a single application. The Commission may limit approval of any application to a single license day or to any number of license days fewer than seven days.

(5) Applicants must apply in writing for a Special Event Winery or Special Event Grower license, using the application form provided by the Commission. The Commission may require additional forms, documents, or information as part of the application. The Commission may refuse to process any application not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate it. Sufficient time is typically one to three weeks prior to the event date. The Commission may give applicants the opportunity to be heard if the Commission refuses to process an application. A hearing under this subsection is not subject to the requirements for contested case proceeding under ORS 183.310 to 183.550.

(6) The application for a special license under this rule shall include:

(a) A written, dated, and signed plan the Commission determines adequately manages:

(A) The event to prevent problems and violations;

(B) Patronage by minors as set out in subsection (7) of this rule; and

(C) Alcohol consumption by adults.

ADMINISTRATIVE RULES

An application is not complete if this plan is not approved by the Commission. The Commission may use subsection (5) of this rule to refuse to process any application that is not complete;

(b) Identification of the individuals to be employed by the licensee to manage the event proposed in the application;

(c) Identification of the premises proposed to be licensed;

(d) Menu and proposal showing compliance with the food service standards of OAR 845-006-0465;

(e) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall and by minors, type of food service to be offered, proposed hours of food service, and proposed hours of operation;

(f) The recommendation in writing of the local governing body where the licensed premises will be located; and

(g) License fees as established by ORS 471.311.

(7) A plan for managing patronage by minors under subsection (6)(a) of this rule must meet the following requirements:

(a) If the special license will be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will follow the minor posting and control plan, including any temporary relaxation of the minor posting, assigned to that premises, room, or area under the annual license. The Commission must also be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises prohibited to minors.

(b) If the special license will not be on any part of a premises, room, or area with an annual license issued by the Commission, the Commission must be convinced that the plan will prevent minors from gaining access to alcoholic beverages and any portion of the licensed premises the Commission prohibits to minors.

(8) Minors are prohibited from the special licensed premises or portions of the licensed premises as follows:

(a) Minors may not sit or stand at a bar; however, minors may sit or stand at a food counter;

(b) Minors may not be in an area where there are video lottery games, social games, or nude entertainment or where such activities are visible;

(c) Minors may not be in an area where the licensee's approved written plan designates that minors will be excluded.

(9) The Commission may deny, cancel or restrict a special license for any reason for which the Commission may deny, cancel or restrict a regular license.

(10) The Commission may deny or restrict a special license if the applicant has a serious violation history at events previously licensed with a special license within the past 36 months.

(11) The Commission shall limit the issuance of a special license to the same applicant at the same location to no more than 31 license days from January 1 to December 31 of each year.

(12) The Commission may refund the special license fee if the application is withdrawn by the applicant or denied by the Commission, or if the event does not take place because of circumstances beyond the licensee's control, or if the Commission determines the applicant does not need a license for the event proposed in the application.

(13) When the Commission approves a written plan under subsection (6)(a) of this rule, the licensee must follow that written plan. Failure to follow that written plan is a Category III violation.

(14) If the licensee fails to prevent minors from gaining access to alcoholic beverages or fails to prevent minors from gaining access to any portion of the licensed premises prohibited to minors, the Commission may immediately prohibit minors from the licensed premises or portion(s) of the premises.

Stat. Auth.: ORS 471, including 471.030, 471.040 & 471.730(1) & (5)

Stats. Implemented: ORS 471.223, 471.227

Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 7-2003(Temp), f. & cert. ef. 5-20-03 thru 11-16-03; OLCC 12-2003, f. 9-23-03, cert. ef. 11-1-03; OLCC 6-2007(Temp), f. & cert. ef. 5-14-07 thru 11-10-07; OLCC 19-2007, f. 9-27-07, cert. ef. 11-11-07; OLCC 1-2009, f. 3-17-09, cert. ef. 4-1-09

Rule Caption: Amendment to clarify the use of statute versus rule for sanctioning violations of age verification.

Adm. Order No.: OLCC 2-2009

Filed with Sec. of State: 3-17-2009

Certified to be Effective: 4-1-09

Notice Publication Date: 1-1-2009

Rules Amended: 845-006-0335

Subject: This rule describes the requirements and responsibilities of licensees and permittees to prevent minors from purchasing and

consuming alcohol on their premises or from being in an area that is prohibited to minors. The purpose of the amendment is to clarify that the Commission may sanction verification of age violations under either the applicable statute (ORS 471.130 and 471.410(2)) or this rule (OAR 845-006-0335), but not under both for the same violation. The amendment also clarifies that the Commission may impose a sanction under more than one section of the rule where there are multiple violations (such as selling to a minor and allowing a minor in a prohibited area.).

Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-006-0335

Age Verification; Minors on Licensed Premises

(1) Age Verification:

(a) ORS 471.130 requires a licensee or permittee to verify the age of a person who wants to buy or be served alcoholic beverages when there is "any reasonable doubt" that the person is at least 21 years old. The Commission requires a licensee or permittee to verify the age of anyone who wants to drink alcoholic beverages, or is in an area prohibited to minors, if there is reasonable doubt that the person is at least 21 years old. "Reasonable doubt" exists if the person appears to be under the age of 26;

(b) Whenever a licensee or permittee verifies age, he/she must verify it as ORS 471.130 requires (statement of age card or the specified items of identification) and must reject any obviously altered document or one which obviously does not identify the person offering it;

(c) Licensees must require all their employees who sell, serve, oversee or control the sale or service of alcoholic beverages to verify age as subsection (a) of this section requires.

(2) Sanctions for Failure to Verify Age:

(a) The Commission will sanction a licensee or permittee who does not verify the age of a person who appears to be under the age of 26 only if the person:

(A) Actually is a minor who buys, is served or drinks an alcoholic beverage at the licensed premises (Category III violation); or

(B) Actually is a minor who is in an area of the licensed premises prohibited to minors (Category IV violation).

(b) If the Commission sanctions a licensee or permittee for one or more of the following violations under this rule: Selling to or serving a minor; Allowing a minor to drink; or Allowing a minor in an area prohibited to minors, the Commission will not sanction the licensee or permittee separately under ORS 471.130 or 471.410(2) for the same conduct. The Commission may charge a licensee or permittee for one or more violations under this rule and also charge violation of one or more of the statutes in the alternative.

(c) Failure to verify age as ORS 471.130 requires or to reject obviously altered or false identification is a Category III violation.

(3) Minors on Premises: General Prohibitions. No licensee, permittee, or licensee's employee will permit a minor:

(a) To buy, be served or drink any alcoholic beverage on licensed premises;

(b) To be on licensed premises or an area of the licensed premises prohibited to minors, except as provided in ORS 471.430, 471.480, 471.482, and this rule. (The assigned minor posting(s) describes where on the premises minors are allowed or prohibited. See OAR 845-006-0340, Minor Postings.)

(4) Minor Employee and Service Permittee:

(a) A minor employee may be in a Number II, III-A after 9 p.m., IV or V posted area only to restock supplies and do food service related activities such as setting and clearing tables and delivering food. In addition, a minor employee may be in a Number IV posted area to take orders for and serve food during the specified meal periods;

(b) A minor service permittee may do the duties described in subsection (a) of this section as well as the alcohol-related duties ORS 471.482 allow.

(5) Minor Vendor or Contractor. A minor, other than a licensee's employee, who has a legitimate business purpose, may be in the area of the licensed premises normally prohibited to minors. (For example, a minor who is a plumber may repair the plumbing in a prohibited area).

(6) Minor Entertainer:

(a) A minor entertainer may perform on licensed premises. If the minor entertainer stays on the premises when not performing, he/she must stay in an area where minors are permitted. If there is no break room, dressing room or patron area where minors are permitted, the licensee may, with prior Commission approval, designate space for minor entertainers in an area normally prohibited to them. At a minimum, the place must be within

ADMINISTRATIVE RULES

the bartender's sight but not at the bar, and there must be no alcoholic beverages in this place;

(b) If the minor is under 18 years old, and the licensee proposes to employ that minor to conduct or assist in conducting any public dance, including but not limited to dancing by the child as a public performance, or to assist in or furnish music for public dancing, the licensee and minor must make sure the minor has the written permission of the appropriate juvenile court judge as required by ORS 167.840(2).

(c) If the minor is under 18 years old, and the licensee proposes to employ that minor to perform or entertain on the licensed premises in a capacity other than described in (6)(b) of this rule, before allowing the minor to perform on the licensed premises the licensee must apply for and receive prior written permission from the Administrator of the Oregon Liquor Control Commission, or the Administrator's designee. Application must be made upon a form supplied by the Commission. The Administrator or designee shall grant such permission only if:

(A) The parents or legal guardians of the minor have consented to the child's participation in such activity; and

(B) The Administrator or designee has found that participation in such activity will not be inconsistent with the health, safety and morals of the minor.

(d) Minors under 14 years old must also get a work permit if one is required by the Oregon Bureau of Labor and Industries.

(7) Minor Patron: A minor patron may be in areas of licensed premises normally prohibited to minors in the following circumstances:

(a) If the licensee permits it, a minor may be in the immediate company of his/her spouse or Domestic Partner who is at least 21 years old. "Domestic Partner" means an individual who, along with another individual of the same sex, has received a Certificate of Registered Domestic Partnership pursuant to the Oregon Family Fairness Act. The minor must not buy, possess or drink alcoholic beverages;

(b) A minor may order and eat a meal in a Number IV posted area during the specified meal periods. This meal must at least meet the minimum food service requirements of OAR 845-006-0460.

(8) Sanctions: A violation of subsection (3)(a) of this rule is a Category III violation. A violation of subsection (3)(b) through section (7) of this rule is a Category IV violation.

Stat. Auth.: ORS 471, including 471.030, 471.040 & 471.482 & 471.730
Stats. Implemented: : ORS 471.130, 471.410, 471.430, 471.480 & 471.482
Hist.: OLCC 19-2000, f. 12-6-00, cert. ef. 1-1-01; OLCC 12-2002, f. 8-29-02, cert. ef. 1-2-03; OLCC 13-2003(Temp), f. & cert. ef. 9-23-03 thru 3-20-04; OLCC 4-2004, f. & cert. ef. 4-9-04; OLCC 9-2005, f. 11-21-05, cert. ef. 1-1-06; OLCC 9-2008, f. 6-12-08, cert. ef. 7-1-08; OLCC 2-2009, f. 3-17-09, cert. ef. 4-1-09

Oregon Medical Board Chapter 847

Rule Caption: FLEX examination attempt limit waiver.

Adm. Order No.: BME 6-2009(Temp)

Filed with Sec. of State: 4-9-2009

Certified to be Effective: 4-9-09 thru 10-2-09

Notice Publication Date:

Rules Amended: 847-020-0170

Subject: Temporary rule adoption grants a waiver to exam attempt requirements for applicants for licensure who are basing licensure on the Federation Licensing Examination (FLEX) examination. The waiver is consistent with the waiver regarding number of attempts to pass the exam as allowed for the National Board of Medical Examiners (NBME), National Board of Osteopathic Examiners (NBOME), and United States Medical Licensing Examination (USMLE) examinations. An applicant for licensure may qualify for the waiver if the applicant has current certification by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association Bureau of Osteopathic Specialties.

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-020-0170

Written Examination

(1) After complying with OAR 847-020-0110 through 847-020-0200 the applicant applying for licensure must have passed one of the following examinations or combinations of examinations:

(a) Federation Licensing Examination (FLEX) Component I and FLEX Component 2.

(b) National Board of Medical Examiners (NBME) Part I and Part II and Part III.

(c) National Board of Medical Examiners (NBME) Part I or United States Medical Licensing Examination (USMLE) Step 1, and NBME Part II or USMLE Step 2 and NBME Part III or USMLE Step 3.

(d) NBME Part I or USMLE Step 1, and NBME Part II or USMLE Step 2, and FLEX Component 2.

(e) FLEX Component 1 and USMLE Step 3. A score of 75 or above must be achieved on FLEX Component 1 and the score achieved on USMLE Step 3 must be equal to or exceed the figure established by the Federation as a recommended passing score.

(f) The score achieved on each Step, Part or Component must equal or exceed the figure established by the USMLE Program, the National Board of Medical Examiners or the Federation of State Medical Boards as a passing score. All Steps, Parts or Components listed in OAR 847-020-0170(1)(a)–(f) must be administered prior to January 2000, except for applicants who participated in and completed a combined MD/DO/PhD program; or

(g) The National Board of Osteopathic Medical Examiners (NBOME) examination or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX) or any combination of their parts; or

(h) USMLE Steps 1, 2, and 3. All three Steps of USMLE, or all three Levels of the NBOME examination or COMLEX or any combination of the two, must be passed within a seven-year period which begins when the first Step or Level, either Step 1 or Step 2 or Level 1 or Level 2, is passed. The score achieved on each Step must equal or exceed the figure established by the Federation as a recommended passing score, and the score achieved on each Level must equal or exceed the figure established by the National Board of Osteopathic Medical Examiners.

(A) An applicant who has not passed all three Steps or Levels within the seven-year period may request an exception to the seven-year requirement if he/she:

(i) Has current certification by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists; or

(ii) Suffered from a documented significant health condition which by its severity would necessarily cause a delay to the applicant's medical or osteopathic study; or

(iii) Participated in a combined MD/DO/PhD program; or

(iv) Completed continuous approved post-graduate training with the equivalent number of years to an MD/DO/PhD program.

(B) Except as noted in section (1)(h)(C) of this rule, effective April 23, 2004, to be eligible for licensure, an applicant must have passed USMLE Step 3 or NBOME's COMLEX Level 3 within four attempts whether for Oregon or any other state. After the third failed attempt, the applicant must have completed one additional year of postgraduate training in the United States or Canada prior to readmission to the examination. The Board must approve the additional year of training to determine whether the applicant is eligible for licensure. The applicant, after completion of the required year of training, must have passed USMLE Step 3 or COMLEX Level 3 on their fourth and final attempt. If the fourth attempt of USMLE Step 3 is failed, the applicant is not eligible for Oregon licensure. If the applicant did not complete a year of training approved by the Board between the third and fourth attempt to pass USMLE Step 3 or COMLEX Level 3, the applicant is not eligible for licensure.

(C) An applicant who has passed USMLE Step 3 or COMLEX Level 3, but not within the four attempts required by OAR 847-020-0170(1)(h)(B), may request a waiver of this requirement if he/she has current certification by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists.

(2) USMLE Step 3 may be taken during the first year of postgraduate training, or after the first year of postgraduate training has been completed. A Limited License, Postgraduate will be required for training beyond the postgraduate 1 level if the USMLE is not yet passed.

(3) The applicant must have passed the written examination (FLEX) under the following conditions:

(a) The applicant who has taken the FLEX examination (Day I, II, and III) administered between June 1968 and December 1984 must have taken the entire examination at one sitting. The applicant who has taken the FLEX examination (Component 1 and Component 2), first administered in June 1985, was not required to take both Components 1 and 2 of the FLEX examination at one sitting. Both must have been passed within seven years of the first attempt.

ADMINISTRATIVE RULES

(b) The applicant may not have taken the FLEX examination more than a total of four times, whether in Oregon or other states, whether the components were taken together or separately. After the third failed attempt, the applicant must have satisfactorily completed one year of approved training in the United State or Canada prior to having taken the entire FLEX examination at one sitting on the fourth and final attempt.

(c) Only the applicant's scores on the most recently taken FLEX examination will be considered to determine eligibility.

(4) An applicant who has passed the FLEX examination, but not within the four attempts required by OAR 847-020-0170(3)(b), may request a waiver of this requirement if he/she has current certification by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists.

(5) If the applicant has ceased the practice of medicine for a period of 12 or more consecutive months, the applicant may be required to further demonstrate clinical competency.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.110 & 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 5-2003, f. & cert. ef. 1-27-03; BME 10-2003, f. & cert. ef. 5-2-03; BME 14-2003(Temp), f. & cert. ef. 9-9-03 thru 3-1-04; BME 3-2004, f. & cert. ef. 1-27-04; BME 7-2004, f. & cert. ef. 4-22-04; BME 15-2004, f. & cert. ef. 7-13-04; BME 8-2005, f. & cert. ef. 7-20-05; BME 3-2006, f. & cert. ef. 2-8-06; BME 4-2006(Temp), f. & cert. ef. 2-8-06 thru 7-7-06; BME 10-2006, f. & cert. ef. 5-8-06; BME 20-2007, f. & cert. ef. 10-24-07; BME 18-2008, f. & cert. ef. 7-21-08; BME 6-2009(Temp), f. & cert. ef. 4-9-09 thru 10-2-09

Oregon Public Employees Retirement System Chapter 459

Rule Caption: Rules require minor modifications to accommodate new earning crediting rules, provide clarity, and other changes.

Adm. Order No.: PERS 3-2009

Filed with Sec. of State: 4-6-2009

Certified to be Effective: 4-6-09

Notice Publication Date: 2-1-2009

Rules Amended: 459-007-0001, 459-007-0015, 459-007-0020, 459-007-0025, 459-007-0050, 459-007-0060, 459-007-0080, 459-007-0110, 459-007-0230, 459-007-0240, 459-007-0250, 459-007-0300, 459-007-0900, 459-017-0060

Subject: The Internal Audit Report presented at the November 2008 PERS Board Audit Committee meeting recommended PERS adopt or amend rules to better define the process of earnings crediting for the OPSRP Pension and IAP programs. A number of rules were determined to need minor modifications, including references where applicable to new rules, clarifications and general housekeeping edits.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-007-0001

Definitions

The words and phrases used in this division have the same meaning given them in ORS Chapter 238, 238A and OAR 459-005-0001. Specific and additional terms for purposes of this division are defined as follows unless context requires otherwise:

(1) "Annual rate" means the rates determined by the Board for crediting earnings to Tier One regular accounts, Tier Two regular accounts, IAP accounts, judge member regular accounts and member variable accounts, effective as of December 31 of each year.

(2) "Assumed rate" means the actuarial assumed rate of return on investments as adopted by the Board for the most recent actuarial valuation.

(3) "Average annualized rate" means the monthly rate provided by the Oregon State Treasury representing the rate credited to cash accounts.

(4) "Benefits-in-Force Reserve" or "BIF Reserve" means the reserve established under ORS 238.670(2).

(5) "Capital Preservation Reserve" means the reserve established under ORS 238.670(3).

(6) "Contingency Reserve" means the reserve established under ORS 238.670(1).

(7) "Date of distribution" is the date inscribed on the check, warrant, or electronic transfer issued to or on behalf of the member, the member's beneficiary, or an alternate payee.

(8) "Date of payment" means the date a payment is received by PERS.

(9) "Earnings" means all income or losses to the Fund from investments and other sources, but does not include member or employer contributions.

(10) "Tier One Member Rate Guarantee Reserve" and "Rate Guarantee Reserve" mean the reserve referenced in ORS 238.255(1) that enables the Board to credit earnings at or above the assumed rate under the conditions specified in 238.255.

(11) "Year-to-date calculation" means the rates used to credit a pro-rata distribution of year-to-date earnings, allowing for reserves and expenses, to Tier One regular accounts, Tier Two regular accounts, IAP accounts, judge member regular accounts or member variable accounts. These rates are calculated by staff on a monthly basis using the market value of investments in the Fund as supplied by the Oregon State Treasury. Year-to-date calculations for Tier One member regular accounts will be determined in accordance with OAR 459-007-0003.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238

Hist.: PER 8, f. 12-15-55; PER 4-1980(Temp), f. 11-26-80, ef. 12-1-80; PER 1-1984(Temp), f. & ef. 6-29-84; PER 2-1984(Temp), f. & ef. 9-26-84; PER 1-1985, f. & ef. 3-22-85; PER 1-1995, f. 9-12-95, cert. ef. 1-1-96; PER 1-1996, f. & cert. ef. 3-26-96; Renumbered from 459-010-0135(1); PER 6-1998, f. & cert. ef. 5-22-98, Renumbered from 459-007-0010; PER 4-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03; PER 24-2003, f. & cert. ef. 12-15-03; PER 18-2005(Temp), f. & cert. ef. 10-26-05 thru 4-19-06; PER 1-2006, f. & cert. ef. 2-1-06; PER 3-2009, f. & cert. ef. 4-6-09

459-007-0015

Interest Rate Applied to Underpayment of Estimated Benefits

In accordance with ORS 238.455(5), earnings credited to an underpayment of either Tier One or Tier Two estimated benefits shall be simple interest, prorated from date of underpayment to date of distribution by PERS of the underpaid amount based on:

(1) The rate credited to the respective tier in the Fund for the prior calendar year for members who have effective dates of retirement before January 1, 2006;

(2) The average annualized interest rate, as defined in OAR 459-007-0001(3), in effect as of the date of distribution for members who have effective dates of retirement on and after January 1, 2006.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.455

Hist.: PER 6-1998, f. & cert. ef. 5-22-98; PER 22-2005, f. & cert. ef. 12-7-05; PER 3-2009, f. & cert. ef. 4-6-09

459-007-0020

Statutory Limitation on the Crediting of Earnings

No earnings shall be credited to any payment from the Fund unless specifically provided for in ORS Chapters 238, 238A and OAR chapter 459, divisions 007 and 009.

Stat. Auth.: ORS 238.650 & 238A

Stats. Implemented: ORS 238 & 238A

Hist.: PER 8, f. 12-15-55; PER 4-1980(Temp), f. 11-26-80, ef. 12-1-80; PER 1-1984(Temp), f. & ef. 6-29-84; PER 2-1984(Temp), f. & ef. 9-26-84; PER 1-1985, f. & ef. 3-22-85; PER 1-1995, f. 9-12-95, cert. ef. 1-1-96; PER 1-1996, f. & cert. ef. 3-26-96; Renumbered from 459-010-0135(2); PER 6-1998, f. & cert. ef. 5-22-98; PER 3-2009, f. & cert. ef. 4-6-09

459-007-0025

Crediting Earnings To A Member Lump Sum Payment

(1) Definition.

(a) "Member lump sum payment" means any payment received by PERS that:

(A) Is not regularly scheduled;

(B) Is not paid as a statutorily fixed percentage of salary; and

(C) Is paid voluntarily by the member or payer.

(b) Member lump sum payments include, but are not limited to:

(A) Retirement credit purchases.

(B) Voluntary redeposits, as provided under ORS 238.105.

(C) Account balances transferred to PERS pursuant to an integration under ORS 238.680.

(2) No earnings may be credited to a member lump sum payment that:

(a) Is paid within 90 days before of after the member's effective retirement date; or

(b) May be paid only within 90 days before or after the member's effective retirement date.

(3) Earnings from the date of payment to December 31 of the calendar year of the date of payment or the member's effective retirement date, whichever occurs first, must be credited to the member's lump sum payment based on the rate derived from the formula:

$(Y - X)(R/T) + (Z - Y)$, where:

R = The number of days from the date of payment through the last day of the month the payment is received;

T = The total number of days in the month the payment is received;

X = The year-to-date calculation applicable to the member's regular account as of the first of the month of the date of payment;

Y = The year-to-date calculation as of the first of the month following the date of payment; and

Z = The year-to-date calculation as of the member's effective retirement date if such

ADMINISTRATIVE RULES

date occurs during the calendar year the payment is received, or, in all other cases, the annual rate applicable to the member's regular account as of December 31 of the year the payment is received.

Example: A member lump sum payment is received by PERS on May 12, 2002, from a Tier One member whose effective retirement date is August 1, 2003. The Tier One regular account year-to-date calculation as of May 1, 2002, is 1.0263, the Tier One year-to-date calculation as of June 1, 2002, is 1.0330, and the Tier One regular account annual rate for 2002 is 1.0800. Therefore, R = 20, T = 31, X = 1.0263, Y = 1.0330, Z = 1.0800 and the earnings crediting rate is:

$$(1.0330 - 1.0263)(20/31) + (1.0800 - 1.0330) \\ = (0.0067)(0.6452) + .0470 \\ = 0.0043 + .0470 \\ = 0.0513$$

(4) If the member's effective retirement date does not occur in the same calendar year as the date of payment, and the payment is not subject to the provisions of section (2) of this rule, the member lump sum payment must be made a part of the member's regular account as of January 1 of the year following the date of payment.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238

Hist.: PERS 9-2000, f. 12-15-00 cert. ef. 1-1-01; PERS 4-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03; PERS 13-2003, f. & cert. ef. 11-14-03; PERS 1-2007, f. & cert. ef. 1-23-07; PERS 3-2009, f. & cert. ef. 4-6-09

459-007-0050

Crediting Earnings for a Deceased Tier One Active or Inactive Member

Upon the death of an active or inactive Tier One member, earnings from the date of death to the date of distribution shall be credited as specified in this rule.

(1) Definitions. For purposes of this rule:

(a) "Death benefit amount" means the sum of the member's regular account and variable account as of the first of the month of the member's death and held by PERS for the beneficiary or beneficiaries of a deceased member until benefits are distributed.

(b) "Effective date of request" means the first of the month in which PERS receives a valid request for distribution of the death benefit amount.

(2) For a member whose date of death is on or after January 1, 2000:

(a) If the member's death is before July 1, 2003, earnings shall be credited to the member's regular account as follows:

(A) If earnings for the calendar year before the date of the member's death have not yet been credited, earnings for that year shall be credited based on the greater of the assumed rate or the latest year-to-date calculation available for that year.

(B) Earnings for the calendar year of the member's death shall be credited based on the greater of the assumed rate, prorated from January 1 to the first of the month of the member's death, or the latest year-to-date calculation as of the first of the month of the member's death.

(b) If the member's death is on or after July 1, 2003, earnings shall be credited to the member's regular account as follows:

(A) If earnings for the calendar year before the date of the member's death have not yet been credited, earnings for that year shall be credited based on the latest year-to-date calculation available for that year.

(B) Earnings for the calendar year of the member's death shall be credited based on the latest year-to-date calculation as of the first of the month of the member's death.

(c) If the member was participating in the Variable Annuity Account, earnings shall be credited to the member's variable account as follows:

(A) If earnings for the calendar year before the calendar year of the member's death have not yet been credited, earnings for that year shall be credited based on the latest year-to-date calculation available for that year.

(B) Earnings for the calendar year of the member's death shall be credited based on the latest year-to-date calculation as of the first of the month of the member's death.

(d) After earnings have been credited in accordance with subsections (a), (b) and (c), the value of the member's variable account shall be added to the value of the member's regular account and the sum shall constitute the death benefit amount as of the first of the month of the member's death.

(e) If the effective date of request occurs within the same year as the date of death, earnings from the first of the month of the member's death to the effective date of request shall be credited based on the latest year-to-date calculation for Tier Two regular accounts as of the effective date of request less the latest year-to-date calculation for Tier Two regular accounts as of the first of the month of the member's death, and subsections (f) through (h) of this section do not apply.

(f) Earnings on the death benefit amount from the first of the month of the member's death to the end of the calendar year shall be credited based on the Tier Two annual rate less the latest year-to-date calculation for Tier Two as of the first of the month of the member's death.

(g) Earnings on the death benefit amount for calendar years following the year of the member's death and before the year funds are requested shall be credited in accordance with OAR 459-007-0005 for Tier Two regular accounts.

(h) Earnings on the death benefit amount from January 1 of the year funds are requested to the effective date of request shall be based on the latest year-to-date calculation for Tier Two regular accounts.

(i) Earnings from the effective date of request to the date of distribution shall be based on the average annualized rate.

(3) If a member's date of death is before July 1, 2003, and the effective date of request is before December 31, 2004, earnings shall be credited as follows:

(a) Earnings from the date of death through December 31, 1999, shall be credited to the member's regular account as of December 31, 1999, in accordance with the provisions of this rule in effect from the date of death through December 31, 1999.

(b) Earnings from January 1, 2000, to the date of distribution shall be credited in accordance with ORS 238.390 as simple interest prorated for that period based on the assumed rate.

(4) If a member's date of death is before January 1, 2000, but the effective date of request is on or after December 31, 2004, earnings shall be credited as follows:

(a) Earnings shall be credited in accordance with the version(s) of OAR 459-007-0050 in effect up to January 1, 2000.

(b) As of January 1, 2000, the deceased member's account(s) shall be converted to a death benefit amount under subsection (2)(d) of this rule.

(c) Earnings on the death benefit amount from January 1, 2000, to the date of distribution shall be credited in accordance with subsections (2)(e) through (2)(h) of this rule.

(5) If a beneficiary elects a monthly payment, earnings shall be credited to the death benefit amount from the first of the month of the member's date of death to the effective date of the monthly payment, which is the first of the month following the member's date of death, as follows:

(a) Subtract the latest Tier Two regular account year-to-date calculation available as of the first of the month of the member's death, from the latest Tier Two regular account year-to-date calculation available as of the effective date of the monthly payment.

(b) Multiply the beneficiary's death benefit amount as of the first of the month of the member's death by the rate calculated in subsection (a) of this section.

(6) The provisions of this rule are effective on July 1, 2003.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.390, 238.430 & 238.435

Hist.: PER 8, f. 12-15-55; PER 4-1980(Temp), f. 11-26-80, ef. 12-1-80; PER 1-1984(Temp), f. & ef. 6-29-84; PER 2-1984(Temp), f. & ef. 9-26-84; PER 1-1985, f. & ef. 3-22-85; PER 1-1995, f. 9-12-95, cert. ef. 1-1-96; PER 1-1996, f. & cert. ef. 3-26-96; Renumbered from 459-010-0135(6); PERS 9-1998, f. 5-22-98, cert. ef. 1-1-00; PERS 1-2000, f. & cert. ef. 1-7-00; PERS 4-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03; PERS 24-2003, f. & cert. ef. 12-15-03; PERS 16-2004, f. & cert. ef. 6-15-04; PERS 21-2005, f. & cert. ef. 11-1-05; PERS 3-2009, f. & cert. ef. 4-6-09

459-007-0060

Crediting Earnings to the Tier One Employer Death Benefit

(1) Upon the death of a Tier One member who is entitled to an employer death benefit under ORS 238.395, the amount of the employer benefit shall be added to the death benefit amount, as defined in OAR 459-007-0050(1), as of the first of the month of the member's death.

(2) Earnings shall thereafter be credited to the employer death benefit amount in accordance with OAR 459-007-0050(2)(e) through (i).

(3) If a beneficiary elects to receive a monthly benefit, earnings are credited in accordance with OAR 459-007-0050(5).

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.390 & 238.395

Hist.: PER 8, f. 12-15-55; PER 4-1980(Temp), f. 11-26-80, ef. 12-1-80; PER 1-1984(Temp), f. & ef. 6-29-84; PER 2-1984(Temp), f. & ef. 9-26-84; PER 1-1985, f. & ef. 3-22-85; PER 1-1995, f. 9-12-95, cert. ef. 1-1-96; PERS 1-1996, f. & cert. ef. 3-26-96; Renumbered from 459-010-0135(7); PERS 9-1998, f. 5-22-98, cert. ef. 1-1-00; PERS 1-2000, f. & cert. ef. 1-7-00; PERS 4-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03; PERS 24-2003, f. & cert. ef. 12-15-03; PERS 21-2005, f. & cert. ef. 11-1-05; PERS 3-2009, f. & cert. ef. 4-6-09

459-007-0080

Crediting Earnings at Tier One Service Retirement, Single Payment

Notwithstanding OAR 459-007-0070, when a Tier One member retires and elects to receive a single payment of benefits under ORS 238.305(2)(a) or (3), or receives a single payment of benefits under 238.315, earnings from the effective date of the last annual rate to the date of distribution shall be credited in the manner specified in this rule.

(1) Earnings on the member's regular account shall be credited as follows:

ADMINISTRATIVE RULES

(a) If earnings for the calendar year before the effective retirement date have not yet been credited, earnings for that year shall be credited to the member's regular account based on the latest year-to-date calculation available for that year.

(b) Earnings credited for the calendar year of the effective retirement date shall be credited to the member's regular account based on the latest year-to-date calculation as of the effective retirement date.

(2) If the member is participating in the Variable Annuity Account at retirement, earnings shall be credited as follows:

(a) If earnings for the calendar year before the effective retirement date have not yet been credited, earnings for that year shall be credited to the member's variable account based on the latest year-to-date calculation available for that year.

(b) Earnings from January 1 of the year of the effective retirement date to the effective retirement date shall be credited to the member's variable account based on the latest year-to-date calculation as of the effective retirement date.

(3) Earnings on the combined amount of the accounts credited under sections (1) and (2) of this rule from the effective retirement date to the date of distribution shall be paid to the member based on the average annualized rate prorated for that period.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.260, 238.300, 238.305 & 238.315

Hist.: PER 8, f. 12-15-55; PER 4-1980(Temp), f. 11-26-80, ef. 12-1-80; PER 1-1984(Temp), f. & ef. 6-29-84; PER 2-1984(Temp), f. & ef. 9-26-84; PER 1-1985, f. & ef. 3-22-85; PERS 1-1995, f. 9-12-95, cert. ef. 1-1-96; PERS 1-1996, f. & cert. ef. 3-26-96; Renumbered from 459-010-0135(9); PERS 9-1998, f. 5-22-98, cert. ef. 1-1-00; PERS 1-2000, f. & cert. ef. 1-7-00; PERS 20-2003, f. 12-15-03 cert. ef. 4-1-04; PERS 3-2009, f. & cert. ef. 4-6-09

459-007-0110

Crediting Earnings at Tier One Loss of Membership

When a Tier One member's membership terminates under ORS 238.095(2), earnings from the effective date of the last annual rate to the first of the month following the month of loss of membership shall be credited to the member account in the manner specified in this rule.

(1) Earnings on the former member's regular account shall be credited as follows:

(a) If earnings for the calendar year before the date of loss of membership have not yet been credited, earnings shall be credited for that year based on the Tier One latest year-to-date calculation available for that year.

(b) Earnings for the calendar year of loss of membership shall be credited based on the Tier One latest year-to-date calculation as of the first of the month following the date of loss of membership.

(2) If the former member is participating in the Variable Annuity Account, earnings on the Variable Annuity Account shall be credited to the former member's variable account as follows:

(a) If earnings for the calendar year before the date of loss of membership have not yet been credited, earnings for that year shall be credited based on the Tier One latest year-to-date calculation available for that year.

(b) Earnings for the calendar year of loss of membership shall be credited as of the end of the calendar month of loss of membership based on the Tier One latest year-to-date calculation as of the first of the month following the date of loss of membership

(3) Except as provided in OAR 459-007-0160, no earnings shall be credited for any period following the calendar month of loss of membership.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.095 & 238.435

Hist.: PERS 9-1998, f. 5-22-98, cert. ef. 1-1-2000; PERS 4-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03; PERS 13-2003, f. & cert. ef. 11-14-03; PERS 12-2007, f. & cert. ef. 11-23-07; PERS 3-2009, f. & cert. ef. 4-6-09

459-007-0230

Crediting Earnings for a Deceased Tier Two Active or Inactive Member

Upon the death of an active or inactive Tier Two member, earnings from the date of death to the date of distribution shall be credited as specified in this rule.

(1) Definitions. For purposes of this rule:

(a) "Death benefit amount" means the sum of the member's regular account and variable account as of the first of the month of the member's death and held by PERS for the beneficiary or beneficiaries of a deceased member until benefits are distributed.

(b) "Effective date of request" means the first of the month in which PERS receives a valid request for distribution of the death benefit amount.

(2) For members whose date of death is on or after January 1, 2000, earnings shall be credited to the member's regular account as follows:

(a) If earnings for the calendar year before the date of the member's death have not yet been credited, earnings shall be applied for that year based on the latest year-to-date calculation for that year.

(b) Earnings for the calendar year of the member's death shall be credited based on the latest year-to-date calculation for that year as of the first of the month of the member's death.

(3) If the member was participating in the Variable Annuity Account, earnings shall be credited to the member's variable account as follows:

(a) If earnings for the calendar year before the member's death have not been credited, earnings for that year shall be based on the latest year-to-date calculation available for that year.

(b) Earnings for the calendar year of the member's death shall be applied based on the latest year-to-date calculation for that year as of the first of the month of the member's death.

(4) After earnings have been credited in accordance with sections (2) and (3) of this rule, the value of the member's variable account shall be added to the value of the member's regular account and the sum shall constitute the death benefit amount as of the first of the month of the member's death.

(5) Earnings on the death benefit amount from the first of the month of the member's death to the end of that calendar year shall be credited based on the Tier Two annual rate less the Tier Two latest year-to-date calculation as of the first of the month of the member's death.

(6) Earnings on the death benefit amount for calendar years following the year of the member's death and before the year funds are requested shall be credited in accordance with OAR 459-007-0005 for Tier Two regular accounts.

(7) Earnings on the death benefit amount from January 1 of the year funds are requested to the effective date of request shall be based on the Tier Two latest year-to-date calculation.

(8) Earnings from the effective date of request to the date of distribution shall be based on the average annualized rate prorated for that period.

(9) If the member's date of death is before January 1, 2000, earnings shall be credited in accordance with the rules applicable to Tier Two members in effect up to January 1, 2000. As of January 1, 2000, the deceased member's account shall be converted to a death benefit amount. Earnings on the death benefit amount from January 1, 2000 to the date of distribution shall be credited in accordance with sections (5) through (8) of this rule.

(10) If a beneficiary elects a monthly payment, earnings shall be credited to the death benefit amount from the first of the month of the member's date of death to the effective date of the monthly payment, which is the first of the month following the member's date of death, as follows:

(a) Subtract the latest Tier Two regular account year-to-date calculation available as of the first of the month of the member's death from the latest Tier Two regular account year-to-date calculation available as of the effective date of the monthly payment.

(b) Multiply the beneficiary's death benefit amount by the Tier Two rate calculated in subsection (a) of this rule.

(11) The provisions of this rule apply to requests for distribution received on or after March 15, 2005.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.390, 238.430 & 238.435

Hist.: PERS 7-1998, f. & cert. ef. 5-22-98; PERS 26-2004, f. 11-23-04, cert. ef. 3-15-05; PERS 3-2009, f. & cert. ef. 4-6-09

459-007-0240

Crediting Earnings to the Tier Two Employer Death Benefit

(1) Upon the death of a Tier Two member who is entitled to an employer death benefit under ORS 238.395, the amount of the employer benefit shall be added to the death benefit amount, as defined in OAR 459-007-0230(1), as of the first of the month of the member's death.

(2) Earnings shall thereafter be credited to the employer death benefit amount in accordance with OAR 459-007-0230(5) to (8).

(3) If a beneficiary elects to receive a monthly benefit, earnings are credited in accordance with OAR 459-007-0230(10).

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.390, 238.395, 238.430 & 238.435

Hist.: PERS 7-1998, f. & cert. ef. 5-22-98; PERS 26-2004, f. 11-23-04, cert. ef. 3-15-05; PERS 3-2009, f. & cert. ef. 4-6-09

459-007-0250

Crediting Earnings at Tier Two Service or Disability Retirement

Upon the service or disability retirement of a Tier Two member, earnings from the effective date of the last annual rate to the effective retirement date shall be credited to the member account in the manner specified in this rule.

ADMINISTRATIVE RULES

(1) Earnings shall be credited to the member's regular account as follows:

(a) If earnings for the prior calendar year have not yet been credited, earnings for that year shall be credited based on the Tier Two latest year-to-date calculation for that year.

(b) Earnings for the calendar year of the effective retirement date shall be credited based on the Tier Two latest year-to-date calculation for that year.

(2) If the member is participating in the Variable Annuity Account at retirement, earnings shall be credited to the member's variable account as follows:

(a) If earnings for the calendar year before the effective retirement date have not yet been credited, earnings for that year shall be credited based on the Tier Two latest year-to-date calculation for that year.

(b) Earnings for the calendar year of the effective retirement date shall be credited based on the Tier Two latest year-to-date calculation as of the effective retirement date.

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.260, 238.300, 238.305 & 238.315
Hist.: PERS 7-1998, f. & cert. ef. 5-22-98; PERS 26-2004, f. 11-23-04, cert. ef. 3-15-05; PERS 3-2009, f. & cert. ef. 4-6-09

459-007-0300

Crediting Earnings to Police Officer and Firefighter Unit Accounts in the Fund

(1) Definitions. For the purpose of this rule:

(a) "Effective date of unit benefits" means the date the member elects to begin receiving unit benefits.

(b) "End date" means the date after which earnings are no longer credited to the unit account and is the later of:

(A) The first of the calendar month following the date the member reaches age 65; or

(B) The first of the calendar month following the date the member separates from the service of all participating employers.

(c) "Unit" means a unit of additional benefits purchased under ORS 238.440.

(d) "Unit account" means the member's account in the Fund that is used to purchase unit benefits, which includes actuarially determined member additional contributions (ORS 238.440(1)) and earnings.

(e) "Unit benefits" means the increased benefits a police officer or firefighter may purchase under ORS 238.440.

(2) Crediting annual earnings. Annual earnings will be credited to the unit account as follows:

(a) For a Tier One member, in the same manner as provided for Tier One member regular accounts in OAR 459-007-0005.

(b) For a Tier Two member, in the same manner as provided for Tier Two member regular accounts in OAR 459-007-0005.

(3) Crediting earnings to a withdrawal. If the unit account is withdrawn under ORS 238.440(4), earnings will be credited to the unit account as follows:

(a) For a Tier One member, in the same manner as provided in OAR 459-007-0040(1).

(b) For a Tier Two member, in the same manner as provided in OAR 459-007-0220(1).

(4) Crediting earnings to unit account upon refund under ORS 238.440(6). If a member is no longer eligible to purchase police officer and firefighter units under 238.440(6), distribution interest shall be credited to the unit account from the first of the month following the date the member has been absent from P&F qualified employment for 5 consecutive years to the date of distribution based on the average annualized rate.

(5) Crediting earnings on a lump sum purchase.

(a) If a member makes a lump sum purchase under ORS 238.440(2) and elects an effective date of unit benefits that is the same date as the member's effective retirement date, earnings will not be credited on the lump sum purchase.

(b) If a member makes a lump sum purchase under ORS 238.440(2) and elects an effective date of unit benefits that is later than the member's effective retirement date, earnings on the member's lump sum purchase from the date of receipt to the effective date of unit benefits shall be credited to the unit account as follows:

(A) Earnings from the date of payment to December 31 of the calendar year of the date of payment, or the member's effective date of unit benefits, whichever occurs first, shall be credited to the member's lump sum payment based on the rate derived from the formula provided in 459-007-0025(3).

(B) Earnings for subsequent calendar years shall be credited as set forth in section (6) of this rule.

(6) Crediting earnings to effective date of unit benefits. When a retired member elects to begin receiving unit benefits under ORS 238.440(1) or (2), earnings will be credited to the member's unit account as of the effective date of unit benefits as follows:

(a) For a Tier One member, in the same manner as provided in the version of OAR 459-007-0070(1) in effect on the effective date of unit benefits.

(b) For a Tier Two member, in the same manner as provided in OAR 459-007-0250(1).

(7) If, after the crediting of earnings under section (5) of this rule, the amount in the unit account is greater than the actuarially determined amount required at the time of retirement to purchase the number of units elected, the difference will be returned to the member in a lump sum. The lump sum shall be credited with earnings from the effective date of unit benefits to the date of distribution based on the average annualized rate.

(8) Crediting earnings to end date. If a member's effective date of unit benefits does not occur before the end date, earnings from the last annual earnings crediting to the end date shall be credited to the unit account as follows:

(a) If earnings for the calendar year before the end date have not yet been credited to the member's unit account, earnings shall be credited for that year based on the latest year-to-date calculation available for that year.

(b) Earnings for the calendar year of the end date shall be credited to the unit account based on the latest year-to-date calculation as of the end date.

(9) Crediting earnings in the event of death before the effective date of unit benefits. Upon the death of a member before the member's effective date of unit benefits, earnings shall be credited to the unit account:

(a) For a Tier One member, in the same manner as provided in OAR 459-007-0050 for Tier One regular accounts.

(b) For a Tier Two member, in the same manner as provided in OAR 459-007-0230 for Tier Two regular accounts.

(10) Crediting earnings in the event of death after the effective date of unit benefits. Upon the death of a member who is receiving unit benefits, the actuarial present value of the remaining unit benefits is paid to the member's beneficiary in a lump sum. No earnings shall be credited to the unit account.

[ED. NOTE: Example & Formula referenced are available from the agency.]

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.440
Hist.: PERS 8-2000, f. & cert. ef. 12-5-00; PERS 8-2004, f. & cert. ef. 4-15-04; PERS 1-2007, f. & cert. ef. 1-23-07; PERS 3-2009, f. & cert. ef. 4-6-09

459-007-0900

Crediting Earnings To Integration Lump Sum Payments

(1) For the purposes of this rule, "integration lump sum payment" means any funds received from an employer as the transfer of any prior plan assets under ORS 238.680, excluding any member account balances.

(2) If the integrating employer's members have no prior plan assets to transfer, the integration contract will state what portion of the integration lump sum payment is attributable to member regular accounts.

(3) Pursuant to ORS 238.229(4), the integration lump sum payment shall first be applied to liabilities attributable to creditable service by employees of the employer before the employer was grouped with other public employers. Earnings on these amounts shall be credited based on the following:

(a) For the month in which the integration lump sum payment is received, earnings shall be credited based on the average annualized rate, prorated for the number of days from date of receipt to the end of the month.

(b) For the remainder of the year, the integration lump sum payment shall receive earnings based on the difference between the December latest year-to-date calculation for Tier Two annual earnings and the Tier Two year-to-date calculation in effect as of the first of the month following the payment date.

(c) In subsequent calendar years, earnings shall be credited to the integration lump sum payment in accordance with OAR 459-007-0530(2).

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238
Hist.: PERS 9-2000, f. 12-15-00 cert. ef. 1-1-01; PERS 4-2003(Temp), f. 6-13-03, cert. ef. 7-1-03 thru 12-26-03; PERS 13-2003, f. & cert. ef. 11-14-03; PERS 3-2009, f. & cert. ef. 4-6-09

ADMINISTRATIVE RULES

459-017-0060

Reemployment of Retired Members

(1) Reemployment under ORS 238.082. A retired member of the system receiving a service retirement allowance, who has elected an option other than the total lump sum option under ORS 238.305(3), including those who have retired at a reduced benefit under 238.280(1), (2), or (3), may be employed under 238.082 by a participating employer without loss of retirement benefits provided:

(a) The period or periods of employment with one or more public employers participating in the system do not exceed 1039 hours in a calendar year; or

(b) If the retired member is receiving retirement, survivors, or disability benefits under the federal Social Security Act, the period or periods of employment do not exceed the greater of 1039 hours in a calendar year or the total number of hours in a calendar year that, at the retired member's specified hourly rate of pay, limits the annual compensation of the retired member to an amount that does not exceed the following Social Security annual compensation limits:

(A) For retired members who have not reached full retirement age under the Social Security Act, the annual compensation limit is \$14,160; or

(B) For the calendar year in which the retired member reaches full retirement age under the Social Security Act and only for compensation for the months before reaching full retirement age, the annual compensation limit is \$37,680.

(2) The limitations on employment in section (1) of this rule do not apply if the retired member has reached full retirement age under the Social Security Act.

(3) The limitations on employment in section (1) of this rule do not apply if:

(a) The retired member meets the requirements of ORS 238.082(3), (4), (5), (6), or (7), and did not retire at a reduced benefit under the provisions of 238.280(1), (2), or (3);

(b) The retired member retired at a reduced benefit under ORS 238.280(1) or (3), is employed in a position that meets the requirements of 238.082(3), the date of employment is more than six months after the member's effective retirement date, and the member's retirement otherwise meets the standard of a bona fide retirement;

(c) The retired member is employed by a school district or education service district as a speech-language pathologist or speech-language pathologist assistant and:

(A) The retired member did not retire at a reduced benefit under the provisions of ORS 238.280(1), (2), or (3); or

(B) If the retired member retired at a reduced benefit under the provisions of ORS 238.280(1) or (3), the retired member is not so employed until more than six months after the member's effective retirement date and the member's retirement otherwise meets the standard of a bona fide retirement;

(d) The retired member meets the requirements of section 2, chapter 499, Oregon Laws 2007;

(e) The retired member is employed for service during a legislative session under ORS 238.092(2); or

(f) The retired member is on active state duty in the organized militia and meets the requirements under ORS 399.075(8).

(4) If a retired member is reemployed subject to the limitations of ORS 238.082 and section (1) of this rule, the period or periods of employment subsequently exceed those limitations, and employment continues into the month following the date the limitations are exceeded:

(a) If the member has been retired for six or more calendar months:

(A) PERS will cancel the member's retirement. The last monthly service retirement allowance payment the member is entitled to will be for the month in which the limitations were exceeded. A member who receives benefits to which he or she is not entitled must repay those benefits to PERS.

(B) The member will reestablish active membership as required by ORS 238.078 the first of the calendar month following the date the limitations were exceeded.

(C) The member's account shall be rebuilt in accordance with the provisions of section (9) of this rule.

(b) If the member has been retired for less than six calendar months:

(A) PERS will cancel the member's retirement effective the date of the member's reemployment.

(B) All retirement benefits received by the member must be repaid to PERS in a single payment before the member can be reemployed.

(C) The member will reestablish active membership as required by ORS 238.078 effective the date the member is reemployed.

(D) The member account shall be rebuilt as of the date that PERS receives the single payment. The amount in the member account shall be the same as the amount in the member account at the time of the member's retirement.

(5) Reemployment of retired member who elected the total lump sum option or who received a lump sum payment in lieu of a small allowance (AS Refund). A retired member who elected the total lump sum option under ORS 238.305(3) or who received a lump sum payment in lieu of a small allowance under 238.315 (AS Refund) may return to work with a participating employer in the six month period following the member's effective retirement date without having to repay the retirement benefits paid to them provided:

(a) The retired member is designated by the employer(s) as a casual, emergency, or seasonal worker as defined in OAR 459-005-0001; and

(b) The period or periods of employment with one or more public employers participating in the system do not exceed 599 hours.

(6) The return to work in a qualifying or other position after six months following the retirement date of a member who elected the total lump sum option or who received an AS Refund has no effect on the retirement status of that member and, upon such reemployment, the member is not required to repay retirement benefits.

(7) If a retired member described in section (5) of this rule, is working subject to the limitation of subsection (5)(b) of this rule and the member exceeds that limitation, the member's retirement will be cancelled. The member will be required to repay to PERS in a single payment the total amount of all retirement benefits received. The member will reestablish active membership as required by ORS 238.078 effective the first of the calendar month following the date the member exceeded that limitation. The member's account shall be rebuilt in accordance with 238.078(2) and subsection (10)(d) of this rule. Upon subsequent retirement, the member may choose a different retirement payment option.

(8) Limitations on hours of employment in sections (1) and (5) of this rule will be based on the number of hours employed on and after the retired member's effective retirement date.

(9) Reemployment under ORS 238.078(1). If a member has been retired for service for more than six calendar months and is reemployed in a qualifying position by a participating employer under the provisions of 238.078(1), the following will occur:

(a) PERS will cancel the member's retirement effective the date of the member's reemployment.

(b) The member will reestablish active membership as required by ORS 238.078 on the date the member is reemployed.

(c) If the member elected an option other than a lump sum option under ORS 238.305(2) or (3), the member need not repay any service retirement allowance payment received that is attributable to the period the member was separated from service. The last monthly service retirement allowance payment to which the member is entitled will be for the month before the calendar month in which the member is reemployed. A member who receives benefits to which he or she is not entitled must repay those benefits to PERS. Upon subsequent retirement, the member may choose a different retirement option.

(A) The member's account shall be rebuilt as required by ORS 238.078 effective the date active membership is reestablished.

(B) Amounts from the Benefits-In-Force Reserve (BIF) credited to the member's account under the provisions of paragraph (A) of this subsection shall be credited with earnings at the BIF rate or the assumed rate, whichever is less, from the date of retirement to the date of active membership.

(d) If the member elected a partial lump sum option under ORS 238.305(2), the member need not repay any service retirement allowance payment received that is attributable to the period the member was separated from service. The last monthly service retirement allowance payment to which the member is entitled will be for the month before the calendar month in which the member is reemployed. A member who receives benefits to which he or she is not entitled must repay those benefits to PERS. No repayment of lump sum payment(s) received during the period the member was separated from service is required. Upon subsequent retirement, the member may not choose a different retirement option unless the member has repaid to PERS an amount equal to the lump sum payment(s) received and the interest that would have accumulated on that amount.

(A) The member's account shall be rebuilt as required by ORS 238.078 effective the date active membership is reestablished.

(B) Amounts from the BIF credited to the member's account under the provisions of paragraph (A) of this subsection, excluding any amounts attributable to any lump sum repayment(s) by the member, shall be credit-

ADMINISTRATIVE RULES

ed with earnings at the BIF rate or the assumed rate, whichever is less, from the date of retirement to the date of active membership.

(e) If the member elected the total lump sum option under ORS 238.305(3), no repayment of the total lump sum payment received is required. Upon subsequent retirement, the member may not choose a different retirement option unless the member has repaid to PERS in a single payment an amount equal to the total lump sum payment received and the interest that would have accumulated on that amount.

(A) If the member repays PERS as described in subsection (e) the member's account shall be rebuilt as required by ORS 238.078 effective the date that PERS receives the single payment.

(B) If any amounts from the BIF are credited to the member's account under the provisions of paragraph (A) of this subsection the amounts shall not be credited with earnings for the period from the date of retirement to the date of active membership.

(10) Reemployment under ORS 238.078(2). If a member has been retired for service for less than six calendar months and is reemployed in a qualifying position by a participating employer under the provisions of 238.078(2), the following will occur:

(a) PERS will cancel the member's retirement effective the date of the member's reemployment.

(b) All retirement benefits received by the member must be repaid to PERS in a single payment before the member can be reemployed.

(c) The member will reestablish active membership as required by ORS 238.078 effective the date the member is reemployed.

(d) The member account shall be rebuilt as of the date that PERS receives the single payment. The amount in the member account shall be the same as the amount in the member account at the time of the member's retirement.

(e) Upon subsequent retirement, the member may choose a different retirement payment option.

(11) Upon the subsequent retirement of any member who reestablished active membership under ORS 238.078, the retirement benefit of the member shall be calculated using the actuarial equivalency factors in effect on the effective date of the subsequent retirement.

(12) The provisions of paragraphs (9)(c)(B), (9)(d)(B), and (9)(e)(B) of this rule are applicable to members who reestablish active membership under ORS 238.078 whose initial effective retirement date is on or after March 1, 2006.

(13) Reporting requirement. The employer shall notify PERS under which statute a retiree is reemployed in a format acceptable to PERS.

(a) Upon request by PERS, a participating employer shall certify to PERS that a retired member has not exceeded the number of hours allowed in ORS 238.082 and sections (1) and (5) of this rule.

(b) Upon request by PERS a participating employer shall provide PERS with business and employment records to substantiate the actual number of hours a retired member was employed.

(c) Participating employers shall provide the information requested in this section within 30 days of the date of the request.

(14) Sick leave. Accumulated unused sick leave reported by the employer to PERS upon a member's retirement, as provided in ORS 238.350, shall not be made available to a retired member returning to employment under sections (1) or (9) of this rule.

(15) Subsections (3)(c) and (3)(d) of this rule are repealed effective January 2, 2016.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.078, 238.082, 238.092, 399.075 & 2007 OL Ch. 499 & 774
Hist.: PERS 1-1994, f. 3-29-94, cert. ef. 4-1-94; PERS 1-1996, f. & cert. ef. 3-26-96; Renumbered from 459-010-0182; PERS 13-1998, f. & cert. ef. 12-17-98; PERS 7-2001, f. & cert. ef. 12-7-01; PERS 18-2003(Temp), f. & cert. ef. 12-15-03 thru 5-31-04; PERS 19-2004, f. & cert. ef. 6-15-04; PERS 3-2006, f. & cert. ef. 3-1-06; PERS 18-2007, f. & cert. ef. 11-23-07; PERS 3-2009, f. & cert. ef. 4-6-09

Rule Caption: Better defines the process of earnings crediting for the OPSRP Pension and IAP programs.

Adm. Order No.: PERS 4-2009

Filed with Sec. of State: 4-6-2009

Certified to be Effective: 4-6-09

Notice Publication Date: 2-1-2009

Rules Adopted: 459-007-0320, 459-007-0330

Rules Amended: 459-007-0005, 459-080-0200, 459-080-0250

Subject: The Internal Audit Report presented at the November 2008 PERS Board Audit Committee meeting recommended PERS adopt or amend rules to better define the process of earnings crediting for the OPSRP Pension and IAP programs. These rule modifications

incorporate those programs into the current annual earnings crediting process (OAR 459-007-0005). Also, new rules are proposed that describe the earnings crediting process on OPSRP Pension and IAP distributions. Lastly, the rules in division 080 have been modified to include references to the new rules for IAP earnings crediting in division 007 (Earnings and Interest Distribution).

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-007-0005

Annual Earnings Crediting

(1) For purposes of this rule, "remaining earnings" means earnings available for distribution to a particular account or reserve after deduction of amounts required or authorized by law for other purposes.

(2) Except as otherwise specified in this division, earnings on all accounts and reserves in the Fund shall be credited as of December 31 of each calendar year in the manner specified in this rule.

(3) Health insurance accounts. All earnings attributable to the Standard Retiree Health Insurance Account (SRHIA), Retiree Health Insurance Premium Account (RHIPA) or Retirement Health Insurance Account (RHIA) shall be credited to the account from which they were derived, less administrative expenses incurred by each account, as provided in ORS 238.410, 238.415 and 238.420, respectively.

(4) Employer lump sum payments. All earnings or losses attributable to the employer lump sum payment accounts established under ORS 238.229 shall be credited to the accounts from which they were derived.

(5) Member variable accounts. Earnings on the Variable Annuity Account shall first be used to pay a pro rata share of administrative expenses in accordance with ORS 238.260(6). If the Variable Annuity Account experiences a loss, the loss shall be increased to pay a pro rata share of administrative expenses. All remaining earnings or losses attributable to the Variable Annuity Account shall be credited to the participants of that account, as provided under 238.260(6) and (7)(b).

(6) Individual Account Program accounts. Earnings on the Individual Account Program accounts shall first be used to pay a pro rata share of administrative expenses in accordance with ORS 238A.350(1). If the Individual Account Program experiences a loss, the loss shall be increased to pay a pro rata share of administrative expenses. All remaining earnings or losses attributable to the Individual Account Program shall be credited to the participant accounts of that program, as provided under 238A.350.

(7) Administrative expenses. Earnings attributable to Tier One regular accounts, the Tier One Rate Guarantee Reserve, Tier Two member regular accounts, judge member regular accounts, the OPSRP Pension Program reserve, employer contribution accounts, the Contingency Reserve, the Benefits-in-Force Reserve and the Capital Preservation Reserve shall first be used to pay the system's remaining administrative expenses under ORS 238.610.

(8) Contingency Reserve.

(a) In any year in which total earnings on the Fund equal or exceed the assumed rate, an amount not exceeding seven and one-half percent of remaining earnings attributable to Tier One regular accounts, the Tier One Rate Guarantee Reserve, Tier Two regular accounts, Judge member regular accounts, the OPSRP Pension Program reserve, the Benefits-in-Force Reserve, employer contribution accounts, the Capital Preservation Reserve and the Contingency Reserve shall be credited to the Contingency Reserve to the level at which the Board determines it is adequately funded for the purposes specified in ORS 238.670(1).

(b) The portion of the Contingency Reserve allowed under ORS 238.670(1)(a) for use in preventing a deficit in the fund due to employer insolvency may only be credited using earnings attributable to employer contribution accounts.

(9) Tier One Member Rate Guarantee Reserve. All remaining earnings attributable to Tier One regular accounts, the Tier One Member Rate Guarantee Reserve, Judge member regular accounts, the Benefits-in-Force Reserve, and the Contingency Reserve may be credited to the Tier One Member Rate Guarantee Reserve established under ORS 238.255(1).

(10) Capital Preservation Reserve. Remaining earnings attributable to the Tier Two member regular accounts, Judge member regular accounts, OPSRP Pension Program reserve, employer contribution accounts, the Benefits-in-Force Reserve, the Contingency Reserve and the Capital Preservation Reserve may be credited from those sources to one or more reserve accounts that may be established under ORS 238.670(3) to offset gains and losses of invested capital.

(11) Tier One regular accounts. All remaining earnings attributable to Tier One regular accounts and the Tier One Rate Guarantee Reserve shall be credited to Tier One member regular accounts at the assumed rate in any

ADMINISTRATIVE RULES

year in which the conditions set out in ORS 238.255 have not been met. Crediting under this subsection shall be funded first by all remaining earnings attributable to Tier One regular accounts and the Tier One Rate Guarantee Reserve, then moneys in the Tier One Rate Guarantee Reserve.

(12) Judge member regular accounts. All remaining earnings attributable to Judge member regular accounts shall be credited to all active and inactive Judge member regular accounts at the Judge member rate. Crediting under this subsection shall be funded first by all remaining earnings attributable to the Judge member regular accounts and the Tier One Rate Guarantee Reserve, then moneys in the Tier One Rate Guarantee Reserve.

(13) Tier Two member regular accounts. All remaining earnings or losses attributable to Tier Two member regular accounts shall be credited to all active and inactive Tier Two member regular accounts under ORS 238.250.

(14) OPSRP Pension Program Reserve. Remaining earnings attributable to the OPSRP Pension Program Reserve, the Contingency Reserve, and the Capital Preservation Reserve may be used to credit the OPSRP Pension Program reserve.

(15) Benefits-in-Force Reserve. Remaining earnings attributable to the Benefits-in-Force Reserve, the Contingency Reserve, the Capital Preservation Reserve and employer contribution accounts, in that order, shall be used, to the extent available, to credit the Benefits-in-Force Reserve with earnings up to the assumed rate for that calendar year in accordance with ORS 238.670(2).

(16) Employer contribution accounts. All remaining earnings attributable to employer contribution accounts shall be credited to employer contribution accounts.

(17) Remaining earnings. Any remaining earnings shall be credited to accounts and reserves in the Fund at the Board's discretion.

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

Stats. Implemented: ORS 238, 238A.350

Hist.: PERS 8-2004, f. & cert. ef. 4-15-04; PERS 18-2005(Temp), f. & cert. ef. 10-26-05 thru 4-19-06; PERS 1-2006, f. & cert. ef. 2-1-06; PERS 4-2009, f. & cert. ef. 4-6-09

459-007-0320

Crediting Earnings for IAP Account Lump Sum Payments

(1) When an IAP member retires and elects to receive a lump sum payment of their account(s) under ORS 238A.400(1), earnings will be credited in the manner specified in this section.

(a) If earnings for the calendar year before the date of distribution have not been credited, earnings for that year will be credited based on the latest IAP year-to-date calculation available for that year.

(b) Earnings credited for the calendar year of distribution will be credited based on the latest IAP year-to-date calculation as of the date of distribution.

(2) When an IAP member elects to withdraw their account(s) under ORS 238A.375, earnings will be credited in the manner specified in this section.

(a) If earnings for the calendar year before the date of distribution have not been credited, earnings for that year will be credited based on the latest IAP year-to-date calculation available for that year.

(b) Earnings credited for the calendar year of distribution will be credited based on the latest IAP year-to-date calculation as of the date of distribution.

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.350, 238A.375 & 238A.400

Hist.: PERS 4-2009, f. & cert. ef. 4-6-09

459-007-0330

Crediting Earnings for IAP Account Installment Payments

(1) For the purposes of this rule, "monthly change rate" means the monthly earnings rate for IAP account(s) when a retiree elects installment payments.

(2) When an IAP member retires and elects to receive installment payments under ORS 238A.400(2), earnings will be credited in the manner specified in this rule:

(a) For the initial installment payment:

(A) If earnings for the calendar year before the date of distribution have not been credited, earnings for that year shall be credited based on the latest IAP year-to-date calculation available for that year.

(B) Earnings credited for the calendar year of distribution will be credited based on the latest IAP year-to-date calculation as of the initial date of distribution.

(b) After the initial installment payment is made, earnings will be credited monthly using the latest monthly change rate beginning with the first of the month after the initial date of distribution.

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.350 & 238A.400

Hist.: PERS 4-2009, f. & cert. ef. 4-6-09

459-080-0200

IAP Account Adjustments for Earnings or Losses

(1) Earnings and losses on employee, employer, and rollover contributions under the OPSRP Individual Account Program ("IAP") shall be credited annually in accordance with OAR 459-007-0005(6). In no event shall earnings or losses be credited to individual accounts until funds are actually received by PERS and have been successfully reconciled with the corresponding wage and contribution record.

(2) When a member elects to withdraw their accounts under ORS 238A.375, earnings or losses shall be credited in accordance with OAR 459-007-0320(2).

(3) When a member retires and elects to receive a lump sum payment of their accounts under ORS 238A.400(1), earnings or losses shall be credited in accordance with OAR 459-007-0320(1).

(4) When a member retires and elects to receive installment payments under ORS 238A.400(2), earnings or losses shall be credited in accordance with OAR 459-007-0330.

(5) The provisions of this rule are effective January 1, 2004.

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.350, 238A.375 & 238A.400

Hist.: PERS 19-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-25-04; PERS 12-2004, f. & cert. ef. 5-19-04; PERS 24-2004, f. & cert. ef. 10-18-04; PERS 12-2006, f. & cert. ef. 6-26-06; PERS 4-2009, f. & cert. ef. 4-6-09

459-080-0250

IAP Account Installments

(1) Definitions.

(a) "Anniversary date" means the first of the month after the date of distribution of the first installment payment.

(b) "Date of distribution" has the same meaning as defined in OAR 459-007-0001(7).

(c) "Estimated Life Expectancy" means the member's life expectancy as determined by the applicable IRS mortality table.

(d) "Payout Period" means the span of years over which the member elects to receive installment payments under section (2) of this rule.

(2) Upon retirement, a member of the individual account program who elects to receive the amounts in the member's employee and employer accounts in installments under ORS 238A.400(2) shall designate the number of years over which the installments are to be paid, selecting a period of 5, 10, 15, or 20 years, or a period equal to the member's estimated life expectancy. The member may also request that installments be made on a monthly, quarterly, or annual basis.

(3) Account balances will be adjusted each month in accordance with OAR 459-007-0330.

(a) The amount of each 5-, 10-, 15-, or 20-year installment will be determined by dividing the member's adjusted balance by the number of remaining installment payments.

(b) The installment amount for the member's estimated life expectancy will be determined once a year by dividing the member's adjusted balance on the anniversary date by the member's remaining estimated life expectancy, which amount will then be paid monthly, quarterly, or annually.

(4) If a member requests installments under section (2) of this rule, but the amount of the requested installment would be less than \$200 as determined at the time of the initial request, the frequency and Payout Period of the installment payment will be modified so that the amount of the installment is at least \$200. If the member's account balance is \$1,000 or less at the time of the initial request, the member will not be eligible for installments and the balance will be paid in a lump sum.

(5) Notwithstanding the Payout Period selected by the member under section (2) of this rule, any distribution will be adjusted to comply with the required minimum distribution requirements of 26 U.S.C. 401(a)(9) and regulations implementing that section, as in effect August 29, 2003.

(6) Members who elect a five year Payout Period or a lump sum payment may elect to directly roll over any portion of their IAP installment or lump sum payment to an eligible retirement plan subject to the limitations in OAR 459-005-0595.

(7) Members who elect a 10-, 15-, or 20-year, or an estimated life expectancy Payout Period cannot elect to have any portion of their installment payments rolled over.

(8) Members who are subject to the required minimum distribution requirements referenced in section (5) of this rule may only roll over that

ADMINISTRATIVE RULES

portion of their installment or lump sum payments that exceeds required minimum distribution requirements.

Stat. Auth.: ORS 238A.450
Stats. Implemented: ORS 238A.400
Hist.: PERS 23-2003(Temp), f. & cert. ef. 9-22-04 thru 3-15-05; PERS 30-2004, f. & cert. ef. 11-23-04; PERS 21-2005, f. & cert. ef. 11-1-05; PERS 14-2006, f. & cert. ef. 9-26-06; PERS 21-2007, f. & cert. ef. 11-23-07; PERS 4-2009, f. & cert. ef. 4-6-09

Rule Caption: Rules clarify crediting procedures for OPSRP Pension Program and judge member accounts.

Adm. Order No.: PERS 5-2009

Filed with Sec. of State: 4-6-2009

Certified to be Effective: 4-6-09

Notice Publication Date: 2-1-2009

Rules Adopted: 459-007-0340, 459-007-0400, 459-007-0410, 459-007-0420

Subject: The Internal Audit Report presented at the November 2008 Audit Committee meeting recommended PERS adopt or amend rules to better define the process of earnings crediting for the OPSRP Pension and IAP programs. That audit triggered a comprehensive review of earnings crediting rules, and gaps were identified where new rules were needed to clarify crediting guidelines for certain transactions. These four new rules outline the earnings crediting procedures for each.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-007-0340

Crediting Earnings for an OPSRP Pension Program Cash Out of Small Benefits or Withdrawal

(1) No earnings or distribution interest from the effective date of retirement to the date of distribution shall be credited to the amount of a cash out of small benefits under ORS 238A.195.

(2) No earnings or distribution interest from the effective date of withdrawal to the date of distribution shall be credited to the amount of a withdrawal under ORS 238A.120

Stat. Auth.: ORS 238A.450
Stats. Implemented: ORS 238A.120, 238A.195
Hist.: PERS 5-2009, f. & cert. ef. 4-6-09

459-007-0400

Crediting Earnings Upon Withdrawal of a Judge Member Account

Upon withdrawal of a judge member account under ORS 238.545, earnings from the last judge member annual rate to the date of distribution will be credited as specified in this rule.

(1) Earnings will be credited to the judge member regular account as follows:

(a) If earnings for the calendar year before the calendar year of the withdrawal have not yet been credited, earnings for that year will be credited based on the latest judge member regular account year-to-date calculation available for that year.

(b) Earnings for the calendar year of the withdrawal will be credited from January 1 to the effective date of withdrawal based on the latest judge member regular account year-to-date calculation as of the effective date of withdrawal.

(2) If the judge member is participating in the Variable Annuity Account, earnings will be credited to the variable account as follows:

(a) If earnings for the calendar year before the calendar year of the withdrawal have not yet been credited, earnings for that year will be credited based on the latest variable account year-to-date calculation available for that year.

(b) Earnings for the calendar year of the withdrawal will be credited from January 1 to the effective date of withdrawal based on the latest variable account year-to-date calculation as of the effective date of withdrawal.

(3) After earnings have been credited in accordance with sections (1) and (2) of this rule, the balance of the variable account shall be added to the balance of the judge member regular account and the sum shall constitute the withdrawal amount.

(4) Earnings on the withdrawal amount from the effective date of withdrawal to the date of distribution will be credited based on the average annualized rate, prorated for that period.

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.250, 238.255, 238.260, 238.515, 238.545, OL 2003 Ch. 625
Hist.: PERS 5-2009, f. & cert. ef. 4-6-09

459-007-0410

Crediting Earnings Upon the Death of a Judge Member

Upon the death of a judge member, earnings will be credited to the judge member account as specified in this rule.

(1) If a judge member dies before retirement, earnings from the last judge member annual rate will be credited as follows:

(a) Judge member regular account.

(A) If earnings for the calendar year before the calendar year of the judge member's death have not yet been credited, earnings for that year will be credited based on the latest judge member regular account year-to-date calculation available for that year.

(B) Earnings for the calendar year of the judge member's death will be credited from January 1 to the first of the month of the judge member's death based on the latest judge member regular account year-to-date calculation as of the first of the month of the judge member's death.

(b) If the judge member was participating in the Variable Annuity Account:

(A) If earnings for the calendar year before the calendar year of the judge member's death have not yet been credited, earnings for that year will be credited based on the latest variable account year-to-date calculation available for that year.

(B) Earnings for the calendar year of the judge member's death will be credited from January 1 to the first of the month of the judge member's death based on the latest variable account year-to-date calculation as of the first of the month of the judge member's death.

(c) After earnings have been credited in accordance with this section, the balance of the variable account shall be added to the balance of the judge member regular account and the sum shall constitute the judge member account balance as of the judge member's date of death. No earnings or interest may be credited to the judge member account after the judge member's date of death.

(2) If a judge member dies after the judge member's effective retirement date, the judge member account balance at retirement must be determined under the provisions of OAR 459-007-0420.

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.250, 238.255, 238.260, 238.515, 238.565, OL 2003 Ch. 625
Hist.: PERS 5-2009, f. & cert. ef. 4-6-09

459-007-0420

Crediting Earnings at Judge Member Service or Disability Retirement

Upon retirement of a judge member for service or disability, earnings from the effective date of the last judge member annual rate to the effective date of retirement will be credited to the judge member account as specified in this rule.

(1) Judge member regular account.

(a) If earnings for the calendar year before the calendar year of the judge member's retirement have not yet been credited, earnings for that year will be credited based on the latest judge member regular account year-to-date calculation available for that year.

(b) Earnings for the calendar year of the judge member's retirement will be credited from January 1 to the judge member's effective retirement date based on the latest judge member regular account year-to-date calculation as of the judge member's effective retirement date.

(2) If the judge member is participating in the Variable Annuity Account:

(a) If earnings for the calendar year before the calendar year of the judge member's retirement have not yet been credited, earnings for that year will be credited based on the latest variable account year-to-date calculation available for that year.

(b) Earnings for the calendar year of the judge member's retirement will be credited from January 1 to the judge member's effective retirement date based on the latest variable account year-to-date calculation as of the judge member's effective retirement date.

(3) After earnings have been credited in accordance with sections (1) and (2) of this rule, the sum of the variable account balance and the judge member regular account balance shall constitute the judge member account balance as of the judge member's effective retirement date. No earnings or interest may be credited to the judge member account after the judge member's effective retirement date. If, however, the judge member elects to continue participation in the Variable Annuity Account after retirement, the portion of the allowance payable from the Variable Annuity Account will be adjusted for changes in that account's value in accordance with ORS 238.260(10).

Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.250, 238.255, 238.260, 238.515, 238.565 & OL 2003 Ch. 625
Hist.: PERS 5-2009, f. & cert. ef. 4-6-09

ADMINISTRATIVE RULES

Oregon State Marine Board Chapter 250

Rule Caption: Establish moorage buffer in the Marion and Polk Counties area of the Willamette River.

Adm. Order No.: OSMB 1-2009

Filed with Sec. of State: 4-15-2009

Certified to be Effective: 5-1-09

Notice Publication Date: 1-1-2009

Rules Amended: 250-020-0261

Rules Repealed: 250-020-0290

Subject: This rule will set a 5 mph slow-no-wake zone within 100 feet of the Salem waterfront park transient moorage/dock facility. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

Rules Coordinator: June LeTarte—(503) 378-2617

250-020-0261

Boat Operations on the Willamette River in Marion and Polk Counties

No boat shall be operated at a speed in excess of 5 MPH on the Willamette River, in Polk and Marion Counties, in the following locations:

(1) Within 200 feet of a designated public launching ramp or designated swimming area.

(2) From a point 50 feet south of the Center Street Bridge between Salem and West Salem and a point 50 feet north of the railroad bridge on Marion Street between Salem and West Salem.

(3) Within 100 feet of the moorage dock at the Salem waterfront park.

Stat. Auth.: ORS 830

Stats. Implemented: ORS 830.110 & 830.175

Hist.: MB 17, f. 2-5-63; Renumbered from 250-020-0140; OSMB 4-2007(Temp), f. & cert. ef. 5-2-07 thru 10-28-07; Administrative correction 11-17-07; OSMB 1-2009, f. 4-15-09, cert. ef. 5-1-09

**Oregon State Treasury
Chapter 170**

Rule Caption: Changes to public funds collateralization rule.

Adm. Order No.: OST 1-2009

Filed with Sec. of State: 4-10-2009

Certified to be Effective: 4-10-09

Notice Publication Date: 2-1-2009

Rules Amended: 170-040-0020

Subject: Rule 170-040-0020 is amended to provide the ability to assess a penalty on bank depositories that remit program administration fees by check.

Rules Coordinator: Sally Wood—(503) 378-4990

170-040-0020

Expenses of Administration Paid by Bank Depositories

For the services, duties and activities of the Office of the State Treasurer (OST) performed under ORS Chapter 295, the OST shall charge bank depositories for the costs incurred by the OST based on a fixed fee plus a pro rata share of the remaining costs according to the amount of public funds deposits held by a bank depository. Each depository shall pay any fee amounts owed to OST by the time and in accord with the terms set forth in an invoice received from OST. If the invoice amount exceeds \$200, payment shall be made by electronic funds transfer (EFT) in the manner and to the account designated by OST in its invoice. If, for some reason, a bank depository is unable to make payment by EFT and chooses to remit by check, a penalty, not to exceed five (5) percent of the amount of the payment with a maximum penalty of \$50, may be assessed to the bank depository.

Stat. Auth.: ORS 293.525 & 295.106

Stats. Implemented: ORS 293.525 & 295.106

Hist.: OST 2-2008, f. 6-27-08, cert. ef. 7-1-08; OST 1-2009, f. & cert. ef. 4-10-09

**Oregon Youth Authority
Chapter 416**

Rule Caption: Medication Management.

Adm. Order No.: OYA 2-2009

Filed with Sec. of State: 4-14-2009

Certified to be Effective: 4-17-09

Notice Publication Date: 3-1-2009

Rules Amended: 416-340-0010, 416-340-0020, 416-340-0030, 416-340-0040, 416-340-0060, 416-340-0070

Subject: The rule modifications update requirements for OYA staff and substitute care providers in storing, administering, and tracking OYA offender medication. Also clarified are offender rights relating to medication.

Rules Coordinator: Winifred Skinner—(503) 373-7570

416-340-0010

Definitions

(1) Controlled medication: DEA-controlled substances including medications that come under the jurisdiction of the Federal Controlled Substances Act (e.g. narcotics, amphetamines, and certain pain and sleeping medications). These medications have a high risk for abuse or dependence.

(2) Informed consent: The agreement by a patient (over age 14 for mental health treatment, and over age 15 for medical treatment) to treatment, examination, or procedure after the patient receives facts regarding the nature, consequences, and risks of the proposed treatment, examination or procedure. Informed consent requires that the person giving the consent understands the facts, implications, and potential consequences of an action. Written documentation of consent by an offender or his/her guardian is required for invasive procedures in which there is some risk.

(3) Medication Administration Record (MAR): The written record used to document the administration of all medication to offenders.

(4) Pro re nata (PRN): Administered as needed.

(5) Psychotropic Medication: Medication prescribed to alter brain function for purposes of treating problems with thought processes, mood, or behavior. Psychotropic medications include stimulants, antipsychotics, mood stabilizers, anxiolytics, and sedatives.

(6) Substitute care: Residential placements in the community that provide 24-hour-a-day care and supervision, excluding a relative's home. Such placements include, but are not limited to:

(a) Foster care; and

(b) Proctor care; and

(c) Contracted residential treatment providers.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 418.517, 420A.010, 420A.014 & 420.054

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2005, f. & cert. ef. 3-25-05; OYA 2-2009, f. 4-14-09, cert. ef. 4-17-09

416-340-0020

General Standards

(1) The use of medication will be solely for the health and welfare of the individual offender.

(a) Whether medication is to be used or not used and under what conditions is the sole responsibility of the attending licensed prescriber.

(b) Prescription orders will be authorized by persons who are licensed by the State of Oregon to prescribe medication.

(c) Prescription medications will be administered according to the prescriber's order and given only to the offender to whom the medication is prescribed.

(2) Consent:

(a) Pursuant to ORS 109.675 offenders 14 years of age or older may obtain, without parental knowledge or consent, outpatient diagnosis or treatment of a mental or emotional disorder, or a chemical dependency excluding methadone maintenance, by a physician, licensed psychologist, nurse practitioner or licensed clinical social worker.

(b) Pursuant to ORS 109.640, offenders 15 years of age or older may obtain, without parental consent, medical treatment, including immunizations.

(c) Pursuant to ORS 433.267, offenders 15 years of age or older may sign, on their own behalf, religious exemption from immunizations forms available through the Department of Public Health.

(d) Pursuant to ORS 433.032, offenders have the right to refuse medications, except in circumstances where the refusal affects public health.

(e) If an offender is otherwise incapable of giving consent, no psychotropic stimulant or tranquilizing drugs will be administered to the offender without his/her informed consent unless withholding of the drug would seriously endanger the offender's health. The fact that the offender gave verbal informed consent will be noted in the medical record.

(3) Pharmacy packaging and dispensing of medications administered in close custody facilities will follow Oregon administrative rule governing pharmacy practice for correctional facilities and the Nurse Practice Act.

(a) All medications will be properly labeled, including labels on prescription medications that match the prescriber's written order. All

ADMINISTRATIVE RULES

nontopical prescribed medications administered in close custody facilities will be unit dosed.

(b) Prescriptions that are not administered will be returned to the dispensing pharmacy or properly disposed.

(4) Any medical information received from a medical practitioner will be placed in the offender's permanent medical record.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 418.517, 420A.010, 420A.014 & 420.054

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2005, f. & cert. ef. 3-25-05; OYA 2-2009, f. 4-14-09, cert. ef. 4-17-09

416-340-0030

Medication Administration

Medications, including those issued over-the-counter, will be kept in a secured, locked container in a location designated as a limited access area.

(1) Medication will be stored as prescribed (medication requiring refrigeration will be kept under refrigeration in a locked box).

(2) Controlled medications will be stored under two locks.

(3) Oral and injectable medications will be stored separately from topical medications.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 418.517, 420A.010, 420A.014 & 420.054

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2005, f. & cert. ef. 3-25-05; OYA 2-2009, f. 4-14-09, cert. ef. 4-17-09

416-340-0040

Medication Records

(1) All medications administered to offenders in close custody will be tracked on a Medication Administration Record (MAR).

(2) All medications administered to offenders in substitute care placement must be tracked by substitute care providers.

(3) Any unusual, uncommon, or severe side effects related to medications (both prescription and over-the-counter) will be documented, and an offender will receive appropriate treatment as necessary.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 418.517, 420A.010, 420A.014 & 420.054

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2005, f. & cert. ef. 3-25-05; OYA 2-2009, f. 4-14-09, cert. ef. 4-17-09

416-340-0060

Psychotropic Medications

(1) Psychotropic medications will be prescribed by a physician or nurse practitioner through a written order.

(2) The use of medication to alter behavior, thought processes or mood will be based solely on a physician's determination that the medication is in the best medical interests of the offender.

(3) Psychotropic medications will be reviewed no less than every 90 days:

(a) By the prescribing physician or nurse practitioner for desired responses and adverse consequences; and

(b) To determine the continued need and/or lowest effective dosage in a carefully monitored program.

(4) Oral administration of psychotropic drugs is the preferred method.

(5) Psychotropic medication may have PRN status only when the prescriber has ordered PRN status, and a nurse has documented written parameters specific to an offender's care, per Board of Nursing administrative rules.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 418.517, 420A.010, 420A.014 & 420.054

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2005, f. & cert. ef. 3-25-05; OYA 2-2009, f. 4-14-09, cert. ef. 4-17-09

416-340-0070

Medication Management in Substitute Care

(1) A substitute care provider will comply with all rules in this Division unless specifically noted.

(2) A substitute care provider will keep a record of the offender's medical history. These records will be kept current and organized in a manner that clearly shows the medical needs of the offender. These records must be forwarded to the Oregon Youth Authority upon an offender's placement change, or placement termination.

(3) A substitute care provider will notify the offender's Juvenile Parole/Probation Officer (JPPO) within one working day of any new prescription for psychotropic medication.

(4) A substitute care provider will notify the offender's JPPO within one working day if an offender 14 years of age or older becomes known to be diagnosed or treated for any mental or emotional disorder or chemical dependency.

Stat. Auth.: ORS 420A.025

Stats. Implemented: ORS 418.517, 420A.010, 420A.014 & 420.054

Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 6-2005, f. & cert. ef. 3-25-05; OYA 2-2009, f. 4-14-09, cert. ef. 4-17-09

Parks and Recreation Department Chapter 736

Rule Caption: Amendment to OAR 736-018-0045 for adoption of the Iwetemlaykin State Heritage Site Master Plan.

Adm. Order No.: PRD 4-2009

Filed with Sec. of State: 4-15-2009

Certified to be Effective: 5-1-09

Notice Publication Date: 3-1-2009

Rules Amended: 736-018-0045

Subject: ORS 390.180(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 master plan for Iwetemlaykin State Heritage Site (formerly known as the Marr Ranch), a new park that was recently added to the state park system. 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 Master Plan for this park 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 this park. The plan was formulated through OPRD's mandated master planning process which included meetings and written comment opportunities involving the general public, an advisory committee, local residents, tribes that are affiliated with the area, and affected state and federal agencies and local governments. The Department held a rule-making hearing and accepted testimony on the proposed rule amendment for adoption of the Master Plan.

The Master Plan to be adopted through the rule amendment has no affect on small businesses. However, businesses have had the same opportunities to be involved, through public meetings and written comment opportunities, 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) Champoeg 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;

ADMINISTRATIVE RULES

(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 Yoakum Point State Natural Site; Sunset Bay State Park; Shore Acres State Park; and Cape Arago State Park;

(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.

(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

Rule Caption: Amendment to OAR 736-018-0045 for adoption of the Kam Wah Chung State Heritage Site Master Plan.

Adm. Order No.: PRD 5-2009

Filed with Sec. of State: 4-15-2009

Certified to be Effective: 5-1-09

Notice Publication Date: 3-1-2009

Rules Adopted: 736-018-0045

Subject: ORS 390.180(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 master plan for Kam Wah Chung State Heritage Site, a new park that was recently added to the state park system. 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 Master Plan for this park 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 this park. The plan was formulated through OPRD's mandated master planning process which included meetings and written comment opportunities involving the general public, an advisory committee, affected interest groups, and affected state and federal agencies and local government.

The Master Plan to be adopted through the rule amendment has no affect on small businesses. However, businesses have had the same opportunities to be involved, through public meetings and written comment opportunities, 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) Champoeg 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;

(n) Curry County State Parks Master Plan, including: Floras Lake State Park, renamed as Floras Lake State Natural Area; Cape Blanco State

ADMINISTRATIVE RULES

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; McWay 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 Yoakum Point State Natural Site; Sunset Bay State Park; Shore Acres State Park; and Cape Arago State Park;

(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

Public Utility Commission Chapter 860

Rule Caption: In the Matter of a Rulemaking to Delete the Sunset Provision in OAR 860-022-0070.

Adm. Order No.: PUC 2-2009

Filed with Sec. of State: 3-25-2009

Certified to be Effective: 3-25-09

Notice Publication Date: 2-1-2009

Rules Amended: 860-022-0070

Subject: The spring earnings review previously established in OAR 860-022-0070 included a sunset provision. In its Order No. 08-504, in Docket UM 1286, the Commission adopted a Purchased Gas Adjustment Mechanism that includes an annual spring earnings review and eliminates the fall earnings review. The amendments to this rule reflect the processes required by the Purchased Gas Adjustment Mechanism adopted in UM 1286 by eliminating the sunset provision for the spring earnings review and by eliminating the fall earnings review.

Rules Coordinator: Diane Davis—(503) 378-4372

860-022-0070

Procedures and Standards for Reviewing Gas Utility Rates in the Context of the Purchased Gas Adjustment Mechanism

(1) The purpose of sections (1) through (7) of this rule is to ensure that earnings of a natural gas utility local distribution company ("gas utility" or "LDC") with a purchased gas adjustment ("PGA") mechanism are not excessive prior to passing through prudently incurred base gas cost changes in rates through a mechanism which is fair to all parties and efficient to administer. For purposes of this rule, earnings are excessive only if a gas utility does not share with its customers past revenues related to earnings that exceed an earnings threshold determined by the Commission.

(2) Prudently incurred base gas cost changes will be included in rates through tracking filings, subject to the Commission's review of gas cost purchasing practices at the time of those filings.

(3) A separate, simplified earnings review will be conducted on an annual basis independent of and in advance of the PGA filings. The purpose of such an earnings review is to determine whether the gas utility's earnings are above an earnings threshold so as to require some sharing of revenue with customers before passing through base gas cost changes. The purpose is not to make a forward-looking, permanent change in rates.

(4) In an earnings review conducted under this rule, it is reasonable for PGA base gas cost changes to be passed through into rates if, in circumstances when the gas utility's earnings in the prior year were above an earnings threshold determined in section (5) of this rule, revenue representing a percentage of earnings in that year above that earnings threshold is shared with customers.

(5) The standards to be applied in an earnings review under this rule for each LDC are as follows:

(a) Test year: The test year for the earnings review will be the calendar year immediately prior to the year in which the PGA filing is made, unless otherwise specified by the Commission.

(b) Normalization and adjustments: The test year results will be adjusted with a predetermined list of rate-making adjustments equivalent to those applied in the gas utility's most recent general rate proceeding.

(c) Earnings threshold: There will be no revenue sharing required for years when a gas utility's return on equity from utility operations in Oregon is lower than the earnings threshold determined by the Commission for each LDC. Neither this value nor any of the components implied in establishing it will be precedential in a general rate case involving any Oregon public utility. The Commission will update the value for the earnings threshold annually for each LDC, pursuant to a mechanism established by order of the Commission for each LDC, to reflect changes in conditions in the capital markets. Upon a showing of good cause, the Commission may consider other relevant factors in addition to changes in conditions in the capital markets.

(d) Sharing percentage: The amount of revenue in a test year representing a specified percentage of the earnings above the earnings threshold

ADMINISTRATIVE RULES

will be shared with customers. The Commission by order will determine the sharing percentage for each LDC.

(e) Deferral and amortization: Any revenue determined for the gas utility for a test year under section 5(d) of this rule will be deferred as of December 31 of the test year. The balance in the deferred account will accrue interest from that date at the LDC's rate of return on rate base determined in its last general rate case. Interest will continue to accrue at this rate during the amortization period, which will begin on the date of the next PGA rate change and extend for twelve months. The Commission by order will determine the method for allocating amounts to be amortized among customer classes.

(6) Each LDC will file test year results of operations by May 1. Any person may request to be placed on a list to receive all such earnings review filings at the time they are submitted to the Commission or may request a copy of individual filings. Any person wishing to participate as a party shall so notify the Commission and other parties via letter. Commission staff will complete its review and distribute summary conclusions by June 10 to all parties. Staff will present the results of the earnings review at the first regular public meeting in July; alternatively, if issues are unresolved among all parties, a settlement conference including all parties will be conducted. By August 1, the parties will file position statements with the Commission on unresolved issues, if needed. The Commission will issue its decision on unresolved issues, if any, by August 15. Unless otherwise directed by the Commission, each LDC will file its annual gas cost tracking filing by August 31, including amortization of credit amounts in the deferred account, if any, resulting from the earnings review.

Stat. Auth.: ORS 183 & 757

Stats. Implemented: ORS 757.210 & 757.259

Hist.: PUC 1-1999, f. & cert. ef. 4-21-99; PUC 5-2003, f. & cert. ef. 4-14-03; PUC 1-2007, f. & cert. ef. 1-23-07; PUC 2-2009, f. & cert. ef. 3-25-09

Rule Caption: In the Matter of Clarifying OAR 860-032-0620, Quarterly OUS Report: Filing and Payment.

Adm. Order No.: PUC 3-2009

Filed with Sec. of State: 4-14-2009

Certified to be Effective: 4-14-09

Notice Publication Date: 3-1-2009

Rules Amended: 860-032-0620

Subject: This rule amendment clarifies the rule regarding the filing of quarterly Oregon Universal Service contribution reports. Telecommunications providers are subject to the rule. The changes to the rule provide clarifying language about who must sign the report, the deferral of payment provisions, and the waiver provision. The amendment also makes housekeeping changes to the rule. Filing of an incomplete or inaccurate contribution report can lead to monetary penalties for the subject company. The changes help to clarify the requirements of filing and payment for providers.

Rules Coordinator: Diane Davis—(503) 378-4372

860-032-0620

Quarterly OUS Report: Filing and Payment

(1) For the purpose of the OUS fund, a telecommunications provider must file its contribution report with the OUS Administrator. The contribution report is due on or before the 10th day of the second month after the close of each three-month quarter (i.e., approximately 40 days after the end of each three-month quarter). The contribution report must include the signature of an officer of the telecommunications provider, or an officer's designee, verifying the accuracy of the information in the contribution report. A telecommunications provider must send its contribution report so that it is received in the OUS Administrator's offices no later than 5 p.m. on the date it is due.

(2) A telecommunications provider must file the contribution report for each quarter with no exceptions, including when the contribution amount shown on the report is \$0.00.

(3) The amount shown on the contribution report is due and payable by the telecommunications provider on or before the 28th day of the second month after the close of each three-month quarter. Payment must be made to the Commission. A telecommunications provider must send payment (electronically or by mail) so that it is received in the Commission's offices by no later than 5 p.m. on the date it is due.

(4) If the contribution amount is less than \$100, a telecommunications provider may defer payment and accumulate it to the following quarter's contribution. This accumulation may continue interest-free until either the accumulated amount is greater than \$100 or four quarters have passed from

the first deferral, whichever comes first. The telecommunications provider must note the deferral on its contribution report.

(5) If a telecommunications provider fails to file a contribution report as required by these rules, the Commission shall impose a late report fee of \$100. The Commission may not impose a late report fee until a contribution report is five business days past due.

(6) If a telecommunications provider files a contribution report but fails to pay the contribution amount in full on or before the day it is due, unless the amount due is deferred under section (4) of this rule, the Commission shall add a late payment fee equal to 9 percent of the unpaid amount of the contribution, up to a maximum of \$500. The Commission may not impose a late payment fee until the required payment is five business days past due.

(7) If a telecommunications provider fails to pay the contribution amount in full on or before the day it is due, unless the amount due is deferred under section (4) of this rule, the Commission shall add interest on the unpaid contribution amount at the rate of 9 percent per annum from the day payment was due until paid.

(8) If the amount shown due on a contribution report is not paid on the due date, unless the amount due is deferred under section (4) of this rule, the Commission may issue a proposed order to set the sum due. The Commission may waive the late report fee, the late payment fee, the interest on the unpaid contribution amount, or any combination thereof, if the provider requests the waiver and provides evidence showing that the provider paid its contribution amount late due to circumstances beyond its control.

Stat. Auth.: ORS 183, 192, 756 & 759

Stats. Implemented: ORS 756.040, 759.015 & 759.425

Hist.: PUC 23-2002, f. & cert. ef. 12-9-02; PUC 3-2009, f. & cert. ef. 4-14-09

Rule Caption: In the Matter of the Adoption of Temporary Amendment to OAR 860-022-0041(10).

Adm. Order No.: PUC 4-2009(Temp)

Filed with Sec. of State: 4-15-2009

Certified to be Effective: 4-15-09 thru 10-9-09

Notice Publication Date:

Rules Amended: 860-022-0041

Subject: On September 2, 2005, Governor Theodore Kulongoski signed into law Chapter 757, OR Laws 2005 (SB 408), codified primarily at ORS 757.268. SB 408 requires certain public utilities to file annual tax reports and other tax information with the Public Utility Commission of Oregon (Commission). The law requires the report to provide information concerning the amount of taxes paid by the utility and the amount of taxes authorized to be collected in rates during specified time periods. Further, the law requires the Commission to review the report and determine if the amount of taxes assumed in rates differed by at least \$100,000 from the amount of taxes paid by the public utility to units of government. SB 408 directs the Commission, upon finding that difference in amounts, to require the public utility to implement a rate schedule with an automatic adjustment clause accounting for the difference. To implement SB 408, the Commission adopted OAR 860-022-0041.

The rule, before this temporary amendment, required that the Commission perform an earnings review using the utility's results of operations "for the applicable tax year." While reviewing the utilities' tax reports filed in compliance with SB 408 for calendar year 2007, the Commission discovered that part of section (10) conflicts with ORS 757.268. Under SB 408, the Commission should determine whether a rate adjustment under an automatic adjustment clause would violate ORS 756.040, or would otherwise have a "material adverse effect on customers," by examining the utility's rates during the period the automatic adjustment clause is in effect, not during the applicable tax year. The temporary rule amendment corrects the discrepancy by changing the time period used for the earnings review from the applicable tax year to the period during which the automatic adjustment clause would be in effect. In addition, the temporary rule clarifies that a claim under OAR 860-022-0041(10) should be made after the tariffs establishing the automatic adjustment clause have been filed, consistent with ORS 757.268(4), (9), and (10).

Rules Coordinator: Diane Davis—(503) 378-4372

ADMINISTRATIVE RULES

860-022-0041

Annual Tax Reports and Automatic Adjustment Clauses Relating to Utility Taxes

(1) This rule applies to regulated investor-owned utilities that provided electric or natural gas service to an average of 50,000 or more customers in Oregon in 2003, or to any successors in interest of those utilities that continue to be regulated investor-owned utilities.

(2) As used in this rule:

(a) "Affiliated group" has the meaning given to "affiliated group" in ORS 757.268(13)(a);

(b) "Deferred taxes" for purposes of the utility means the total deferred tax expense of regulated operations that relate to the year being reported in the utility's results of operations report or tax returns, excluding deferred taxes related to the establishment of a regulatory receivable or payable account for any rate adjustment imposed under ORS 757.268, in the year the deferred tax is established but not thereafter, to eliminate the iterative tax effect of the rate adjustment;

(c) "Income" means taxable income as determined by the applicable taxing authority, except that income means regulatory taxable income when reporting or computing the stand-alone tax liability resulting from a utility's regulated operations;

(d) "Income tax losses" means the negative taxable income of an entity in the federal taxpayer or unity group, excluding the current deduction of tax depreciation on public utility property and federal investment tax credits related to public utility property;

(e) "IRC" means Internal Revenue Code;

(f) "Investment" means capital outlays for utility property necessary or useful in providing regulated service to customers;

(g) "Iterative tax effect" means the tax effect of a rate adjustment for taxes related to ORS 757.267 or 757.268 in the tax reporting period that includes the rate adjustment;

(h) "Local taxes collected" means the total amount collected by the utility from customers under the local tax line-item of customers' bills calculated on a separate city or county basis;

(i) "Pre-tax income" means the utility's net revenues before income taxes and interest expense, as determined by the Commission in a general rate proceeding;

(j) "Properly attributed" means the share of taxes paid that is apportioned to the regulated operations of the utility as calculated in section (3), subject to subsections (4)(a), (4)(b), (4)(g) and (4)(h), of this rule;

(k) "Public utility property" means property as defined by the Code of Federal Regulations, Title 26, Section 168(i)(10);

(l) "Regulated operations of the utility" has the meaning given to "regulated operations of the utility" in ORS 757.268(13)(c);

(m) "Results of operations report" means the utility's annual results of operations report filed with the Commission;

(n) "Revenue" means utility retail revenues received from ratepayers in Oregon, excluding supplemental schedules or other revenues not included in the utility's revenue requirement and adjusted for any rate adjustment imposed under this rule;

(o) "Revenue requirement" means the total revenue the Commission authorizes a utility an opportunity to recover in rates pursuant to a general rate proceeding or other general rate revision, including an annual automatic adjustment clause under ORS 757.210;

(p) "Stand-alone tax liability" means the amount of income tax liability calculated using a pro forma tax return and revenues and expenses in the utility's results of operations report for the year, except using zero depreciation expense for public utility property, excluding any tax effects from investment tax credits, and calculating interest expense in the manner used by the Commission in establishing rates;

(q) "System regulated operations" means those activities of the utility, in Oregon and other jurisdictions, that are subject to rate regulation by any state commission;

(r) "Tax" has the meaning given to "tax" in ORS 757.268(13)(d);

(s) "Taxes authorized to be collected in rates" means:

(A) The following for federal and state income taxes calculated by multiplying the following three values:

(i) The revenue the utility collects, as reported in the utility's results of operations report;

(ii) The ratio of the net revenues from regulated operations of the utility to gross revenues from regulated operations of the utility, calculated using the pre-tax income and revenue the Commission authorized in establishing rates and revenue requirement; and

(iii) The effective tax rate used by the Commission in establishing rates for the time period covered by the tax report as set forth in the most

recent general rate order or other order that establishes an effective tax rate, calculated as the ratio of total income tax expense in revenue requirement to pre-tax income;

(B) For purposes of paragraph (2)(s)(A) of this rule, when the Commission has authorized a change during the tax year for gross revenues, net revenues or effective tax rate, the amount of taxes authorized to be collected in rates will be calculated using a weighted average of months in effect;

(t) "Taxes paid" has the meaning given to "taxes paid" in ORS 757.268(13)(f);

(u) "Taxpayer" means the utility, the affiliated group or the unitary group that files income tax returns with units of government;

(v) "Tax report" means the tax filing each utility must file with the Commission annually, on or before October 15 following the year for which the filing is being made, pursuant to ORS 757.268;

(w) "Unitary group" means the utility or the group of corporations of which the utility is a member that files a consolidated state income tax return; and

(x) "Units of government" means federal, state, and local taxing authorities.

(3) The amount of income taxes paid that is properly attributed to regulated operations of the utility is calculated as follows:

(a) The amount of federal income taxes paid to units of government that is properly attributed to the regulated operations of the utility is the product of the values in paragraphs (3)(a)(A) and (B), subject to subsection (3)(b) of this rule:

(A) The total amount of federal income taxes paid by the federal taxpayer, to which is added:

(i) The current tax benefit, at the statutory federal income tax rate, of tax depreciation on public utility property;

(ii) The tax benefits associated with federal investment tax credits related to public utility property; and

(iii) Imputed tax benefits on charitable contributions and IRC section 45 renewable electricity production tax credits of the affiliated group, except those tax benefits or credits associated with regulated operations of the utility; and

(B) The average of the ratios calculated for the utility's gross plant, wages and salaries and sales, using amounts allocated to regulated operations of the utility as set forth in the utility's results of operations report in the numerator and amounts for the federal taxpayer in the denominator;

(b) The amount of federal income taxes paid that is properly attributed to the regulated operations of the utility under subsection (3)(a) of this rule shall not be less than the amount of the federal stand-alone tax liability calculated for the regulated operations of the utility, reduced by the product of:

(A) The imputed negative tax associated with all federal income tax losses of entities in the utility's federal taxpayer group; and

(B) The average of the ratios for the utility's gross plant, wages and salaries and sales, using amounts allocated to the regulated operations of the utility as set forth in the utility's results of operations report in the numerator and amounts for the system regulated operations in the denominator;

(c) The total amount of state income taxes paid to units of government that is properly attributed to the regulated operations of the utility is the product of the values in paragraphs (3)(c)(A) and (B), subject to paragraphs (3)(c)(C) and (D) and subsection (3)(d) of this rule:

(A) The total amount of Oregon income taxes paid by the Oregon unitary group taxpayer, to which is added:

(i) The current tax benefit, at the state statutory rate, of tax depreciation on public utility property; and

(ii) Imputed Oregon tax benefits on charitable contributions of the unitary group, except those tax benefits associated with regulated operations of the utility; and

(B) The average of the ratios calculated for the utility's gross plant, wages and salaries and sales using amounts allocated to regulated operations of the utility as set forth in the utility's results of operations report in the numerator and amounts for the unitary group taxpayer in Oregon, adjusted to reflect amounts allocated to regulated operations of the utility, in the denominator;

(C) If a utility's taxes collected in rates reflect non-Oregon state income taxes, the utility must make a one-time permanent election in its October 15, 2006, tax report filing, or in the case of a change of the majority ownership of the utility's voting shares pursuant to ORS 757.511, in the first tax report filing that includes a tax reporting period reflecting the new ownership, to either:

ADMINISTRATIVE RULES

(i) Multiply the total amount of Oregon income taxes paid in paragraph (3)(c)(A) of this rule before adjustments by the ratio calculated as the state income tax rate used by the Commission in establishing rates divided by the Oregon statutory tax rate set forth in ORS 317.061; or

(ii) Calculate the total state taxes paid using the formula set forth in paragraphs (3)(c)(A) and (B) of this rule on a state by state basis, apportioned to Oregon by multiplying the total state taxes paid by the average of the ratios calculated for gross plant, wages and salaries and sales using amounts allocated to the regulated operations of the utility in the numerator and amounts for the system regulated operations in the denominator;

(D) When Oregon income tax attributable to system regulated operations is 100 percent allocated to Oregon in setting rates, 100 percent of the Oregon income tax of system regulated operations must be attributed to the regulated operations of the utility;

(d) The amount of state income taxes paid that is properly attributed to the regulated utility operations of the utility under subsection (3)(c) of this rule must not be less than:

(A) For a utility for which Oregon state income taxes are the only state income taxes included in rates, the amount of the Oregon state stand-alone tax liability calculated for the regulated operations of the utility, minus the imputed negative tax associated with all Oregon state income tax losses of entities in the utility's unitary group; or

(B) For a utility for which non-Oregon state income taxes are included in rates, the product of:

(i) The sum of the state stand-alone tax liability calculated for the applicable system regulated operations in each state in which the utility is a member of a unitary group, minus the sum of the imputed negative tax associated with all state income tax losses of entities in the utility's unitary group in each state; and

(ii) The average of the ratios calculated for gross plant, wages and salaries and sales using amounts allocated to the regulated operations of the utility in the numerator and amounts for the system regulated operations in the denominator;

(e) The amount of local income taxes paid to units of government that is properly attributed to the regulated operations of a utility is the product of the values in paragraphs (3)(e)(A) and (B) of this rule for each local taxing authority in Oregon:

(A) The total amount of income taxes paid by the taxpayer to the local taxing authority, as adjusted to include the imputed effect on local income taxes of:

(i) The current tax benefit of tax depreciation on public utility property; and

(ii) Imputed tax benefits on charitable contributions of the taxpayer except those associated with regulated operations of the utility; and

(B) The ratio calculated using the method for apportioning taxable income used by the local taxing authority, with the amount for the regulated operations of the utility in the local taxing authority in the numerator and the amount for the taxpayer in the local taxing authority in the denominator.

(4) On or before October 15 of each year, each utility must file a tax report with the Commission. The tax report must contain the following applicable information for each of the three preceding fiscal years:

(a) The amount of federal and state income taxes paid to units of government by the taxpayer, as adjusted pursuant to subparagraphs (3)(a)(A)(i), (ii) and (iii) of this rule;

(b) The amount of the utility's federal and state income taxes paid that is incurred as a result of income generated by the regulated operations of the utility, where:

(A) The amount of federal income taxes paid is equal to the federal stand-alone tax liability calculated for the regulated operations of the utility;

(B) For a utility for which Oregon state income taxes are the only state income taxes included in rates, the utility's state income taxes paid is the Oregon state stand-alone tax liability calculated for the regulated operations of the utility; and

(C) For a utility for which non-Oregon state income taxes are included in rates, the amount of state income taxes paid is the product of:

(i) The sum of the state stand-alone tax liability calculated for the applicable system regulated operations in each state in which the utility is a member of a unitary group; and

(ii) The ratio calculated as the income of the regulated operations of the utility divided by the income of the system regulated operations;

(c) The amount of federal and state income taxes paid to units of government by the taxpayer that is properly attributed to the regulated operations of the utility, as calculated in section (3) of this rule;

(d) The lowest of the amounts in subsections (4)(a), (4)(b) and (4)(c) of this rule, after making adjustments in paragraphs (4)(d)(A), (4)(d)(B), (4)(d)(C), (4)(d)(D), and (4)(d)(E), but no less than the deferred taxes related to depreciation of public utility property for regulated operations of the utility, except the deferred tax amount must be reduced by any tax refunds recognized in the reporting period and allocated to the regulated operations of the utility:

(A) The items defined in subsection (2)(t) of this rule;

(B) A reduction equal to the current tax benefit related to tax depreciation of public utility property for regulated operations of the utility;

(C) A reduction equal to the tax benefit related to federal investment tax credits recognized by the Commission in establishing rates;

(D) An increase equal to the tax benefit of Oregon business energy tax credits, including those credits transferred pursuant to ORS 469.206 and 469.208, of the unitary group, excluding those credits covered by 757.268(13)(f)(B); and

(E) Elimination of the iterative tax effect to the extent such iterative tax effect has not been eliminated by paragraph (4)(d)(A) of this rule;

(e) The amount of federal and state income taxes authorized to be collected in rates;

(f) The amount of the difference between the amounts in subsections (4)(d) and (4)(e) of this rule;

(g) The amount of local income taxes paid to units of government by the taxpayer, calculated for each local taxing authority, and to which is added the imputed effect on local income taxes of the amount in subparagraph (3)(e)(A)(i) of this rule;

(h) The amount of local income taxes paid to units of government by the taxpayer that is incurred as a result of income generated by the regulated operations of the utility, calculated as the stand-alone tax liability in each local taxing authority;

(i) The amount of local income taxes paid to units of government by the taxpayer that is properly attributed to the regulated operations of the utility, as calculated in section (3) of this rule for each local taxing authority;

(j) The lowest of the amounts in subsections (4)(g), (4)(h) and (4)(i) of this rule, calculated for each local taxing authority, after making adjustments for:

(A) The items defined in subsection (2)(t) of this rule; and

(B) A reduction equal to the local tax effect of the current tax benefit related to tax depreciation of public utility property for regulated operations of the utility; and

(C) Elimination of the iterative tax effect to the extent such iterative tax effect has not been eliminated by paragraph (4)(j)(A) of this rule;

(k) The amount of local income taxes collected from Oregon customers, calculated for each local taxing authority;

(l) The amount of the difference between the amounts in subsection (4)(j) and (4)(k) of this rule, calculated for each local taxing authority;

(m) The proposed surcharge or surcredit rate adjustments for each customer rate schedule to charge or refund customers the amount of the differences in subsections (4)(f) and (4)(l) of this rule;

(n) If the utility claims the minimum taxes paid amount set by subsections (3)(b) and (3)(d) of this rule, the total federal and state income tax losses in the utility's affiliated and unitary groups associated with the imputed negative tax claimed; and

(o) Any adjustments, in addition to the adjustments required in section (3) and subsections (4)(a) through (4)(n) of this rule, that the utility proposes to avoid probable violations of federal tax normalization requirements.

(5) In calculating the amount of taxes paid under sections (3) and (4) of this rule:

(a) "Taxes paid" must be allocated to each tax year employed by the utility for reporting its tax liability in the following manner:

(A) For any tax return prepared for the preceding tax year and filed on or before the date the tax report is due for such tax year, the utility must allocate each reported tax liability to the tax year for which such return is filed;

(B) For each tax liability or tax adjustment shown on an amended tax return or made as a result of a tax audit, that is filed, paid or received after the date the tax report is due for the applicable tax year, the utility must allocate the tax liability or tax adjustment to the tax year that is recognized by the utility for accounting purposes;

(C) Taxes paid must include any interest paid to or interest received from units of government with respect to tax liabilities;

(b) When a utility's fiscal year or parent changes, and a partial year consolidated federal income tax return is filed during the year, taxes paid

ADMINISTRATIVE RULES

must be calculated in the manner defined by ORS 314.355 and OAR 150-314.355. For purposes of this rule, the amount of taxes paid must reflect a weighted average of the months in effect related to each tax return filing.

(6) The utility must explain the method used for calculating the amounts in this rule and provide copies of all workpapers and documents supporting the calculations.

(7) The Commission will establish an ongoing docket for each of the October 15 tax report filings. Upon signing a protective order prepared by the Commission, any intervenor may have access to all such tax report filings, subject to the terms of the protective order;

(a) Within 20 days following the tax report filings, an Administrative Law Judge will conduct a conference and adopt a schedule;

(b) Within 180 days of the tax report filings, the Commission will issue an order that contains the following findings:

(A) Whether the taxes authorized to be collected in rates for any of the three preceding fiscal years differs by \$100,000 or more from the amount of taxes paid to units of government that is properly attributed to the regulated operations of the utility;

(B) For the preceding fiscal year, the difference between the amount of federal and state income taxes paid to units of government by the taxpayer that is properly attributed to the regulated operations of the utility and the amount of taxes authorized to be collected in rates;

(C) For the preceding fiscal year, the difference between the amount of local income taxes paid to units of government by the taxpayer that is properly attributed to the regulated operations of the utility and the amount of local taxes collected in rates; and

(c) Any other finding or determination necessary to implement the automatic adjustment clause.

(8) Upon entry of an order finding a difference of \$100,000 or more in section (7) of this rule, the utility must file an amended tariff, to be effective each June 1 unless otherwise authorized by the Commission, to implement a rate adjustment applying to taxes paid to units of government and collected from ratepayers for each fiscal year beginning on or after January 1, 2006;

(a) The utility must establish a balancing account and automatic adjustment clause tariff to recover or refund the difference determined by the Commission in paragraph (7)(b)(B) of this rule through a surcharge or surcredit rate adjustment;

(b) A utility that is assessed a local income tax must establish a separate balancing account and automatic adjustment clause tariff for each local taxing authority assessing such tax. The utility must apply a surcharge or surcredit on the bills of customers within the local taxing authority assessing the tax. The amount of the surcharge or surcredit must be calculated to recover or refund the difference determined by the Commission in paragraph (7)(b)(C) of this rule;

(c) Any rate adjustment must be calculated to amortize the difference determined by the Commission in paragraphs (7)(b)(B) and (7)(b)(C) of this rule over a period authorized by the Commission;

(d) Any rate adjustment must be allocated by customer rate schedule according to equal percentage of margin for natural gas utilities and equal cents per kilowatt-hour for electric utilities, unless otherwise authorized by the Commission;

(e) Each balancing account must accrue interest at the Commission-authorized rate for deferred accounts. For purposes of calculating interest, the amount of the difference calculated in this section of the rule will be deemed to be added to the balancing account on July 1 of the tax year;

(f) The automatic adjustment clause must not operate in a manner that allocates to customers any portion of the benefits of deferred taxes resulting from accelerated depreciation or other tax treatment of utility investment or regulated affiliate investment required to ensure compliance with the normalization method of accounting or any other requirements of federal tax law;

(g) On or before December 31, 2006, each utility must seek a Private Letter Ruling from the Internal Revenue Service on whether the utility's compliance with ORS 757.268 or this rule would cause the utility to fail to comply with any provision of federal tax law, including normalization requirements. Each utility must file a draft of its Private Letter Ruling Request with the Commission on or before November 15, 2006. While a utility's request for a Private Letter Ruling is pending, or a related Revenue Ruling is pending, no rate adjustment will be implemented, but interest will accrue according to subsection (8)(e) of this rule on the amount of any rate adjustment determined by the Commission pursuant to paragraphs (7)(b)(B) and (7)(b)(C) of this rule.

(9) No later than 30 days following the Commission's findings in section (7) of this rule, any person may petition to terminate the automatic

adjustment clause on the basis that it would result in a material adverse effect on customers. In the event of a filing under this section, the applicable rate adjustment will not be implemented until the Commission makes its determination. If the Commission denies the request to terminate the rate adjustment, interest will accrue according to subsection (8)(e) of this rule on the final amount of the rate adjustment.

(10) At any time after filing a tariff implementing an automatic adjustment clause a utility may file a claim that a rate adjustment under the automatic adjustment clause violates ORS 756.040 or other applicable law. In making a determination regarding a potential violation of 756.040, the Commission will examine the utility's projected earnings during the period the automatic adjustment clause would be in effect.

Stat. Auth.: ORS 183, 756, 757 & 759

Stats. Implemented: ORS 756.040, 756.060, 757.267 & 757.268

Hist.: PUC 8-2006, f. & cert. ef. 9-18-06; PUC 11-2007, f. & cert. ef. 9-18-07; PUC 4-2009(Temp), f. & cert. ef. 4-15-09 thru 10-9-09

Secretary of State, Elections Division Chapter 165

Rule Caption: Adopts Candidate Filing Deadlines for South Lane County Fire & Rescue Position 4.

Adm. Order No.: ELECT 4-2009(Temp)

Filed with Sec. of State: 3-16-2009

Certified to be Effective: 3-16-09 thru 3-20-09

Notice Publication Date:

Rules Adopted: 165-020-2025

Subject: South Lane County Fire & Rescue, Position 4, has a vacancy in office that occurred after the deadline for notifying candidates of vacancies in office, but before the 62nd day before the May 19, 2009, Regular District election. This rule provides extended deadlines for the county to provide a public notice of district election and sets the deadline to accept candidate filings.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-020-2025

Extended Deadlines for South Lane County Fire & Rescue, Position 4

Due to a vacancy in South Lane County Fire & Rescue, Position 4 the following deadlines apply:

(1) March 17, 2009, last date for clerk to publish notice of district election in newspaper of general circulation in the district.

(2) March 19, 2009, last date for candidates to file declaration of candidacy or completed nominating petition with the Lane County Clerk.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 255.245 & 332.030

Hist.: ELECT 4-2009(Temp), f. & cert. ef. 3-16-09 thru 3-20-09

Rule Caption: Adopts Candidate Filing Deadlines for Wauna Water District, Position 1.

Adm. Order No.: ELECT 5-2009(Temp)

Filed with Sec. of State: 3-19-2009

Certified to be Effective: 3-19-09 thru 3-24-09

Notice Publication Date:

Rules Adopted: 165-020-2026

Subject: Wauna Water District, Position 1, has a vacancy in office that occurred after the deadline for notifying candidates of vacancies in office, but before the 62nd day before the May 19, 2009, Regular District election. This rule provides extended deadlines for the county to provide a public notice of district election and sets the deadline to accept candidate filings.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-020-2026

Extended Deadlines for Wauna Water District, Position 1

Due to a vacancy in Wauna Water District, Position 1 the following deadlines apply:

(1) March 20, 2009, last date for clerk to publish notice of district election in newspaper of general circulation in the district.

(2) March 23, 2009, last date for candidates to file declaration of candidacy or completed nominating petition with the Clatsop County Clerk.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 255.245 & 332.030

Hist.: ELECT 5-2009(Temp), f. & cert. ef. 3-19-09 thru 3-24-09

ADMINISTRATIVE RULES

Travel Information Council Chapter 733

Rule Caption: Clarify definitions and correct cross-references for Logo signs and highway sign rules.

Adm. Order No.: TIC 1-2009

Filed with Sec. of State: 4-3-2009

Certified to be Effective: 4-3-09

Notice Publication Date: 1-1-2009

Rules Amended: 733-030-0006, 733-030-0011, 733-030-0016, 733-030-0021, 733-030-0026, 733-030-0036, 733-030-0045, 733-030-0050, 733-030-0055, 733-030-0060, 733-030-0065, 733-030-0080, 733-030-0085, 733-030-0090, 733-030-0095, 733-030-0100, 733-030-0105, 733-030-0110, 733-030-0115, 733-030-0120, 733-030-0125, 733-030-0130, 733-030-0135, 733-030-0150, 733-030-0155, 733-030-0160, 733-030-0180, 733-030-0190, 733-030-0250, 733-030-0260, 733-030-0270, 733-030-0280, 733-030-0290, 733-030-0300, 733-030-0320, 733-030-0330, 733-030-0340, 733-030-0350

Rules Repealed: 733-030-0140

Subject: The travel Information Council held a quarterly meeting on December 12, 2008. The Council proposed changes to amend highway sign rules to more clearly state definitions and language for Logo signs, TOD signs, Historical Markers, and Museum and Historic Site signs; and to create consistent language and correct cross-references between rules sections. Having received no comments from the public, the Council voted to adopt the changes at the March 27, 2009 meeting.

Rules Coordinator: Diane Cheyne—(503) 378-4508

733-030-0006

Applicability and Purpose

(1) The purpose of these regulations is to establish standards for Logo signs containing logo plaques erected within highway rights-of-way to provide directional information to qualified businesses offering gas, food, lodging, camping and attraction services to the traveling public.

(2) These regulations are applicable to the Interstate, Expressway, and Conventional Highway system.

(3) The authority for the issuance of these regulations is Oregon Laws 1979, Chapter 478, Section 7 and 23 U.S.C. 109(d), 131(f), 315 and 49 CFR 1.48(b).

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0011

Definitions

As used in these rules, the following definitions shall apply unless the context clearly indicates otherwise:

(1) "ATTRACTION" means any facility or qualified cultural district of regional significance that provides the general public with a cultural, historical, recreational, or educational activity, or a unique or unusual commercial activity or non-profit activity. Common retail outlets and facilities qualified for other logo service types are not eligible for Attraction signing. An ATTRACTION facility must prove that a majority of its income or visitors is derived from motorists residing farther than 50 miles, or one hour of travel time from the location of the facility being signed. The following terms shall be used to further define ATTRACTIONS:

(a) "Cultural" means a facility reflecting the customs, products and arts of the region where the facility is signed. Such facilities may include, but are not limited to: Science/Nature, Wineries and Art.

(b) "Cultural district" means a cluster of like facilities in a concentrated area of no less than six city blocks in size and with no less than four like facilities. Examples of cultural districts include antique districts and art gallery districts.

(c) "Educational" means a facility that provides enhanced knowledge of an industry, culture, historical or other genre that is unique to the region where the facility is being signed.

(d) "Historical" means a facility reflecting the past events of the region where the facility is signed. Such facilities or areas may include, but are not limited to: Historical museums, historic sites, or historic tours.

(e) "Recreational" means any facility offering a form of leisure, amusement or relaxation. Such facilities may include, but are not limited to: amusement parks, golf courses, jet boats, scenic cruises or rides.

(f) "Region" means the area surrounding a facility to a distance of 50 miles, or one hour of travel time.

(g) "Regional significance" means the level of a facility's importance to area visitor interests and the tourism industry that is determined after consultation with local tourism associations and the Regional Destination Marketing Organization where the facility is located.

(h) "Visitor Center" means a facility designated by the local community to offer tourism literature (maps, brochures, and guidebooks) to visitors as their primary business.

(2) "Business" means a facility furnishing GAS, FOOD, LODGING, CAMPING, or ATTRACTION which has met the qualifications for the placement of a logo plaque on a Logo Sign or a Supplemental Sign.

(3) "Business District" means the territory contiguous to a highway when 50 percent or more of the frontage thereon for a distance of 600 feet or more on one side, or 300 feet or more on both sides, is occupied by buildings used for business.

(4) "Commission" means the Oregon Transportation Commission.

(5) "Conventional Highway" means any State owned highway that is classified by ODOT as either a Statewide, Regional, or District level highway that is not an Expressway or Interstate Highway as defined in sections (9) and (12) of this rule.

(6) "Council" means the Travel Information Council created by ORS 377.835.

(7) "Dual logo plaque" means a logo plaque with two distinctive brand symbols displayed on one plaque on a "GAS" or "FOOD" Logo Sign where the two businesses are located in the same facility.

(8) "Engineer" means the State Traffic Engineer.

(9) "Expressway" means a highway which has full access control with access allowed only at interchanges and intersections.

(10) "Interchange" means a system of interconnecting roadways in conjunction with one or more grade separations that provides for the movement of traffic between two or more roadways or highways on different levels.

(11) "Interstate Oasis" means a facility near an Interstate Highway which has met the qualifications for providing products and services to the public, 24-hour access to public restrooms, and parking for automobiles and heavy trucks.

(12) "Interstate System" or "Interstate Highway" means every state highway that is a part of a national system of interstate and defense highways established pursuant to 23 U.S.C. Section 103(b). This definition also includes fully controlled access freeways on the Conventional Highway system.

(13) "Logo Sign" means a sign bearing separately affixed individual logo plaques for "GAS," "FOOD," "LODGING," "CAMPING," and "ATTRACTION" facilities erected in advance of exit ramps, interchanges or intersections on a state highway system. A Logo Sign includes a directional legend such as "NEXT RIGHT" or the Exit Number, a service legend of "GAS," "FOOD," "LODGING," "CAMPING," or "ATTRACTION," and one or more logo plaques.

(14) "Logo plaque" means a separately attached plaque mounted on the Logo sign showing the brand, symbol, trademark, name, or combination of these, for a business available on a crossroad at or near an interchange or an intersection. The wording and design of a logo plaque must be approved by the Council. For a logo plaque that displays the business name only, the graphic design of that plaque is considered equivalent to a symbol and must be replicated proportionately on all Supplemental Signs.

(15) "Main Traveled Way" means through traffic lanes of said system exclusive of frontage roads, auxiliary lanes and ramps.

(16) "Meal" means a combination of food items that are prepared and cooked on the licensed premises that includes one principal item and one side dish. Examples of principal items are fish, steak, chicken, pasta, and sandwich. Examples of side dishes are potatoes, potato salad, rice, french fries, beans and vegetables.

(17) "ODOT" and "the Department" means the Oregon Department of Transportation.

(18) "Owner" means a holder of fee title.

(19) "Responsible Operator" means a person or entity other than an owner who operates a business and who has authority to enter into an agreement relative to matters covered by these regulations.

(20) "RV" means recreational vehicle.

(21) "Service Legend" or "Type of Service" means the words displayed in reflective white on the Logo sign or the Supplemental sign that are limited to "GAS," "FOOD," "LODGING," "CAMPING," OR "ATTRACTION."

ADMINISTRATIVE RULES

(22) "Sidewalk" means a walkway with a hard, smooth surface, separated from the roadway with a curb, built for use by pedestrians, including persons in wheelchairs.

(23) "Supplemental Sign" means a sign located on, opposite, or at the terminus of an exit ramp of the interstate system or expressway or at the intersection of a conventional highway. A Supplemental Sign includes the service legends "GAS," "FOOD," "LODGING," "CAMPING," "ATTRACTION," directional information and one or more Supplemental logo plaques.

(24) "Supplemental logo plaque" means a separately attached plaque mounted on the Supplemental Sign showing the brand, symbol, trademark, name, or combination of these, for a business available on a crossroad at or near an interchange or an intersection. The wording and design of a supplemental logo plaque must be identical to the Logo plaque on the Main Traveled Way and must be replicated proportionally on all Supplemental Signs.

(25) "Supplemental Message" means an approved word legend within the logo plaque displayed horizontally along the bottom.

(26) "Traffic Control Devices" means any sign, signal, marking or device placed, operated or erected by authority under ORS 810.210, for the purpose of guiding, directing, warning or regulating traffic.

(27) "Trailblazer" means a small sign with a type of service, or the name, direction and distance to the business. Trailblazers are used when Supplemental Logo Signs cannot be used due to sign space limitations.

(28) "Urban" means an area that can include but is not limited to, business districts, sections of highway with contiguous sidewalks and/or traffic control device congestion where spacing does not meet approval of the engineer.

Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 3-1995, f. & cert. ef. 11-8-95; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 1-2007, f. & cert. ef. 3-1-07; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0016

Location

(1) Logo Signs are intended for use primarily in rural areas. Any installation of Logo Signs outside rural areas shall be consistent with the state signing policy criteria contained in rule 733-030-0055.

(2) Logo Signs should be located so as to take advantage of natural terrain, to have the least impact on the scenic environment, and to avoid visual conflict with other signs within the highway right of way. Unprotected Logo Sign supports located within the clear zone shall be of a breakaway design.

(3) In the direction of traffic, the preferred order of successive Logo Signs shall be those for "ATTRACTION," "CAMPING," "LODGING," "FOOD," and "GAS". There shall be a maximum of four Logo Signs at any given interchange. If all five service legends exist at one interchange, one Logo Sign must combine two service legends.

(4) A maximum of two logo plaques for each of three different types of services may be combined on the same Logo Sign.

Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 1-2007, f. & cert. ef. 3-1-07; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0021

Criteria for Specific Information Permitted

(1) Each business identified on a Logo Sign shall have given written assurance to the Council of its conformity with all applicable laws concerning the provision of public accommodations without regard to race, religion, color, age, sex, or national origin, meet all applicable Federal and State Americans for Disabilities Act (ADA) guidelines, and shall not be in breach of that assurance. Each business will offer services to all citizens.

(2)(a) If the business is a GAS, FOOD, LODGING, or ATTRACTION facility, it must be located within one mile of the interchange or intersection measured by vehicle distance from the center point of the terminus of the exit ramp on an interchange and from the center of an intersection to the nearest point of the intersection of the driveway of the business and a public highway. However, any business set out in this section location within nine miles of an interchange or intersection, but more than one mile from the interchange or intersection may apply to the Council for a waiver under the provisions of rule 733-030-0060;

(b) Facilities requesting signing from an Interstate or Expressway interchange and located within a city with a population of 15,000 or more and where there are sufficient numbers of businesses within one mile of that interchange or intersection, are not eligible for a mileage waiver and shall

be located within one mile of the interchange or intersection. If there is not a sufficient amount of businesses available at any given interchange or intersection in a city with a population of 15,000 or more, then any business set out in this section located within two miles of an interchange or intersection may apply to the Council for a waiver under the provisions of rule 733-030-0060. A maximum of two Supplemental Logo Signs per facility shall be allowed within urban areas. A facility has the right to appeal the conditions set forth in this paragraph through a waiver to the Council. A seven-year review will be conducted for those Logo or Supplemental Signs installed following the rule adoption.

(3) If the business is a CAMPING facility, it must be located within three miles of the interchange measured by vehicle distance from the center point of the terminus of the exit ramp of an interchange or the center of an intersection at an intersection to the nearest point of the intersection of the driveway of the business and a public highway. However, any business set out in this paragraph located within 15 miles of an interchange or intersection, but more than three miles from an interchange or intersection, may apply to the Council for a waiver under the provisions of rule 733-030-0060.

(4) The types of services permitted shall be limited to "GAS", "FOOD," "LODGING," "CAMPING" or "ATTRACTION". To qualify for displaying a logo plaque on a Logo or Supplemental Sign all businesses must display permanent on-premise signing which is visible from the roadway and sufficient to direct motorists to the appropriate entrance from the roadway. The on-premise signing shall display all or part of the Registered Business Name as stated on the logo plaques. Facilities that operate under and/or provide more than one type of service using more than one brand name shall be limited to displaying not more than two brand names per logo plaque:

(a) "GAS" shall include:

(A) Vehicle services, including gas and/or alternative fuels, oil, and water;

(B) Restroom facilities and drinking water;

(C) Continuous operation at least 16 hours per day, 7 days a week for businesses located on the interstate system and expressways and continuous operation at least 12 hours per day, 7 days a week on Conventional Highways; and

(D) Telephone service;

(E) FOOD businesses located within GAS facilities, that meet all requirements under 733-030-0021(4)(b) except for (E), may display their distinctive brand symbol on a dual logo plaque for the GAS facility in which they are located. Each GAS logo plaque shall be limited to the addition of only one FOOD business. Brand names that are reflected as part of the GAS facility's registered business name may be included on the logo plaque.

(b) "FOOD" shall include:

(A) Appropriate business & health department licensing for the providing of meals; facilities are required to maintain a valid health permit or license for the type of service operated;

(B) Continuous operation to serve at least two meals per day, at least 6 days per week;

(C) Telephone service and restroom facilities;

(D) The primary business operation is the providing of meals; and

(E) Indoor Seating for at least 20 people. FOOD facilities that have two distinct brand name restaurants in one building may display the brand symbols of both FOOD businesses on one FOOD dual logo plaque. FOOD facilities located within GAS facilities, which do not meet FOOD seating requirements, may be displayed on a GAS dual logo plaque for that facility. See 733-030-0021(4)(a)(E).

(c) "LODGING" shall include:

(A) Licensing where required;

(B) Adequate sleeping accommodations;

(C) Telephone services and restroom facilities.

(D) Bed & Breakfast facilities provided they maintain valid food and lodging health department licenses.

(d) "CAMPING" shall include:

(A) Licensing where required;

(B) Adequate parking accommodations;

(C) Modern sanitary facilities and drinking water.

(e) "ATTRACTION" shall include:

(A) Adequate parking;

(B) Restrooms provided;

(C) Drinking water required;

(D) Facility reasonably close to a public telephone;

ADMINISTRATIVE RULES

(E) Open at least six hours a day; six days a week of continuous operation during its normal business season.

(F) Licensing where required;

(G) Attendant/Docent/Guide on duty during all operating hours;

(H) ATTRACTIONS involving manufacturing or production, such as industrial facilities or wineries must meet all conditions under (e)(A)–(G) and must provide the opportunity for visitors to observe the production or manufacturing process or facilities;

(I) Historical facilities and visitor centers must meet all conditions under (e)(A)–(G) and must provide:

(i) Documentation showing that the facility meets the definition of the authorizing state agency that develops criteria for these types of services;

(ii) Historical tour routes may qualify with a waiver given by the Council if such a tour route is sufficiently signed to guide the motorist safely and conveniently through the tour;

(iii) Historical sites must be listed on the National Register of Historic Places.

(J) Like businesses creating a Cultural District must individually meet all conditions under (e)(A)–(G).

(5) Historical museum offerings must:

(a) Exist on a permanent basis for essentially aesthetic or educational purposes;

(b) Offerings must be the primary source of business of the requesting facility;

(c) Museum offerings must be exhibited to the public on a regular basis through buildings owned and operated by the museum.

(6) The number of Logo Signs permitted shall be limited to one for each type of service along an approach to an interchange or intersection. The number of logo plaques permitted on a Logo Sign is limited to six.

(7) A business, which fails to meet the requirements of provision (4) of this rule, may request a waiver from the Council under the provision of 733-030-0060.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 1-1984, f. & ef. 1-13-84; TIC 3-1985, f. & ef. 6-4-85; TIC 1-1994, f. & cert. ef. 6-1-94; TIC 3-1995, f. & cert. ef. 11-8-95; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 2-2000, f. 10-13-00, cert. ef. 11-1-00; TIC 1-2004(Temp), f. & cert. ef. 7-20-04 thru 1-15-05; TIC 2-2004, f. & cert. ef. 11-12-04; TIC 2-2006, f. & cert. ef. 6-21-06; TIC 1-2007, f. & cert. ef. 3-1-07; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0026

Composition

(1) Logo Signs shall have a blue reflective background with a white reflective border, and white reflective service legends of upper-case letters and numbers. The size of the Logo Sign should be determined by the amount and height of legend and the number and size of logo plaques attached to the sign. The service legends on Logo Signs should be at least equal in height to the directional legend on the Logo Sign.

(2) Logo plaques that use a blue background shall also have a white reflective border to provide contrast to the blue Logo Sign. Logo plaques that use a contrasting color background to the blue Logo Sign may omit the need for a white border. Where contrasting colors are used for a brand, symbol, trademark or name, the border may be omitted. The brand, symbol or trademark shall be reproduced in the colors and general shape consistent with on-premise signing, and any integral letters shall be in proportionate size. The registered business name, in whole or in part, and a supplemental message is the only wording allowed on the logo plaque. Messages, symbols, and trademarks which resemble any official traffic control device are prohibited. The vertical and horizontal spacing between logo plaques on Logo Signs shall not exceed eight inches and 12 inches, respectively.

(3) All arrows, letters and numbers used in the service legend and directional legend of Supplemental Signs shall be white and reflective.

(4) If a GAS facility is also a card-lock service, the logo plaque shall reflect the GAS facility's registered business name and/or trademark along with the card-lock service's registered business name and/or trademark on the same logo plaque.

[ED. NOTE: Exhibits & Publications referenced are available from the agency.]

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 1-1996, f. & cert. ef. 1-8-96; TIC 1-2007, f. & cert. ef. 3-1-07; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0036

Special Requirements — Interstate Highways and Expressways

(1) Location:

(a) Except as provided in rule 733-030-0016 and in paragraph (2)(b) and (c) of this rule a separate Logo Sign shall be provided for each type of service for which logo plaques are displayed;

(b) The proposed location must be reviewed and approved by the Engineer to determine that no conflicts resulting in unsafe driving conditions will exist with other official traffic control devices;

(c) Logo Signs shall not be erected at an interchange where the motorist cannot conveniently re-enter the highway and continue in the same direction of travel, or at interchanges between an interstate highway and a fully access controlled freeway, or an interchange between interstate highways;

(d) At single-exit interchanges where businesses are not visible from a ramp terminal, Supplemental Signs shall be installed along the ramp, at the ramp terminal, or along the crossroad. These Supplemental Signs shall be similar to the corresponding Logo Signs but reduced in size. The Supplemental Signs shall include service legends, distances to the business and directional arrows. Supplemental Signs may also be used on ramps and crossroads at double exit interchanges. There shall be no more than 18 supplemental logo plaques total being displayed along any one-exit ramp. Of those 18, a maximum of ten can be for one type of service. A maximum of six supplemental logo plaques per type of service shall be displayed per direction being signed. Maximum Supplemental Sign size shall be eight logo spaces. On channelized off-ramps, Supplemental Signs should be placed in advance of the channelized markings. Separate Supplemental Signs, for the same type of service, may be installed on opposite sides of the ramp to direct motorists into the proper lane for those facilities displayed on the Supplemental Sign.

[Exhibit not included. See ED. NOTE.]

(2) Composition:

(a) Logo Signs at single exit interchanges. The type of service followed by the exit number shall be displayed on one line above the logo plaques. This does not apply to Logo Signs already erected at the time these rules are adopted. At unnumbered interchanges the directional legend NEXT RIGHT (LEFT) shall be used. "GAS," "FOOD," "LODGING," "CAMPING," and "ATTRACTION Logo Signs shall be limited to six logo plaques each;

(b) At double exit interchanges, Logo Signs should consist of two sections, one for each exit. The top section shall display the logo plaques for the first exit and the lower section shall display the logo plaques for the second exit. The type of service and the exit number shall be displayed in a line above the logo plaques in each section. The exit number requirements of this section do not apply to Logo Signs panels erected at the time these rules are adopted. At unnumbered interchanges, the legends NEXT RIGHT (LEFT) and SECOND RIGHT (LEFT) shall be used. Where a type of service is signed for at only one exit, one section of the Logo Sign may be omitted or a single exit interchange Logo Sign may be used. The number of logo plaques on the Logo Sign shall be limited to six. Where a type of service is displayed on two Logo Signs, one of the Signs should display the logo plaques to the businesses that are accessible from one of the two exits and the other Sign should display the logo plaques for the businesses that are accessible from the other exit.

(c) Remote rural interchanges. In remote rural areas, where not more than two qualified businesses are available for each of two or more types of services, logo plaques for two types of service shall be displayed in combination on a Logo Sign. Each type of service shall be displayed in combination on a Logo Sign. The type of service shall be displayed above its respective logo plaque, and the exit number shall be centered above the types of services. The exit number requirements of this paragraph do not apply to Logo Signs erected at the time these rules are adopted. At unnumbered interchanges, the legend NEXT RIGHT (LEFT) shall be substituted for the exit number.

(3) Size:

(a) Logo plaques: each logo plaque shall not exceed 60 inches in width and 36 inches in height, including border;

(b) Legends. All letters used in the type of service, EXIT and the directional legend shall be 10-inch capital letters. Numbers shall be 10 inches in height.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 1-1991, f. & cert. ef. 12-23-91; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 3-2004, f. & cert. ef. 11-15-04; TIC 2-2006, f. & cert. ef. 6-21-06; TIC 1-2007, f. & cert. ef. 3-1-07; TIC 1-2009, f. & cert. ef. 4-3-09

ADMINISTRATIVE RULES

733-030-0045

Special Requirements — Conventional Highways

(1) Location:

(a) The proposed location must be reviewed and approved by the Engineer to determine that no conflict resulting in unsafe driving conditions will exist with other official traffic control devices. In urban areas, no more than two Supplemental Signs per facility will be allowed;

(b) Intersections. Logo plaques shall not be displayed for any business if its building or on-premise signing is visible and/or recognizable on the traveled way for a distance of 300 feet or more from the intersection. Increased distances may be allowed for businesses providing camping where issues of safety and RV maneuvering are concerned. Visibility and recognition are determined by being able to recognize the facility by observing the building or existing signing adjacent to or attached to the facility, as to the type of service for which it has applied. A facility that is visible within 300 feet or more, but is not recognizable, may qualify for signing if a favorable determination is made by the Council. However, in rural towns with a population of 500 persons or less, where there are minimal types of services meeting qualifications, and where the nearest available type of services are at least 25 miles from that town, the Council, upon consultation with the Engineer, may consider installing Logo Signs in cases where the business is visible on the traveled way the last 300 feet from the intersection. Supplemental Signs similar to those as described in OAR 733-030-0036(1)(d) may be provided on the crossroad or at the intersection.

(2) Composition. On the Logo Sign, a maximum of six logo plaques for each type of service shall be displayed along each approach to the intersection. A maximum of two logos for each of three different types of services may be combined on the same Logo Sign. The service legend shall be displayed above its logo plaques together with a directional legend such as NEXT RIGHT (LEFT). Supplemental Signs will include an arrow and mileage.

(3) Size:

(a) Each logo plaque shall be contained within a 24-inch-wide and 18-inch-high rectangular background area, including border;

(b) Legends: All letters used in the type of service on the Logo Sign and Supplemental Sign shall be six-inch capital letters.

(4) Combination legend signing (i.e., legend reading "FOOD/LODGING," and displaying one facility's logo plaque) will be allowed in rural locations only. The business must be the only facility available in the geographical area. Approval for combination legend signing will be under an agreement between the Council and the facility. If another facility is built in the area, the facility with the combination legend signing will be required to display their logo plaques on two Logo Signs, one for each type of service. Facilities approved for combination legend signing will be required to pay 1-1/3 the annual fee for a facility in their area.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 2-1998, f. & cert. ef. 11-13-98; TIC 3-2004, f. & cert. ef. 11-15-04; TIC 1-2005(Temp), f. & cert. ef. 3-14-05 thru 9-9-05; TIC 2-2005, f. & cert. ef. 6-16-05; TIC 2-2006, f. & cert. ef. 6-21-06; TIC 1-2007, f. & cert. ef. 3-1-07; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0050

General Provisions

Upon approval by the Council and the Engineer and receipt of a permit from one or more business, a single Logo Sign shall be erected in advance of the interchange and/or intersection in each direction of travel. For each type of service, a combination of not more than three different types of services may be combined on the same Logo Sign.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 1-2007, f. & cert. ef. 3-1-07; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0055

State Sign Policy

(1) Logo Signs are primarily intended for installation at rural interchanges where motorist services are available. Logo Signs may be considered within other areas if the Council determines that the area does not appear to be urban in character.

(2) Logo Signs erected at intersections on an expressway shall be of the same size as Logo Signs at interchanges on an expressway. The logo plaques shall conform to the size specifications in rule 733-030-0036(3)(a). The service legends shall conform to the requirements of rule 733-030-0036(3)(b).

(3) If a business is not visible from any part of the exit ramp on the interstate system or expressway or from an intersection or crossroad on the Conventional Highway, a Supplemental Sign bearing the logo plaque of that business, together with a service legend, a directional arrow, and mileage where needed, shall be placed on the exit ramp or at its terminus or at the intersection or crossroad. The Supplemental Sign shall be installed where it will best serve the motoring public and be commensurate with traffic safety as determined by the Engineer. If a business is visible from any part of the exit ramp or the terminus of the exit ramp on the Interstate system or Expressway or from an intersection or crossroad on the Conventional Highway, it is not entitled to a Supplemental Sign unless determined by the Council and the Engineer to be necessary in order to direct the traveling public to the business in order to avoid a traffic hazard or misdirection of the traveling public because of the complexity of the particular interchange or intersection.

(4) Supplemental Signs shall bear the legend "GAS," "FOOD," "LODGING," "CAMPING" or "ATTRACTION" and one or more horizontal rows of logo plaques with a directional arrow and mileage as appropriate. Standards for Supplemental Signs shall be adopted by the Engineer.

(5) A trailblazer may be installed upon the recommendations of the Council and approval of the Engineer at intersections of Conventional Highways, or intersections of Conventional Highways and county roads or city streets if it can be placed on Conventional Highway right of way. Trailblazers may also be installed on county roads and city streets with the approval of authorities for the local jurisdiction. The text for trailblazers shall have a minimum letter height of 4 inches. Standards for trailblazers shall be adopted by the Engineer.

(6) Subject to the approval of the Council, and if spaces are available, the logo plaque of a business may be placed on a Supplemental Sign, although its logo plaque cannot be placed on a Logo Sign because permits have already been issued for the maximum number of logo plaques for the particular Logo Sign.

(7) If the GAS, FOOD or LODGING facilities existing within one mile of the interchange, up to a maximum of six for gas and four for FOOD and LODGING facilities, have not applied for a permit for placement of logo plaques on a Logo Sign at an interchange, then the otherwise qualified businesses that are located within three miles from the interchange, may apply for a permit and obtain a waiver as provided in rule 733-030-0060. If CAMPING facilities existing within three miles of the interchange, up to a maximum of four, have not applied for permit for placement of logo plaques on the Logo Sign at an interchange, then the otherwise qualified CAMPING facility located close to, but within 15 miles from the interchange, may apply for a permit and obtain a waiver as provided in rule 733-030-0060.

(8)(a) If applications are received for any one interchange or intersection for more than the maximum allowable logo plaques to be placed on any one Logo Sign, the order of priority for the wait list shall be based on the date of the properly completed application received by the Council;

(b) A business may apply for Logo Signs on more than one Conventional Highway adjacent to that business; and

(c) Any business shall have one logo plaque on one Logo Sign and/or Supplemental Sign in each direction of travel for each type of service on any Conventional Highway.

(9) The owner or responsible operator of a business must file an application for placement of its logo plaque on a Logo Sign and tender the permit fee for the first year. The business must also agree to furnish the necessary logo plaques to be affixed to the Logo Signs or Supplemental Signs.

(10) Eligibility of businesses for continued placement of their logo plaques on a Logo Sign may be reviewed by the Council at any time to assess whether the business and/or the Logo Sign location meets present guidelines. If the review finds that the business and/or the Logo Sign location does not meet all applicable rules and laws, the Logo Sign and logo plaque may be removed. If payment is not received for a renewal permit on or before the payment due date stated in the Council's invoice, the logo plaque may be removed. The space made available after the removal of a logo plaque due to nonpayment of fees shall be offered to the next qualified business on a wait list for that Logo Sign. Should space continue to be available and the removed business desire to have its logo plaque reinstalled, the Council may require a new review to be performed prior to approving the reinstallation. If approved for reinstallation, the business must pay the permit fees due and reinstallation fee prior to reinstallation of their logo plaques.

(11) Notwithstanding section (10) of this rule, the granting of a new or renewed permit shall entitle the business the continuance of having its

ADMINISTRATIVE RULES

logo plaque installed on the Logo Sign or Supplemental Sign for one year from the date of installation or renewal.

(12) Notwithstanding section (10) of this rule, the logo plaque of a business shall be removed from a Logo Sign or Supplemental Sign and may be replaced by another qualified business for failure to comply with subsections (a)–(d) of this section as hereafter set out:

(a) If the business fails on a sufficient number of occasions or over a sufficient period of time to provide all of the services required by rule 733-030-0021(4) so as to justify a finding by the Council that the business is not in substantial compliance with these regulations;

(b) If the business fails to open for business for more than seven consecutive days or for more than 10 days cumulatively, during any one-year period, unless the Council finds that closure for such period was beyond the control of the owner or responsible operator, or that the closure was justified by extenuating circumstances;

(c) If it fails to comply with OAR 733-030-0021(1) except in isolated instances without the knowledge of the owner or responsible operator, or on any occasion unless steps are promptly taken to insure to the fullest extent reasonably possible that such instances will not recur; and

(d) The logo plaque is not kept in a proper state of repair; is non-reflective, peeling, fading, chipping or otherwise unattractive; or does not meet requirements for size or supplemental messages.

(13) If due to fire, accident or similar causes, a business becomes inoperable for extended period of time, exceeding seven days, but not more than 90 days, its logo plaques shall be temporarily removed from all Logo Signs or Supplemental Logo Signs, but the business shall not lose its priority, nor be required to reapply prior to the formal time of a renewal application. Further extension may be granted on good cause shown. However, failure of the owner or responsible operator to proceed with necessary repairs as rapidly as possible shall cause loss of the right to continued placement of the logo plaque and require a new application.

(14) Notwithstanding the fact that a business meets all of the other eligibility qualifications of these regulations, an application may be denied if it is determined by the Council and after investigation by the Engineer that adequate direction to the business cannot be given by a reasonable number of allowable Supplemental Signs or trailblazers.

(15) If a Logo Sign or Supplemental Sign is removed due to reconstruction at any given interchange, and only one legend may be retained, the Council shall survey the immediate area of that interchange to assess availability of specific types of services. The types of services not available within the immediate area, but located at the interchange to be removed, will have legends retained to meet business needs. If all legends are fairly represented in the immediate area, legends at that interchange will be retained by giving priority to the date of application of the first business of all legends installed. In consideration for the Council's grant of a new permit or renewal permit, the business waives any claim it may have against the State of Oregon, the Council, their officers, employees or agents that may arise from the removal, relocation, displacement, destruction of or damage to the Logo Sign, Supplemental Sign or logo plaque due to any cause, including but not limited to highway construction work, highway redesign or reconfiguration, vehicular collision, accident, vandalism, forces of nature or other acts of God. It is provided, however, that if a Logo Sign, Supplemental Sign or logo plaque affected by any of the foregoing events is not replaced, repaired or relocated to a reasonably comparable location (as determined by the Council) within ten working days of the business's delivery to the Council of notice that the Logo Sign, Supplemental Sign or logo plaque has been so affected, the permit fee for any months or major portion (16 days or more) of a month after the date of the Council's receipt of the business's notice and during which the Logo Sign or Supplemental Sign does not display the logo plaque to the traveling public shall be refunded. If the Logo Sign, Supplemental Sign or logo plaque cannot be re-erected, replaced, reasonably relocated (as determined by the Council) or repaired within ten working days and upon receipt of the replacement logo plaque, then the permit fee for any months or major portion (16 days or more) of a month remaining from the date of the Council's receipt of the business's notice until the anniversary of the date of placement of the logo plaque shall be refunded. The business agrees that this claim for a refund of the permit fee shall be its sole and exclusive remedy against the State of Oregon, the Council, and their officers, employees or agents for any removal, relocation, displacement, destruction of or damage to a Logo Sign, Supplemental Sign or logo plaque. No claim for a refund of the permit fee shall be valid, and the Council will pay no refund, unless the business has provided the Council notice required by this subsection. No claim for a refund of the permit fee shall be valid, and the Council will pay no refund, in any case, in which the removal, relocation, displacement, destruction of

or damage to the Logo Sign, Supplemental Sign or logo plaque arises from the acts of the business, its officers, employees or agents. As provided in subsection (11) of this rule, no new or renewed permit shall entitle the business to any rights or expectations in the continued use of a Logo Sign or Supplemental Sign that extend beyond one year from the date of placement of the logo plaque or the date of renewal.

(16) Any business that changes ownership and the registered business name on a logo plaque with a waiting list, forfeits the right to the logo plaque space and the logo plaques are removed. The next business on the wait list shall be notified of available logo plaque space.

(17) Seasonal facilities must notify the Council of their seasonal dates at the time of application and of any changes in seasonal dates during the duration of the permit period. Logo plaques for seasonal facilities shall be removed and reinstalled during the period of seasonal closure.

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

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 3-1983(Temp), f. & ef. 7-21-83; TIC 5-1983, f. & ef. 8-26-83; TIC 2-1987(Temp), f. & cert. ef. 8-4-87; TIC 3-1988, f. & cert. ef. 12-23-88; TIC 1-1989, f. & cert. ef. 6-9-89; TIC 2-1989, f. & cert. ef. 10-27-89; TIC 1-1991, f. & cert. ef. 12-23-91; TIC 1-1994, f. & cert. ef. 6-1-94; TIC 1-1995, f. & cert. ef. 5-17-95; TIC 1-1996, f. & cert. ef. 1-8-96; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 3-2000, f. 12-14-00, cert. ef. 12-15-00; TIC 1-2002, f. & cert. ef. 4-19-02; TIC 2-2002, f. & cert. ef. 10-30-02; TIC 1-2007, f. & cert. ef. 3-1-07; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0060

Waiver

(1) Upon petition by the business, the Council may authorize a waiver upon showing on the application that:

(a) For GAS, FOOD, LODGING facilities that are located within nine miles of an interchange but more than one mile from an interchange and that the business is easily located from the interchange and that no additional Supplemental Sign other than an authorized Supplemental Sign or trailblazer would be necessary to direct the traveling public to the business. Card-lock GAS stations are not eligible for waivers.

(b) For CAMPING facilities, that are located within 15 miles of an interchange but more than three miles from an interchange and that the facility is easily located from the interchange and that no additional Supplemental Sign other than authorized Supplemental Sign or trailblazer would be necessary to direct the traveling public to the facility.

(2) Upon petition by a business, the Council may authorize a waiver of the appropriate requirements of 733-030-0021(4). The business must show that the motoring public will be more adequately served by granting the waiver, the business must list the particular requirements it seeks to have waived, the business must show that the extent of the waiver will benefit the motoring public and not violate the overall intent of the regulations, that no traffic hazard or reduction in traffic safety will occur, and that the motoring public can be advised of the waived condition on the logo plaque if it is of a nature that the Council feels necessary to be shown on the logo plaque.

(3) Procedures. Administration Procedure Act. Any order of the Council denying a permit or waiver under these rules, or for removal of a logo plaque under the Regulations, may be entered administratively without hearing, subject to requirements of ORS Chapter 183 and the administrative and judicial review as provided therein. The Council shall notify businesses promptly on any permit or waiver denial or decision to remove a logo plaque under these regulations.

(4) No waivers shall be granted to a facility applying for a Logo Sign that has a wait list.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 6-1983, f. & ef. 8-26-83; TIC 3-1985, f. & ef. 6-4-85; TIC 1-1996, f. & cert. ef. 1-8-96; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0065

Permit Fees and Installation

(1) The Council may request the Department to furnish, erect and maintain Logo Signs, Supplemental Signs and trailblazers at locations specified by the Council.

(2) Upon the approval of a permit for a logo plaque to be affixed to a Logo Sign or Supplemental Sign, the Council shall request and authorize installation of the Logo Sign or Supplemental Sign from ODOT, the Council sign crew or the Council contractor as determined appropriate by the Council staff. The Council shall provide the installer with all necessary information to erect the Logo Signs, Supplemental Signs, trailblazers or install the logo plaque.

ADMINISTRATIVE RULES

(3) The Council shall notify the business promptly when a permit has been approved to allow the business sufficient time to furnish the necessary number of logo plaques. If the Council is notified that a business has failed to furnish its logo plaques by the specified date given by the Council, or that the logo plaques furnished are not in compliance with specifications provided by the Council, it may cancel the permit and refund the amount paid in advance by the business.

(4) Permit fees. The annual permit fee for each logo plaque placed on a Logo Sign or Supplemental Sign shall be based on the traffic volume and population density of the area where the highway is located. Permit fees will be reviewed and established annually by the Council pursuant to ORS 377.825.

(5) Permit fees will be charged according to the Council's current Schedule of Fees. When permit fees are reviewed for potential changes, the Council will send a notice of permit fee changes to each business with a Logo Sign or Supplemental Sign permit and to all interested parties requesting the information. Businesses and interested parties will have 30 days to respond in writing and/or attend a public hearing scheduled after the 30 day time period. The Schedule of Fees will also be available on the Council web site for personal download or by mail upon request.

(6) In accordance with OAR 733-030-0055(10), permit fees are payable with the contract and the permit shall be automatically renewed upon receipt of the annual invoice on or before the payment due date stated in the Council's invoice.

(7) Permit fees for FOOD facilities that display the name of two distinct brand FOOD businesses on one FOOD logo plaque shall be charged 1 1/3 the amount of a regular FOOD business charged in that area. Permit fees for GAS facilities that include a FOOD name on their logo plaque shall be charged 1 1/3 the amount of a regular GAS business charged in that area. Payment of permit fees is the responsibility of the GAS facility, which will be designated as the primary facility.

(8) Permit fees for combination legend signing shall be 1 1/3 the fee for one type of service charged in that area.

(9) The Council may charge a fee when a facility desires to replace their logo plaques due to a redesign of the logo plaque, color or a change in the registered business name of \$75 per logo plaque. If a facility desires to move their logo plaque from their current position on a Logo Sign to a vacant position on the same Logo Sign, the Council may charge a relocation fee of \$150 per logo plaque. When a vacancy occurs on a Logo Sign, the Council will give written notification to all businesses with logo plaques on that Logo Sign to respond within seven (7) days of any preference they may have for relocating their logo plaque to a vacant position on that Logo Sign. If two or more businesses indicate preference for the same vacant space, the business with longest seniority on that Logo Sign will be offered the first option to relocate their logo plaque.

(10) Nonpayment of permit fees will result in the removal of logo plaques, and the logo plaque space will be offered to the next business desiring that logo plaque space. Should the logo plaques be reinstalled after removal due to nonpayment of permit fees, the Council shall charge a maintenance fee of \$200 per logo plaque to be reinstalled, along with their permit fees due.

(11) In case of removal of a logo plaque, the permit fee for any months or major portion (16 days or more) of a month remaining to the anniversary of the date of installation of the logo plaque shall be refunded. There shall be no refund of permit fees due to temporary or seasonal closure.

(12) If an ATTRACTION facility is publicly owned and operated or not-for profit as determined by the Federal Internal Revenue Service, the permit fee shall be set at the non-profit Logo Sign fee schedule.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 1-1979(Temp), f. & ef. 7-26-79; TIC 2-1979, f. & ef. 9-28-79; TIC 1-1980, f. & ef. 5-5-80; TIC 3-1984 (Temp), f. & ef. 10-29-84; TIC 2-1985, f. & ef. 6-4-85; TIC 1-1986, f. & ef. 5-28-86; TIC 2-1986, f. & ef. 9-19-86; TIC 1-1996, f. & cert. ef. 1-8-96; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 3-1996, f. & cert. ef. 10-16-96; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 1-1998, f. & cert. ef. 7-1-98; TIC 2-1998, f. & cert. ef. 11-13-98; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 3-2000, f. 12-14-00, cert. ef. 12-15-00; TIC 1-2001, f. 5-11-01, cert. ef. 5-15-01; TIC 2-2002, f. & cert. ef. 10-30-02; TIC 1-2004(Temp), f. & cert. ef. 7-20-04 thru 1-15-05; TIC 2-2004, f. & cert. ef. 11-12-04; TIC 1-2006, f. & cert. ef. 3-2-06; TIC 3-2006, f. & cert. ef. 11-24-06; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0080

Requirements for Supplemental Messages on Logo Plaques

(1) All supplemental messages must be displayed within the logo plaque in one horizontal line along the bottom of the plaque. The supplemental message should be displayed in a color to contrast effectively with the background of the logo plaque or be separated by a divider bar.

(2) On Interstate Highways and Expressways the supplemental message must have a minimum letter height of six inches and be proportional in size on all follow up Supplemental Signs. On Conventional Highways the supplemental message must have a minimum letter height of four inches.

(3) GAS facilities that are exclusively card-lock stations shall be required to display the supplemental message "CARD LOCK ONLY" on Interstate and Expressway logo plaques and "CARD LOCK" on Conventional Highway logo plaques.

(4) Seasonal facilities or facilities that only qualify with an approved waiver shall be required to display a concise description of the waived issue. Examples of acceptable messages include, but are not limited to, "OPEN MAY-SEPT", "WEEKENDS ONLY", "OPEN THURS-SUN".

(5) Supplemental messages with the words "DIESEL", "PROPANE", "24 HOUR", "RV DUMP", "RV PARKING", "BIODIESEL", or "WiFi", or a combination of two messages may be used by any business that offers those products or services. If a business designated as an INTERSTATE OASIS is displayed on a Logo Sign, the word "OASIS" may be used as a supplemental message on its logo plaque.

(6) All supplemental messages and their design on logo plaques must be approved by the Council.

(7) A seven-year review will be conducted for those existing logo plaques using separate logo riders following the adoption of this rule. Logo plaques using separate logo riders must comply with supplemental message rules when those plaques are replaced with new ones. All logo plaques must comply with supplemental message rules in ten years following adoption of this rule.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 3-1982, f. & ef. 6-1-82; TIC 4-1985, f. & ef. 6-4-85; TIC 5-1985, f. & ef. 12-13-85; TIC 1-1987(Temp), f. & ef. 3-6-87; TIC 5-1988, f. & cert. ef. 12-23-88; TIC 3-1989, f. & cert. ef. 10-27-89; TIC 1-1991, f. & cert. ef. 12-23-91; TIC 1-1996, f. & cert. ef. 1-8-96; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 2-1998, f. & cert. ef. 11-13-98; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 1-2002, f. & cert. ef. 4-19-02; TIC 2-2006, f. & cert. ef. 6-21-06; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0085

Applicability and Purpose

(1) The purpose of these regulations is to establish standards for TOD signs erected within highway rights-of-way to provide directional information to qualified tourist oriented businesses offering services or activities to the tourist or qualified historical features or qualified cultural features.

(2) These regulations are applicable to the Conventional Highway system.

(3) The authority for the issuance of these regulations is ORS 377.805.

Stat. Auth.: ORS 377

Stats. Implemented:

Hist.: TIC 2-1983(Temp), f. & ef. 6-30-83; TIC 4-1983, f. & ef. 8-26-83; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0090

Definitions

In addition to the definitions described in OAR 733-030-0011, the following definitions shall apply unless the context indicates otherwise:

(1) "Directional Information" means the name of the business, service or activity, qualified historical feature or qualified cultural feature and other necessary information to direct the motoring public to the business, service, activity, qualified historical feature or qualified cultural feature placed on a TOD sign.

(2) "Immediate Area" means the region around a business to a distance of 50 miles, or one hour of travel time.

(3) "Qualified Cultural Feature" means a museum approved by the Engineer after consulting with the Oregon Historical Society and the Oregon Museum Association.

(4) "Qualified Historical Feature" means a district or property currently listed in the National Register of Historic Places or designated as nationally significant by the United States Department of the Interior.

(5) "Qualified Tourist Oriented Business" means any legal cultural, historical, recreational, educational or entertaining activity or a unique or unusual commercial or non-profit activity the major portion of whose income or visitors are derived during its normal business season from motorists not residing in the immediate area of the activity.

(6) "Responsible Operator" means a person or entity other than an owner who operates a qualified tourist oriented business and who has authority to enter into an agreement relative to matters covered by these regulations.

ADMINISTRATIVE RULES

(7) "Tourist Oriented Directional Signs" or "TOD signs" means a sign with the name of a qualified tourist oriented business, service or activity or qualified historical feature or qualified cultural feature together with directional information erected in advance of or at intersections on the Conventional Highway.

Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 2-1983(Temp), f. & ef. 6-30-83; TIC 4-1983, f. & ef. 8-26-83; TIC 3-1995, f. & cert. ef. 11-8-95; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 1-2001, f. 5-11-01, cert. ef. 5-15-01; TIC 1-2007, f. & cert. ef. 3-1-07; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0095

Locations

(1) TOD signs are intended for use primarily in rural areas. Any installation of TOD signs outside rural areas shall be consistent with the state signing policy criteria contained in rule 733-030-0120.

(2) TOD signs should be located so as to take advantage of natural terrain, to have the least impact on the scenic environment, and to avoid visual conflict with other traffic control devices within the Conventional Highway right-of-way.

(3) TOD signs shall not be installed until a thorough investigation by the Engineer determines that no conflict resulting in unsafe driving conditions will exist with other official traffic control devices.

(4) TOD signs shall not be used at interchanges on Interstate Highways or Expressways.

Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 2-1983(Temp), f. & ef. 6-30-83; TIC 4-1983, f. & ef. 8-26-83; TIC 1-1994, f. & cert. 6-1-94; TIC 2-1995, f. & cert. ef. 5-17-95; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 1-2001, f. 5-11-01, cert. ef. 5-15-01; TIC 3-2004, f. & cert. ef. 11-15-04; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0100

Criteria for Information Permitted

(1) Each qualified tourist oriented business identified on a TOD sign shall have given written assurance to the Council of its conformity with all applicable laws concerning the provisions of public accommodations without regard to race, religion, age, color, sex, or national origin, meet all applicable Federal and State Americans for Disabilities Act (ADA) guidelines, and shall not be in breach of that assurance. Each qualified tourist oriented business will offer services to all citizens.

(2) To be qualified as a tourist oriented business, the business must be located within one mile of the intersection where the TOD signs are installed measured by vehicle distance from the center point of the intersection to the nearest point of the intersection of the driveway of the tourist oriented business and a public highway. However, any qualified tourist oriented business set out in this section located within 15 miles of an intersection, but more than one mile from an intersection may apply to the Council for a waiver under the provisions of rules 733-030-0120(3) and 733-030-0130.

(3) Except for undeveloped cultural and historic features a qualified tourist oriented business shall have:

- (a) Restroom facilities and drinking water available;
 - (b) Continuous operation at least six hours per day six days a week during its normal business season; and
 - (c) Licensing where required;
 - (d) Adequate parking accommodations.
- (4) Qualified undeveloped cultural and historic features shall include:
- (a) Adequate parking accommodations; and
 - (b) An informational device to provide public knowledge of the feature.

Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 2-1983(Temp), f. & ef. 6-30-83; TIC 4-1983, f. & ef. 8-26-83 TIC 1-1994, f. & cert. 6-1-94; TIC 1-2001, f. 5-11-01, cert. ef. 5-15-01; TIC 1-2007, f. & cert. ef. 3-1-07; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0105

Composition

(1) TOD signs shall have a blue reflective background with a white reflective border and message. The content of the name legend shall be limited to the registered business name, in whole or in part. Intersection TOD signs shall be the same as the Advance TOD sign except that in lieu of the directional legend, the sign shall include a separate direction arrow and the distance to the facility to the nearest one-quarter mile, as may be required by the Engineer. Messages, symbols and trademarks which resemble any official traffic control devices are prohibited. All TOD signs shall conform to applicable portions of the **Manual On Uniform Traffic Control Devices** including but not limited to size, location and spacing.

(2) All directional arrows, letters, numbers, name legend, and directional legend shall be white and reflective.

[ED. NOTE: Exhibits referenced are available from the agency.]
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 2-1983(Temp), f. & ef. 6-30-83; TIC 4-1983, f. & ef. 8-26-83; TIC 2-1988, f. & cert. ef. 11-1-88; TIC 1-1996, f. & cert. ef. 1-8-96; TIC 1-2007, f. & cert. ef. 3-1-07; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0110

Special Requirements — Conventional Highways

(1) Location. If a qualified tourist oriented business is not visible from an intersection or crossroad on the Conventional Highway, an Intersection sign bearing all or part of the registered business name, together with a directional legend, a directional arrow, and mileage where needed, shall be placed at the intersection or crossroad. The proposed location of the Intersection sign must be reviewed and approved by the Engineer to determine that no conflicts resulting in unsafe driving conditions will exist with other official traffic control devices. Intersection signs cannot be used unless the qualified tourist oriented business also has an Advance sign;

(2) TOD signs shall not be displayed for any business if its building or on-premise signing is visible and/or recognizable on the traveled way for a distance of 300 feet or more from the intersection or driveway. Visibility and identification are determined by being able to recognize the business, by observing the building itself or existing signing adjacent to or attached to the business, as the type of tourist oriented business for which signing has been requested. A business that is visible within 300 feet or more, but is not recognizable, may qualify for signing if such a favorable determination is made by the Council. Intersection and Advance TOD signs shall be as described in rule 733-030-0105. The option of using Intersection TOD signs at all locations shall be determined on the basis of an engineering study.

(3) Composition. A maximum of four TOD signs per post may be displayed in advance of each intersection and at each intersection. A maximum of three posts may be utilized in advance of and at any intersection.

(4) Size:

(a) Individual TOD Intersection signs shall not exceed 72 inches in width and 18 inches in height.

(b) Individual TOD Advance signs shall not exceed 60 inches in width and 18 inches in height and shall be located beneath a directional legend sign not to exceed 60 inches in width and 12 inches in height.

(5) Any Intersection TOD sign erected or pending as the Advance sign before September 19, 1988, may be maintained.

Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 2-1983(Temp), f. & ef. 6-30-83; TIC 4-1983, f. & ef. 8-26-83; TIC 2-1988, f. & cert. ef. 11-1-88; TIC 1-1994, f. & cert. ef. 6-1-94; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 3-2004, f. & cert. ef. 11-15-04; TIC 1-2007, f. & cert. ef. 3-1-07; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0115

General Provisions

(1) Upon approval by the Council and the Engineer and receipt of a permit from one or more tourist oriented business, a single TOD sign shall be erected in advance of the interchange and/or intersection in each direction of travel for each qualified tourist oriented business.

(2) A TOD sign may be installed at a rural intersection which has an existing Logo Sign if the requirements and provisions of OAR 733-030-0095 and 733-030-0105(1) have been successfully met.

Stat. Auth.: ORS 377
Stats. Implemented:
Hist.: TIC 2-1983(Temp), f. & ef. 6-30-83; TIC 4-1983, f. & ef. 8-26-83; TIC 2-1984, f. & cert. 5-11-84; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0120

State Sign Policy

(1) TOD signs are primarily intended for installation at rural intersections where qualified tourist oriented businesses are available. TOD signs may be considered within other areas if the Council determines that the roadside development does not appear to be urban in character.

(2) If a business qualifies for a "GAS," "FOOD," "LODGING," OR "CAMPING" Logo Sign then it does not qualify for a TOD sign.

(3) If a qualified tourist oriented business, existing within one mile of an intersection, does not apply for a TOD sign at an intersection, then an otherwise eligible business which is located more than one mile but less than 15 miles from the intersection may apply for a TOD sign. If the otherwise eligible business is within 15 miles but more than one mile from the intersection, it must obtain a waiver as provided in OAR 733-030-0130.

Stat. Auth.: ORS 377.835

ADMINISTRATIVE RULES

Stats. Implemented:
Hist.: TIC 2-1983(Temp), f. & ef. 6-30-83; TIC 4-1983, f. & ef. 8-26-83; TIC 1-1995, f. & cert. ef. 5-17-95; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0125

Application and Eligibility

(1) If more than four requests for TOD signs are received for any one intersection, the order of priority for TOD signs shall be based on the date of receipt of a properly completed application. The subsequent businesses will be placed on a wait list for TOD signs at that intersection.

(2) The owner or responsible operator of a business must file an application for TOD signs on a form specified by the Council.

(3) The Council shall notify the business promptly when a permit has been approved

(4) Any grant of a new or renewed permit shall entitle the business the continuance of its TOD sign for a period of one year from the date of installation or renewal.

(5) Eligibility of qualified tourist oriented businesses for continued placement of their TOD sign may be reviewed by the Council at any time to assess whether the tourist oriented business and/or the signing location meets present guidelines. If the review finds that the tourist oriented business and/or the sign location does not meet all applicable rules and laws, the sign may be removed. If payment is not received for a renewal permit on or before the payment due date stated in the Council's invoice, the TOD sign may be removed. The TOD sign space made available after the removal due to nonpayment of permit fees may be subject to a new study to assess whether the TOD sign meets present guidelines. If not, the TOD sign shall not be reinstalled.

(6) Notwithstanding section (4) of this rule, the TOD sign shall be subject to removal for failure to comply with subsections (a), (b), (c) or (d) of this section:

(a) If the qualified tourist oriented business fails on a sufficient number of occasions or over a sufficient period of time to provide all of the services required by rule 733-030-0100(3), so as to justify a finding by the Council that the business is not in substantial compliance with these regulations.

(b) If the qualified tourist oriented business fails during its normal business season to open for business for more than seven consecutive days or for more than 10 days cumulatively, during any one month period, unless the Council finds that such closure for such period was beyond the control of the owner or responsible operator, or that the closure was justified by extenuating circumstances.

(c) If it fails to comply with rule 733-030-0100(1), except in isolated instances without the knowledge of the owner or responsible operator, or on any occasion unless steps are promptly taken to insure to the fullest extent reasonably possible that such instances will not recur.

(d) If the annual permit fee payment is not received on or before the payment due date stated in the Council's invoice.

(7) If due to fire, accident or similar causes, a qualified tourist oriented business becomes inoperable for an extended period of time, exceeding seven days, but not more than 90 days, its TOD signs, shall be temporarily removed, but the business shall not lose its priority, nor be required to reapply prior to the normal time for a renewal. Further extension may be granted on good cause shown. However, failure of the owner or responsible operator to proceed with necessary repairs as rapidly as possible shall cause loss of the right to continued placement of the TOD sign and require a new application.

(8) Notwithstanding the fact that a tourist oriented business meets all of the other eligibility qualifications of these regulations, a business may be denied if it is determined by the Engineer that adequate direction to the business cannot be given by a reasonable number of allowable TOD signs and Trailblazers.

(9) Should a business be closed for 30 days or more, their TOD Signs will be covered with a blank panel. The TOD signs will remain covered during the business's seasonal closure.

(10) Those businesses that had "CLOSED" riders installed prior to November 15, 1996, will continue to use the "CLOSED" riders as long as it is determined by the Council and ODOT that they can be easily accessed and safely operated.

Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 2-1983(Temp), f. & ef. 6-30-83; TIC 4-1983, f. & ef. 8-26-83; TIC 1-1991, f. & cert. ef. 12-23-91; TIC 1-1994, f. & cert. ef. 6-1-94; TIC 1-1996, f. & cert. ef. 1-8-96; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 3-1996, f. & cert. ef. 10-16-96; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 3-2000, f. 12-14-00, cert. ef. 12-15-00; TIC 2-2002, f. & cert. ef. 10-30-02; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0130

Waiver

(1) Upon petition by a business, the Council may authorize a waiver upon showing on the application that the business is located within 15 miles of the intersection but more than one mile from the intersection, if the business is easily located from the intersection and no additional TOD signs would be necessary to direct the traveling public to the business or that adequate signs will be provided on the county road or city street to guide the motorist to the business.

(2) Upon request by a business, the Council may authorize a waiver upon showing on the application the waiver will benefit the motoring public and not violate the overall intent of these regulations. The sections under which waivers may be granted under this section are rules 733-030-0100(2) and (3), 733-030-0120(1).

(3) Procedures. Administrative Procedure Act — Any order of the Council denying an application or waiver under these rules, or for removal of a TOD sign under the Regulations, may be entered administratively without hearing, subject to requirements of ORS Chapter 183 and the administrative and judicial review as provided therein. The Council shall notify the businesses promptly on any permit or waiver denial or decision to remove a TOD sign under these regulations.

(4) Riders may be installed for seasonal businesses which qualify only with an approved waiver and can be or are the only facility installed on a post. The rider must be a concise, one line description of the waived issue. Examples of acceptable riders include, but are not limited to, "WEEK-ENDS ONLY", "OPEN THURS-SUN", "OPEN 1-4PM DAILY", "OPEN MAY-SEPT", "OPEN OCT-APRIL".

(5) Riders required as part of a criteria waiver or seasonal closure will be assessed a \$100.00 fee prior to installation. Sign revision fees of \$100.00 per rider will be assessed when the business changes the days or hours of operation or takes other waiver related action that requires a change in the rider message and therefore the manufacture and installation of new riders.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 2-1983(Temp), f. & ef. 6-30-83; TIC 4-1983, f. & ef. 8-26-83; TIC 1-1994, f. & cert. ef. 6-1-94; TIC 1-2002, f. & cert. ef. 4-19-02; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0135

Permit Fees and Installations

(1) The Council may request the Department to furnish, erect and maintain TOD signs at locations specified by the Council.

(2) Upon approval of a permit for a TOD sign, the Council shall request and authorize installation of the TOD signs from ODOT, the Council sign crew or a Council contractor as determined appropriate by the Council staff.

(3) Permit fees. The annual permit fee for each Advance and Intersection TOD sign shall be based on the traffic volume and population density in the area in which the Conventional Highway is located and payable with the contract and any renewal invoice. Permit fees will be reviewed and established annually by the Council pursuant to ORS 377.825.

(4) Permit fees will be charged according to the Council's current Schedule of Fees. When permit fees are reviewed for potential changes, the Council will send a notice of permit fee changes to each business with a TOD sign and to all interested parties requesting the information. Businesses and interested parties will have 30 days to respond in writing and/or attend a public hearing scheduled after the 30 day time period. The Schedule of Fees will also be available on the Council web site for personal download or by mail upon request.

(5) In accordance with OAR 733-030-0125, permit fees are payable with the contract and the permit shall be automatically renewed upon receipt of the annual invoice on or before the payment due date stated in the Council's invoice.

(6) Nonpayment of permit fees will result in the removal of TOD signs, and the TOD sign location will be offered to the next businesses desiring that TOD sign location. Should the TOD signs be reinstalled after removal due to nonpayment of permit fees, the Council shall charge a maintenance fee of \$200 per TOD sign to be reinstalled, along with all their permit fees due.

(7) In case of removal of a TOD sign, the permit fee for any months or major portion (16 days or more) or a month remaining to the anniversary of the date of the installation of the TOD sign shall be refunded. There shall be no refund of permit fees due to temporary or seasonal closure.

(8) If a Qualified Cultural or Historical Feature is publicly owned and operated or not-for-profit as determined by the Federal Internal Revenue

ADMINISTRATIVE RULES

Service, the permit fee shall be set to the same fee schedule for Museum and Historic Site signs.

(9) TOD sign revision fees of \$100 per TOD sign will be assessed when the business changes the registered business name resulting in the manufacture and installation of new TOD signs.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 2-1983(Temp), f. & ef. 6-30-83; TIC 4-1983, f. & ef. 8-26-83; TIC 6-1988, f. & cert. ef. 12-23-88; TIC 4-1989, f. & cert. ef. 10-27-89; TIC 1-1996, f. & cert. ef. 1-8-96; TIC 2-1996, f. & cert. ef. 7-12-96; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 1-1998, f. 6-8-98, cert. ef. 7-1-98; TIC 3-2000, f. 12-14-00, cert. ef. 12-15-00; TIC 1-2001, f. 5-11-01, cert. ef. 5-15-01; TIC 2-2002, f. & cert. ef. 10-30-02; TIC 3-2006, f. & cert. ef. 11-24-06; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0150

Applicability and Purpose

(1) The purpose of these administrative rules is to establish standards for Oregon's historical marker signs erected within Conventional Highway right-of-way to provide the motorist with signing of historical or geological points of interest to the traveling public.

(2) These administrative rules are applicable to the Conventional Highway system. These rules are also applicable to Interstate Highway rest areas.

(3) The authority for the issuance of these administrative rules is ORS 377.805.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 4-1995, f. & cert. ef. 11-8-95; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0155

Definitions

In addition to the definitions described in OAR 733-030-011, the following definitions shall apply unless the context indicates otherwise:

(1) "Applicant" means an entity, group or individual applying for the placement of a new or replacement historical marker.

(2) "Committee" means the Historical Marker Committee acting as an advisory board. The Committee meets quarterly, and consists of volunteer representatives from various governmental and historical organizations statewide. The Committee is comprised of voting members, and advisors representing six geographic sections of the state.

(3) "Defined Geological Feature" means a geological site of state or regional significance, as defined in Oregon Historical Marker guidelines.

(4) "Defined Historical Feature" means a site designated by the State Historical Marker Committee to commemorate an event, person or place of statewide or national significance, as defined in Oregon Historical Marker guidelines.

(5) "Directional Information" means an advance sign stating "historical marker ahead," or "geological marker ahead" or other necessary information to direct the motoring public to defined historical feature or defined geological feature placed on a marker.

(6) "Marker" means an historical sign panel and support structure.

(7) "Sponsor" means an entity, group or individual that is responsible for a financial contribution to the cost of the new marker, and future maintenance of the new marker. The sponsor and the Council has authority to enter into an agreement relative to matters covered by these administrative rules.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 4-1995, f. & cert. ef. 11-8-95; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0160

Location

(1) Marker panels should be located so as to take advantage of natural terrain, to have the least impact on the scenic environment, and to avoid visual conflict with other signs within the Conventional Highway right-of-way and at Interstate rest areas.

(2) Marker panels should be located as close as possible to the historical or geological occurrence within the Conventional Highway right-of-way and at Interstate rest areas.

(3) The proposed location shall be reviewed and approved by ODOT.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 4-1995, f. & cert. ef. 11-8-95; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0180

Criteria

(1) The Council shall establish a program for marking historical and geological sites in Oregon.

(2) The Council shall approve design(s) for historical markers. No person may erect a historical marker within the Conventional Highway

right-of-way and at Interstate rest areas in the state format without the approval of the Council and ODOT.

(3) Markers may be erected to commemorate a person, events, places, or geological features that are judged of statewide or national significance as stated in the State historical markers program guidelines.

(4) Sponsoring groups have six months following the application approval in which to complete the text approval process, and to submit appropriate graphics to the Council to produce the panels.

(5) The Historical Marker Committee may issue a waiver for location of markers off Conventional Highway right-of-way, or not visible from the Conventional Highway. ODOT is not responsible for markers located off Conventional Highway right-of-way.

(6) If Council funds allocated for funding the markers have been exhausted for the biennium, markers may be privately funded. A privately funded marker must follow state approved design when located on Conventional Highway right-of-way or located on private land. A privately funded marker becomes the property of the Council.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 4-1995, f. & cert. ef. 11-8-95; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0190

Composition

(1) New historical markers shall have a wooden support structure and a fiberglass embedded interpretive panel following approved program format(s).

(2) The words "Oregon History" or "Oregon Geology" shall be at the top of the marker.

(3) The Council and the Historical Marker Committee shall have authorization to augment the single design format with other design formats as requests.

(4) The sponsoring group may place as a credit line their organizational symbol in the bottom color band, lower right. Commercial sponsors will be allowed corporate logos or trademarks in black and white only and in accordance with the marker design.

(5) Initial text shall be submitted by the sponsoring group, and may be edited by the Council. Text may be from 150-300 words, partially dependent on the graphics submitted to accompany the text. Text should be factual, stressing statewide or national significance, and be accompanied by a source bibliography.

(6) Graphics such as photographs, maps and illustrations that augment the proposed text are to be submitted by the sponsoring group. If not available, the sponsoring group or appropriate agency is responsible for working with a design firm or appropriate agency to procure such graphics.

(7) Advance signs shall be installed for all markers placed on Conventional Highway right-of-way excluding Interstate Highway rest areas. See ODOT's Sign Policy Guidelines (see current drawings D-424 and D-424A) for specifications.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 4-1995, f. & cert. ef. 11-8-95; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0250

Applicability and Purpose

(1) The purpose of these regulations is to establish standards for Museum and Historic Site signs erected within Conventional Highway rights-of-way to provide directional information to Museum or Historic Sites offering services or activities to the motoring public.

(2) These regulations are applicable to the Conventional Highway system.

(3) The authority for the issuance of these regulations is ORS 377.805.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 2-1997, f. & cert. ef. 11-3-97; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0260

Definitions

In addition to the definitions described in OAR 733-030-011, the following definitions shall apply unless the context indicates otherwise:

(1) "Directional Information" means the registered business name of the qualified Museum or Historic Site and other necessary information to direct the motoring public to the qualified Museum or Historic Site placed on a Museum and Historic Site sign.

(2) "Museum and Historic Site Sign" means a sign with the registered business name of a qualified Museum or Historic Site together with directional information erected in advance of or at intersections on the Conventional Highway system.

ADMINISTRATIVE RULES

(3) "Qualified Historic Site" means a district or property approved by the Council and currently listed in the National Register of Historic Places or designated as nationally significant by the United States Department of the Interior.

(4) "Qualified Museum" means a museum approved by the Council after consulting with the Oregon Historical Society and the Oregon Museum Association.

(5) "Responsible Operator" means a person or entity other than an owner who operates a qualified Museum or Historic Site and has the authority to enter into an agreement relative to matters covered by these regulations.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 2-1997, f. & cert. ef. 11-3-97; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0270

Location

(1) Museum or Historic Site signs are intended for use primarily in rural areas. They can be installed in urban areas if a suitable location is available and approved by ODOT. Any installation of Museum or Historic Site signs outside rural areas shall be consistent with the state signing policy criteria contained in rule 733-030-0320.

(2) Museum or Historic Site signs should be located so as to take advantage of natural terrain, to have the least impact on the scenic environment, and to avoid visual conflict with other traffic control devices within the Conventional Highway right-of-way.

(3) Museum or Historic Site signs shall not be installed until a thorough investigation by the Engineer determines that no conflict resulting in unsafe driving conditions will exist with other official traffic control devices.

(4) Museum or Historic Site signs shall not be used at interchanges on Interstate Highways or Expressways.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 2-1997, f. & cert. ef. 11-3-97; TIC 3-2004, f. & cert. ef. 11-15-04; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0280

Criteria for Information Permitted

(1) Each qualified Museum or Historic Site shall give written assurance to the Council of its conformity with all applicable laws concerning the provisions of public accommodations without regard to race, religion, color, sex, or national origin, and shall not be in breach of that assurance.

(2) The Museum or Historic Site must be located within one mile of the intersection from where the Museum or Historic Site sign may be installed. The distance is measured by vehicle distance from the center point of the intersection to the nearest point of the intersection of the driveway of the site and the Conventional Highway. However, any Museum or Historic Site set out in this section located within 15 miles of an intersection, but more than one mile from an intersection may apply to the Council for a waiver under the provisions of rules 733-030-0320(2) and 733-030-0340.

(3) Except for undeveloped Museum or Historic Sites, a qualified cultural or historic feature shall have:

(a) Restroom facilities and drinking water available;

(b) Open to the public at least 1,040 hours per year which is four hours per day, five days a week; if located more than one mile from the Conventional Highway, they will need to be open a minimum of 1,248 hours per year, which is four hours a day, six days a week;

(c) Licensing where required;

(d) Adequate parking accommodations.

(e) Museum offerings must be the primary source of business for the cultural feature

(4) Qualified undeveloped cultural or historic features shall include:

(a) Adequate parking accommodations; and

(b) An informational device to provide public knowledge of the feature.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 2-1997, f. & cert. ef. 11-3-97; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0290

Composition

(1) Museum or Historic Site signs shall have a brown reflective background with a white reflective border and directional and name legends. The content of the name legend shall be limited to the registered business name, in whole or in part. Intersection Museum or Historic Site signs shall be the same as the Advance Museum or Historic Site signs except that in

lieu of the directional legend, the Museum or Historic Site Intersection sign shall include a separate direction arrow and the distance to the facility to the nearest one-quarter mile, as may be required by the Engineer. Messages, symbols and trademarks which resemble any official traffic control devices are prohibited. All Museum or Historic Site signs shall conform to applicable portions of the Manual On Uniform Traffic Control Devices including but not limited to size, location and spacing.

(2) All directional arrows, letters, numbers, name legends, and directional legends shall be white and reflective.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 2-1997, f. & cert. ef. 11-3-97; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0300

Special Requirements — Conventional Highways

(1)(a) Location. Intersection signs cannot be used unless the qualifying Museum or Historic Site also has an Advance sign.

(b) Signs shall not be displayed for any feature if its building or on-premise signing is visible and/or recognizable on the traveled way for a distance of 300 feet or more from the intersection or driveway. Visibility and identification are determined by being able to recognize the site, by observing the building itself or existing signing adjacent to or attached to the site. A site that is visible within 300 feet or more, but is not recognizable, may qualify for signing if such a favorable determination is made by the Engineer. Intersection and Advance Museum or Historic Site signs shall be as described in rule 733-030-0290(2). The option of using Intersection Museum or Historic Site sign at all locations shall be determined on the basis of an engineering study.

(2) Composition. A maximum of three Museum or Historic Site signs per post may be displayed in advance of each intersection and at each intersection. A maximum of three posts may be utilized in advance of and at any intersection.

(3) Size:

(a) Individual Museum and Historical Site Intersection signs shall not exceed 72 inches in width and 18 inches in height.

(b) Individual Museum and Historical Site Advance signs shall not exceed 60 inches in width and 18 inches in height and shall be located beneath a directional legend sign not to exceed 60 inches in width and 12 inches in height.

(4) Any Intersection Museum or Historic Site sign erected or pending as the Advance sign before September 19, 1988, may be maintained.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 2-1997, f. & cert. ef. 11-3-97; TIC 3-2004, f. & cert. ef. 11-15-04; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0320

State Sign Policy

(1) Museum or Historic Site signs are primarily intended for installation at rural intersections where qualified cultural or historic features are available. Museum or Historic Site signs may be considered within other areas if an appropriate location is available and approved by ODOT.

(2) If a business qualifies for a Logo Sign then it does not qualify for a Museum or Historic Site sign.

(3) If a qualified cultural or historic feature, existing within one mile of an intersection, does not apply for a Museum or Historic Site sign at an intersection, then an otherwise eligible site which is located more than one mile but less than 15 miles from an intersection may apply for a Museum or Historic Site sign. If the otherwise eligible site is within 15 miles but more than one mile from an intersection, it must obtain a waiver as provided in rule 733-030-0340.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 2-1997, f. & cert. ef. 11-3-97; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0330

Application and Eligibility

(1) If more than three requests for Museum and Historic Site signs are received for any one intersection, the order of priority for Museum and Historic Site signs shall be based on the date of receipt of a properly completed application. The subsequent site will be placed on a wait list for Museum and Historic Site signs at that intersection.

(2) The owner or responsible operator of a qualified Museum or Historic Site must file an application for the Museum or Historic Site sign on a form specified by the Council.

(3) Any grant of a new or renewed permit shall entitle the site to continuance of its Museum or Historic Site signs for a period of one year from the date of installation or renewal.

ADMINISTRATIVE RULES

(4) Eligibility of a qualified Museum or Historic Site for continued installation of their Museum or Historic Site sign may be reviewed by the Council at any time to assess whether the Museum or Historic Site and/or sign location meets present guidelines. If the review finds that the Museum or Historic Site and/or the sign location does not meet all applicable rules and laws, the sign may be removed. If payment is not received for a renewal permit on or before the payment due date stated in the Council's invoice, the Museum or Historic Site sign may be removed. The sign space made available after the removal of a Museum or Historic Site sign due to non-payment of permit fees may be subject to a new study to assess whether the Museum or Historic Site sign meets present guidelines. If not, the Museum or Historic Site sign shall not be reinstalled.

(5) Notwithstanding section (3) of this rule, the Museum or Historic Site sign shall be subject to removal for failure to comply with subsections (a), (b), (c), or (d) of this section:

(a) If the annual permit fee payment is not received on or before the payment due date stated in the Council's invoice.

(b) If the qualified Museum or Historic Site fails on a sufficient number of occasions or over a sufficient period of time to provide all of the services required by rule 733-030-0280(3), so as to justify a finding by the Council that the site is not in substantial compliance with these regulations.

(c) If the qualified cultural or historic site fails during its normal business season to be accessible to the public for more than seven consecutive days or for more than 10 days cumulatively, during any one month period, unless the Council finds that the closure was beyond the control of the owner or responsible operator, or that the closure was justified by extenuating circumstances.

(d) If it fails to comply with rule 733-030-0280(1), except in isolated instances without the knowledge of the owner or responsible operator or on any occasion unless steps are promptly taken to insure to the fullest extent reasonably possible that such instances will not recur.

(6) If due to fire, accident or similar causes, a qualified Museum or Historic Site becomes inoperable for an extended period of time, exceeding seven days, but not more than 90 days, its Museum or Historic Site signs, shall be temporarily removed, but the site shall not lose its priority, nor be required to reapply prior to the normal time for a renewal. Further extension may be granted on good cause shown. However, failure of the owner or responsible operator to proceed with necessary repairs as rapidly as possible shall cause loss of the right to continued placement of the Museum or Historic Site sign and require the Museum or Historic Site a new application.

(7) Notwithstanding the fact that a Museum or Historic Site meets all of the other eligibility qualifications of these regulations, a site may be denied if it is determined by the Engineer that adequate direction to the site cannot be given by a reasonable number of allowable Museum or Historic Site signs and Trailblazers.

(8) Should a Museum or Historic Site be closed for 30 days or more, their signs will be covered with a blank panel. The signs will remain covered during the Museum or Historic Site's seasonal closure.

(9) Those Museum or Historic Sites that had "closed" riders installed prior to November 15, 1996, will continue to use the "closed" riders as long as it is determined by the Council and ODOT that they can be easily accessed and safely operated.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 2-1997, f. & cert. ef. 11-3-97; TIC 2-2002, f. & cert. ef. 10-30-02; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0340

Waiver

(1) Upon petition by a site the Council may authorize a waiver for qualified Museum or Historic Sites located within 15 miles of a Conventional Highway but more than one mile from the intersection if the cultural or historic site is easily located from the intersection and no additional Museum or Historic Site signs would be necessary to direct the traveling public to the cultural or historic site or if adequate signing can be provided on the county road or city street to guide the motorist to the cultural or historic site. The qualified Museum or Historic Site shall also be open at least four hours a day, six days a week.

(2) Upon request by a site, the Council may authorize a waiver upon a showing on the application that the granting of such a waiver will benefit the motoring public and not violate the overall intent of these regulations. The sections under which waivers may be granted under this section are rules 733-030-0280(2) and (3).

(3) Procedures. Administrative Procedure Act — Any order of the Council denying an application or waiver under these rules, or for removal of a sign under the Regulations, may be entered administratively without hearing, subject to requirements of ORS Chapter 183 and the administrative and judicial review as provided therein. The Council shall notify the site promptly on any permit or waiver denial or decision to remove a Museum or Historic Site sign under these regulations.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 2-1997, f. & cert. ef. 11-3-97; TIC 1-2009, f. & cert. ef. 4-3-09

733-030-0350

Permit Fees and Installations

(1) Upon approval of a permit for a Museum or Historic Site sign, the Council may furnish, erect and maintain the signs, as required.

(2) The Council shall notify the site promptly when a permit has been approved.

(3) Permit Fees. Permit fees will be reviewed and established annually by the Council pursuant to ORS 377.825. Permit fees will be charged according to the Council's current Schedule of Fees. When permit fees are reviewed for potential changes, the Council will send a notice of permit fee changes to each site with a Museum or Historic Site sign and to all interested parties requesting the information. Sites and interested parties will have 30 days to respond in writing and/or attend a public hearing scheduled after the 30 day time period. The Schedule of Fees will also be available on the Council web site for personal download or by mail upon request.

(4) In case of removal of a Museum or Historic Site sign, the annual permit fee for any months or major portion (16 days or more) or a month remaining to anniversary of the date of the installation of the sign shall be refunded. There shall be no refund of annual permit fees due to temporary or seasonal closure.

(5) Should the signs be reinstalled after removal due to nonpayment of annual permit fees, the Council shall charge a reinstallation fee of \$200 per sign to be reinstalled, along with all annual permit fees due.

(6) Sign revision fees of \$100 per Museum or Historic Site sign will be assessed if the site changes the registered business name resulting in the manufacture and installation of new Museum or Historic Site signs.

Stat. Auth.: ORS 377.700 - 377.840

Stats. Implemented: ORS 183.310 - 183.550

Hist.: TIC 2-1997, f. & cert. ef. 11-3-97; TIC 1-2002, f. & cert. ef. 4-19-02; TIC 1-2003, f. & cert. ef. 9-11-03; TIC 3-2006, f. & cert. ef. 11-24-06; TIC 1-2009, f. & cert. ef. 4-3-09

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
101-001-0000	2-24-2009	Amend(T)	4-1-2009	123-106-0040	2-24-2009	Repeal	4-1-2009
101-005-0030	2-24-2009	Amend(T)	4-1-2009	123-106-0050	2-24-2009	Repeal	4-1-2009
101-005-0040	2-24-2009	Amend(T)	4-1-2009	123-106-0060	2-24-2009	Repeal	4-1-2009
101-005-0070	2-24-2009	Amend(T)	4-1-2009	123-106-0070	2-24-2009	Repeal	4-1-2009
101-005-0080	2-24-2009	Amend(T)	4-1-2009	123-106-0080	2-24-2009	Repeal	4-1-2009
101-030-0026	2-24-2009	Adopt(T)	4-1-2009	123-106-0090	2-24-2009	Repeal	4-1-2009
111-010-0015	1-30-2009	Amend	3-1-2009	123-155-0000	2-24-2009	Amend	4-1-2009
111-010-0015	3-10-2009	Amend(T)	4-1-2009	123-155-0175	2-24-2009	Amend	4-1-2009
111-010-0015(T)	1-30-2009	Repeal	3-1-2009	123-155-0350	2-24-2009	Amend	4-1-2009
111-020-0001	1-30-2009	Amend	3-1-2009	125-045-0235	1-23-2009	Amend(T)	3-1-2009
111-020-0001	3-10-2009	Amend(T)	4-1-2009	125-075-0015	1-6-2009	Amend	2-1-2009
111-020-0001(T)	1-30-2009	Repeal	3-1-2009	125-125-0700	1-26-2009	Adopt	3-1-2009
111-050-0001	1-30-2009	Amend	3-1-2009	125-160-0010	1-23-2009	Amend	3-1-2009
111-050-0001(T)	1-30-2009	Repeal	3-1-2009	125-160-0010(T)	1-23-2009	Repeal	3-1-2009
111-050-0010	1-30-2009	Amend	3-1-2009	125-160-0020	1-23-2009	Adopt	3-1-2009
111-050-0010(T)	1-30-2009	Repeal	3-1-2009	125-160-0020(T)	1-23-2009	Repeal	3-1-2009
111-050-0015	1-30-2009	Amend	3-1-2009	125-247-0280	2-13-2009	Amend(T)	3-1-2009
111-050-0015(T)	1-30-2009	Repeal	3-1-2009	125-249-0150	2-13-2009	Amend(T)	3-1-2009
111-050-0020	1-30-2009	Adopt	3-1-2009	137-045-0050	2-26-2009	Amend(T)	4-1-2009
111-050-0020(T)	1-30-2009	Repeal	3-1-2009	137-055-1320	4-1-2009	Amend	5-1-2009
111-050-0025	1-30-2009	Adopt	3-1-2009	137-055-3020	4-1-2009	Amend	5-1-2009
111-050-0025(T)	1-30-2009	Repeal	3-1-2009	137-055-3080	4-1-2009	Amend	5-1-2009
111-050-0030	1-30-2009	Adopt	3-1-2009	137-055-3100	4-1-2009	Amend	5-1-2009
111-050-0030(T)	1-30-2009	Repeal	3-1-2009	137-055-3420	1-2-2009	Amend	2-1-2009
111-050-0035	1-30-2009	Adopt	3-1-2009	137-055-3420(T)	1-2-2009	Repeal	2-1-2009
111-050-0035(T)	1-30-2009	Repeal	3-1-2009	137-055-3460	4-1-2009	Amend	5-1-2009
111-050-0045	1-30-2009	Adopt	3-1-2009	137-055-6210	1-2-2009	Amend	2-1-2009
111-050-0045(T)	1-30-2009	Repeal	3-1-2009	137-055-6210(T)	1-2-2009	Repeal	2-1-2009
111-050-0050	1-30-2009	Adopt	3-1-2009	141-001-0000	12-10-2008	Amend	1-1-2009
111-050-0050(T)	1-30-2009	Repeal	3-1-2009	141-001-0005	12-10-2008	Amend	1-1-2009
111-050-0060	1-30-2009	Adopt	3-1-2009	141-001-0010	12-10-2008	Amend	1-1-2009
111-050-0060(T)	1-30-2009	Repeal	3-1-2009	141-001-0020	12-10-2008	Amend	1-1-2009
111-050-0065	1-30-2009	Adopt	3-1-2009	141-040-0020	1-1-2009	Amend	1-1-2009
111-050-0065(T)	1-30-2009	Repeal	3-1-2009	141-040-0030	1-1-2009	Amend	1-1-2009
111-050-0070	1-30-2009	Adopt	3-1-2009	141-040-0035	1-1-2009	Repeal	1-1-2009
111-050-0070(T)	1-30-2009	Repeal	3-1-2009	141-040-0040	1-1-2009	Repeal	1-1-2009
111-050-0075	1-30-2009	Adopt	3-1-2009	141-040-0211	1-1-2009	Amend	1-1-2009
111-050-0075(T)	1-30-2009	Repeal	3-1-2009	141-040-0212	1-1-2009	Amend	1-1-2009
111-050-0080	1-30-2009	Adopt	3-1-2009	141-040-0213	1-1-2009	Adopt	1-1-2009
111-050-0080(T)	1-30-2009	Repeal	3-1-2009	141-040-0214	1-1-2009	Amend	1-1-2009
111-080-0001	1-30-2009	Adopt	3-1-2009	141-045-0010	1-1-2009	Amend	1-1-2009
111-080-0001(T)	1-30-2009	Repeal	3-1-2009	141-045-0021	1-1-2009	Amend	1-1-2009
111-080-0005	1-30-2009	Adopt	3-1-2009	141-045-0031	1-1-2009	Amend	1-1-2009
111-080-0005(T)	1-30-2009	Repeal	3-1-2009	141-045-0041	1-1-2009	Amend	1-1-2009
111-080-0030	4-1-2009	Adopt	5-1-2009	141-045-0061	1-1-2009	Amend	1-1-2009
111-080-0030(T)	4-1-2009	Repeal	5-1-2009	141-045-0100	1-1-2009	Amend	1-1-2009
122-060-0020	12-11-2008	Adopt(T)	1-1-2009	141-045-0115	1-1-2009	Amend	1-1-2009
122-060-0020(T)	3-6-2009	Suspend	4-1-2009	141-045-0126	1-1-2009	Amend	1-1-2009
123-049-0005	3-6-2009	Amend(T)	4-1-2009	141-045-0130	1-1-2009	Amend	1-1-2009
123-049-0030	3-6-2009	Amend(T)	4-1-2009	141-050-0500	12-10-2008	Amend	1-1-2009
123-049-0050	3-6-2009	Amend(T)	4-1-2009	141-050-0530	12-10-2008	Repeal	1-1-2009
123-070-1000	2-24-2009	Amend	4-1-2009	141-050-0535	12-10-2008	Repeal	1-1-2009
123-070-1100	2-24-2009	Amend	4-1-2009	141-050-0890	12-10-2008	Renumber	1-1-2009
123-070-1150	2-24-2009	Amend	4-1-2009	141-050-0900	12-10-2008	Amend	1-1-2009
123-106-0000	2-24-2009	Repeal	4-1-2009	141-050-0905	12-10-2008	Amend	1-1-2009
123-106-0010	2-24-2009	Repeal	4-1-2009	141-050-0910	12-10-2008	Repeal	1-1-2009
123-106-0020	2-24-2009	Repeal	4-1-2009	141-050-0920	12-10-2008	Amend	1-1-2009
123-106-0030	2-24-2009	Repeal	4-1-2009	141-050-0940	12-10-2008	Amend	1-1-2009

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
141-089-0105	3-1-2009	Amend	3-1-2009	141-089-0615	3-1-2009	Amend	3-1-2009
141-089-0110	3-1-2009	Amend	3-1-2009	141-091-0005	12-10-2008	Amend	1-1-2009
141-089-0115	3-1-2009	Amend	3-1-2009	141-091-0015	12-10-2008	Amend	1-1-2009
141-089-0120	3-1-2009	Amend	3-1-2009	141-100-0000	3-1-2009	Amend	3-1-2009
141-089-0130	3-1-2009	Amend	3-1-2009	141-100-0020	3-1-2009	Amend	3-1-2009
141-089-0135	3-1-2009	Amend	3-1-2009	141-100-0030	3-1-2009	Amend	3-1-2009
141-089-0145	3-1-2009	Amend	3-1-2009	141-100-0040	3-1-2009	Amend	3-1-2009
141-089-0150	3-1-2009	Amend	3-1-2009	141-100-0050	3-1-2009	Amend	3-1-2009
141-089-0155	3-1-2009	Amend	3-1-2009	141-100-0055	3-1-2009	Amend	3-1-2009
141-089-0157	3-1-2009	Repeal	3-1-2009	141-100-0060	3-1-2009	Amend	3-1-2009
141-089-0165	3-1-2009	Amend	3-1-2009	141-100-0070	3-1-2009	Amend	3-1-2009
141-089-0170	3-1-2009	Amend	3-1-2009	141-100-0080	3-1-2009	Amend	3-1-2009
141-089-0175	3-1-2009	Amend	3-1-2009	141-100-0090	3-1-2009	Amend	3-1-2009
141-089-0185	3-1-2009	Amend	3-1-2009	150-294.435(1)-(A)	1-1-2009	Amend	2-1-2009
141-089-0190	3-1-2009	Amend	3-1-2009	150-294.435(1)-(B)	1-1-2009	Repeal	2-1-2009
141-089-0200	3-1-2009	Amend	3-1-2009	150-305.220(1)	1-1-2009	Amend	2-1-2009
141-089-0205	3-1-2009	Amend	3-1-2009	150-305.220(2)	1-1-2009	Amend	2-1-2009
141-089-0210	3-1-2009	Amend	3-1-2009	150-307.140	1-1-2009	Amend	2-1-2009
141-089-0215	3-1-2009	Amend	3-1-2009	150-307.455	1-1-2009	Adopt	2-1-2009
141-089-0220	3-1-2009	Amend	3-1-2009	150-308.515(1)(h)	1-1-2009	Adopt	2-1-2009
141-089-0225	3-1-2009	Amend	3-1-2009	150-308A.056	1-1-2009	Amend	2-1-2009
141-089-0230	3-1-2009	Amend	3-1-2009	150-308A.059	1-1-2009	Repeal	2-1-2009
141-089-0240	3-1-2009	Amend	3-1-2009	150-309.110(1)-(B)	1-1-2009	Am. & Ren.	2-1-2009
141-089-0245	3-1-2009	Amend	3-1-2009	150-309.110(1)-(E)	1-1-2009	Am. & Ren.	2-1-2009
141-089-0250	3-1-2009	Amend	3-1-2009	150-311.670(1)	1-1-2009	Adopt	2-1-2009
141-089-0255	3-1-2009	Amend	3-1-2009	150-311.706(1)	1-1-2009	Adopt	2-1-2009
141-089-0260	3-1-2009	Amend	3-1-2009	150-314.402(1)	1-1-2009	Amend	2-1-2009
141-089-0265	3-1-2009	Amend	3-1-2009	150-314.402(4)(b)	1-1-2009	Amend	2-1-2009
141-089-0275	3-1-2009	Amend	3-1-2009	150-314.515(2)	1-1-2009	Amend	2-1-2009
141-089-0280	3-1-2009	Amend	3-1-2009	150-314.752	1-1-2009	Amend	2-1-2009
141-089-0295	3-1-2009	Amend	3-1-2009	150-316.007-(B)	1-1-2009	Amend	2-1-2009
141-089-0300	3-1-2009	Amend	3-1-2009	150-316.007-(B)	1-5-2009	Amend	2-1-2009
141-089-0310	3-1-2009	Amend	3-1-2009	150-316.082(1)-(B)	1-1-2009	Amend	2-1-2009
141-089-0350	3-1-2009	Amend	3-1-2009	150-316.127-(9)	1-1-2009	Amend	2-1-2009
141-089-0355	3-1-2009	Amend	3-1-2009	150-316.202(3)	1-1-2009	Amend	2-1-2009
141-089-0370	3-1-2009	Amend	3-1-2009	150-316.791	1-1-2009	Adopt	2-1-2009
141-089-0390	3-1-2009	Amend	3-1-2009	150.309.067(1)(b)	1-1-2009	Am. & Ren.	2-1-2009
141-089-0400	3-1-2009	Amend	3-1-2009	151-020-0030	2-5-2009	Amend(T)	3-1-2009
141-089-0405	3-1-2009	Amend	3-1-2009	161-002-0000	1-30-2009	Amend(T)	3-1-2009
141-089-0415	3-1-2009	Amend	3-1-2009	161-010-0035	1-30-2009	Amend(T)	3-1-2009
141-089-0420	3-1-2009	Amend	3-1-2009	161-010-0045	1-30-2009	Amend(T)	3-1-2009
141-089-0430	3-1-2009	Amend	3-1-2009	161-010-0085	1-30-2009	Amend	3-1-2009
141-089-0500	3-1-2009	Amend	3-1-2009	161-020-0045	1-30-2009	Amend	3-1-2009
141-089-0505	3-1-2009	Amend	3-1-2009	161-020-0140	1-30-2009	Amend	3-1-2009

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
161-020-0150	1-30-2009	Amend	3-1-2009	177-040-0017	2-1-2009	Amend	3-1-2009
161-025-0060	1-30-2009	Amend	3-1-2009	177-040-0017(T)	2-1-2009	Repeal	3-1-2009
165-020-2022	2-18-2009	Adopt(T)	4-1-2009	177-040-0030	1-1-2009	Amend	2-1-2009
165-020-2023	3-3-2009	Adopt(T)	4-1-2009	177-040-0050	1-1-2009	Amend	2-1-2009
165-020-2024	3-5-2009	Adopt(T)	4-1-2009	177-040-0052	1-1-2009	Amend	2-1-2009
165-020-2025	3-16-2009	Adopt(T)	5-1-2009	177-040-0061	2-1-2009	Amend	3-1-2009
165-020-2026	3-19-2009	Adopt(T)	5-1-2009	177-040-0061(T)	2-1-2009	Repeal	3-1-2009
166-200-0005	12-10-2008	Amend	1-1-2009	177-045-0000	1-1-2009	Amend	2-1-2009
166-200-0010	12-10-2008	Amend	1-1-2009	177-045-0010	1-1-2009	Amend	2-1-2009
166-200-0015	12-10-2008	Amend	1-1-2009	177-045-0030	1-1-2009	Amend	2-1-2009
166-200-0020	12-10-2008	Amend	1-1-2009	177-045-0040	1-1-2009	Repeal	2-1-2009
166-200-0025	12-10-2008	Amend	1-1-2009	177-046-0020	11-23-2008	Amend(T)	1-1-2009
166-200-0030	12-10-2008	Amend	1-1-2009	177-046-0020	3-1-2009	Amend	4-1-2009
166-200-0035	12-10-2008	Amend	1-1-2009	177-046-0020(T)	3-1-2009	Repeal	4-1-2009
166-200-0040	12-10-2008	Amend	1-1-2009	177-046-0150	12-1-2008	Repeal	1-1-2009
166-200-0045	12-10-2008	Amend	1-1-2009	177-050-0025	12-1-2008	Amend	1-1-2009
166-200-0050	12-10-2008	Amend	1-1-2009	177-050-0027	12-1-2008	Amend	1-1-2009
166-200-0055	12-10-2008	Amend	1-1-2009	177-050-0100	12-1-2008	Adopt	1-1-2009
166-200-0060	12-10-2008	Amend	1-1-2009	177-050-0100	3-1-2009	Amend	4-1-2009
166-200-0065	12-10-2008	Amend	1-1-2009	177-069-0000	12-1-2008	Adopt	1-1-2009
166-200-0070	12-10-2008	Amend	1-1-2009	177-069-0010	12-1-2008	Adopt	1-1-2009
166-200-0075	12-10-2008	Amend	1-1-2009	177-069-0020	12-1-2008	Adopt	1-1-2009
166-200-0080	12-10-2008	Amend	1-1-2009	177-069-0030	12-1-2008	Adopt	1-1-2009
166-200-0085	12-10-2008	Amend	1-1-2009	177-069-0040	12-1-2008	Adopt	1-1-2009
166-200-0090	12-10-2008	Amend	1-1-2009	177-069-0050	12-1-2008	Adopt	1-1-2009
166-200-0095	12-10-2008	Amend	1-1-2009	177-075-0010	11-23-2008	Amend(T)	1-1-2009
166-200-0100	12-10-2008	Amend	1-1-2009	177-075-0010	3-1-2009	Amend	4-1-2009
166-200-0105	12-10-2008	Amend	1-1-2009	177-075-0010(T)	3-1-2009	Repeal	4-1-2009
166-200-0110	12-10-2008	Amend	1-1-2009	177-081-0020	11-23-2008	Amend(T)	1-1-2009
166-200-0115	12-10-2008	Amend	1-1-2009	177-081-0020	3-1-2009	Amend	4-1-2009
166-200-0120	12-10-2008	Amend	1-1-2009	177-081-0020(T)	3-1-2009	Repeal	4-1-2009
166-200-0125	12-10-2008	Amend	1-1-2009	177-083-0020	11-23-2008	Amend(T)	1-1-2009
166-200-0130	12-10-2008	Amend	1-1-2009	177-083-0020	3-1-2009	Amend	4-1-2009
166-200-0135	12-10-2008	Amend	1-1-2009	177-083-0020(T)	3-1-2009	Repeal	4-1-2009
166-200-0140	12-10-2008	Amend	1-1-2009	177-083-0030	11-23-2008	Amend(T)	1-1-2009
166-200-0145	12-10-2008	Amend	1-1-2009	177-083-0030	3-1-2009	Amend	4-1-2009
166-300-0025	2-19-2009	Amend	4-1-2009	177-083-0030(T)	3-1-2009	Repeal	4-1-2009
170-040-0020	4-10-2009	Amend	5-1-2009	177-083-0040	11-23-2008	Amend(T)	1-1-2009
170-040-0090	11-28-2008	Adopt	1-1-2009	177-083-0040	3-1-2009	Amend	4-1-2009
170-040-0100	11-28-2008	Adopt	1-1-2009	177-083-0040(T)	3-1-2009	Repeal	4-1-2009
170-055-0001	12-29-2008	Adopt	2-1-2009	177-085-0000	1-4-2009	Amend	1-1-2009
170-055-0005	12-29-2008	Repeal	2-1-2009	177-085-0005	1-4-2009	Amend	1-1-2009
170-060-0001	12-29-2008	Adopt	2-1-2009	177-085-0010	1-4-2009	Amend	1-1-2009
170-060-0005	12-29-2008	Adopt	2-1-2009	177-085-0015	11-23-2008	Amend(T)	1-1-2009
170-060-1010	12-29-2008	Amend	2-1-2009	177-085-0015	1-4-2009	Amend	1-1-2009
170-061-0000	12-29-2008	Amend	2-1-2009	177-085-0015	3-1-2009	Amend	4-1-2009
170-061-0005	12-29-2008	Repeal	2-1-2009	177-085-0015(T)	3-1-2009	Repeal	4-1-2009
170-061-0015	12-29-2008	Amend	2-1-2009	177-085-0020	1-4-2009	Amend	1-1-2009
170-061-0020	12-29-2008	Amend	2-1-2009	177-085-0025	1-4-2009	Amend	1-1-2009
170-061-0100	12-29-2008	Amend	2-1-2009	177-085-0030	1-4-2009	Amend	1-1-2009
170-061-0200	12-29-2008	Amend	2-1-2009	177-085-0035	1-4-2009	Amend	1-1-2009
170-061-0300	12-29-2008	Adopt	2-1-2009	177-085-0040	1-4-2009	Amend	1-1-2009
170-061-0400	12-29-2008	Adopt	2-1-2009	177-085-0045	1-4-2009	Amend	1-1-2009
170-062-0000	12-29-2008	Amend	2-1-2009	177-085-0050	1-4-2009	Amend	1-1-2009
170-063-0000	12-29-2008	Amend	2-1-2009	177-085-0065	1-4-2009	Amend	1-1-2009
170-071-0005	12-29-2008	Amend	2-1-2009	177-094-0020	11-23-2008	Amend(T)	1-1-2009
177-040-0001	1-1-2009	Amend	2-1-2009	177-094-0020	3-1-2009	Amend	4-1-2009
177-040-0005	1-1-2009	Amend	2-1-2009	177-094-0020(T)	3-1-2009	Repeal	4-1-2009

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
213-003-0001	1-1-2010	Amend(T)	5-1-2009	291-127-0260	12-16-2008	Amend(T)	2-1-2009
213-003-0001	1-1-2010	Amend(T)	5-1-2009	291-158-0005	12-26-2008	Amend	2-1-2009
213-017-0004	1-1-2010	Amend(T)	5-1-2009	291-158-0010	12-26-2008	Amend	2-1-2009
213-017-0006	1-1-2009	Amend(T)	2-1-2009	291-158-0015	12-26-2008	Amend	2-1-2009
213-017-0006	1-1-2010	Amend(T)	5-1-2009	291-158-0025	12-26-2008	Amend	2-1-2009
213-017-0009	1-1-2010	Amend(T)	5-1-2009	291-158-0035	12-26-2008	Amend	2-1-2009
250-020-0261	5-1-2009	Amend	5-1-2009	291-158-0045	12-26-2008	Amend	2-1-2009
250-020-0290	5-1-2009	Repeal	5-1-2009	291-158-0055	12-26-2008	Amend	2-1-2009
255-070-0001	4-10-2009	Amend(T)	5-1-2009	291-158-0065	12-26-2008	Amend	2-1-2009
259-001-0005	4-8-2009	Amend	5-1-2009	291-158-0075	12-26-2008	Amend	2-1-2009
259-008-0010	1-1-2009	Amend	1-1-2009	309-114-0005	1-23-2009	Amend(T)	3-1-2009
259-008-0011	1-1-2009	Amend	1-1-2009	309-114-0005	4-2-2009	Amend(T)	5-1-2009
259-008-0025	4-8-2009	Amend	5-1-2009	309-114-0005(T)	4-2-2009	Suspend	5-1-2009
259-008-0060	12-29-2008	Amend	2-1-2009	309-114-0010	1-23-2009	Amend(T)	3-1-2009
259-008-0060	4-8-2009	Amend	5-1-2009	309-114-0020	1-23-2009	Amend(T)	3-1-2009
259-008-0065	4-8-2009	Amend	5-1-2009	330-061-0005	12-5-2008	Amend	1-1-2009
259-008-0070	1-1-2009	Amend	1-1-2009	330-061-0025	12-5-2008	Amend	1-1-2009
259-020-0010	12-29-2008	Amend(T)	2-1-2009	330-061-0030	12-5-2008	Amend	1-1-2009
259-020-0010	2-2-2009	Amend	3-1-2009	331-030-0000	12-1-2008	Amend(T)	1-1-2009
259-020-0010(T)	2-2-2009	Repeal	3-1-2009	331-030-0005	12-1-2008	Adopt(T)	1-1-2009
259-020-0015	2-2-2009	Amend	3-1-2009	331-030-0010	12-1-2008	Amend(T)	1-1-2009
259-020-0020	2-2-2009	Amend	3-1-2009	331-810-0038	12-1-2008	Adopt	1-1-2009
259-020-0025	2-2-2009	Amend	3-1-2009	332-015-0070	4-1-2009	Amend	5-1-2009
291-022-0115	11-25-2008	Amend(T)	1-1-2009	332-020-0010	4-1-2009	Amend	5-1-2009
291-022-0160	11-25-2008	Amend(T)	1-1-2009	333-004-0010	3-2-2009	Amend	4-1-2009
291-022-0161	11-25-2008	Adopt(T)	1-1-2009	333-004-0020	3-2-2009	Amend	4-1-2009
291-022-0162	11-25-2008	Adopt(T)	1-1-2009	333-004-0030	3-2-2009	Amend	4-1-2009
291-039-0010	12-16-2008	Amend(T)	2-1-2009	333-004-0040	3-2-2009	Amend	4-1-2009
291-039-0015	12-16-2008	Amend(T)	2-1-2009	333-004-0050	3-2-2009	Amend	4-1-2009
291-042-0005	1-22-2009	Amend	3-1-2009	333-004-0060	3-2-2009	Amend	4-1-2009
291-042-0010	1-22-2009	Amend	3-1-2009	333-004-0070	3-2-2009	Amend	4-1-2009
291-042-0011	1-22-2009	Amend	3-1-2009	333-004-0080	3-2-2009	Amend	4-1-2009
291-042-0015	1-22-2009	Amend	3-1-2009	333-004-0090	3-2-2009	Repeal	4-1-2009
291-042-0025	1-22-2009	Amend	3-1-2009	333-004-0100	3-2-2009	Amend	4-1-2009
291-042-0035	1-22-2009	Amend	3-1-2009	333-004-0110	3-2-2009	Amend	4-1-2009
291-042-0045	1-22-2009	Repeal	3-1-2009	333-004-0120	3-2-2009	Amend	4-1-2009
291-062-0100	3-20-2009	Amend(T)	5-1-2009	333-004-0140	3-2-2009	Amend	4-1-2009
291-062-0110	3-20-2009	Amend(T)	5-1-2009	333-004-0150	3-2-2009	Amend	4-1-2009
291-062-0120	3-20-2009	Amend(T)	5-1-2009	333-004-0160	3-2-2009	Amend	4-1-2009
291-062-0130	3-20-2009	Amend(T)	5-1-2009	333-010-0200	2-13-2009	Adopt	3-1-2009
291-062-0140	3-20-2009	Amend(T)	5-1-2009	333-010-0205	2-13-2009	Adopt	3-1-2009
291-062-0150	3-20-2009	Amend(T)	5-1-2009	333-010-0210	2-13-2009	Adopt	3-1-2009
291-062-0160	3-20-2009	Amend(T)	5-1-2009	333-010-0215	2-13-2009	Adopt	3-1-2009
291-062-0170	3-20-2009	Adopt(T)	5-1-2009	333-010-0220	2-13-2009	Adopt	3-1-2009
291-070-0120	12-16-2008	Amend(T)	2-1-2009	333-010-0225	2-13-2009	Adopt	3-1-2009
291-097-0005	3-10-2009	Amend	4-1-2009	333-010-0230	2-13-2009	Adopt	3-1-2009
291-097-0010	3-10-2009	Amend	4-1-2009	333-010-0235	2-13-2009	Adopt	3-1-2009
291-097-0015	3-10-2009	Amend	4-1-2009	333-010-0240	2-13-2009	Adopt	3-1-2009
291-097-0020	3-10-2009	Amend	4-1-2009	333-010-0245	2-13-2009	Adopt	3-1-2009
291-097-0025	3-10-2009	Amend	4-1-2009	333-010-0250	2-13-2009	Adopt	3-1-2009
291-097-0040	3-10-2009	Amend	4-1-2009	333-010-0255	2-13-2009	Adopt	3-1-2009
291-097-0050	3-10-2009	Amend	4-1-2009	333-010-0260	2-13-2009	Adopt	3-1-2009
291-097-0060	3-10-2009	Amend	4-1-2009	333-010-0265	2-13-2009	Adopt	3-1-2009
291-097-0070	3-10-2009	Amend	4-1-2009	333-010-0270	2-13-2009	Adopt	3-1-2009
291-097-0080	3-10-2009	Amend	4-1-2009	333-010-0275	2-13-2009	Adopt	3-1-2009
291-097-0100	3-10-2009	Amend	4-1-2009	333-010-0280	2-13-2009	Adopt	3-1-2009
291-097-0110	3-10-2009	Am. & Ren.	4-1-2009	333-010-0285	2-13-2009	Adopt	3-1-2009
291-097-0120	3-10-2009	Amend	4-1-2009	333-010-0290	2-13-2009	Adopt	3-1-2009

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
333-565-0000	1-1-2009	Amend	2-1-2009	340-228-0610	12-31-2008	Repeal	2-1-2009
333-675-0050	1-1-2009	Amend	2-1-2009	340-228-0611	12-31-2008	Adopt	2-1-2009
334-001-0000	3-1-2009	Amend	3-1-2009	340-228-0612	12-31-2008	Repeal	2-1-2009
334-001-0035	3-1-2009	Amend	3-1-2009	340-228-0613	12-31-2008	Adopt	2-1-2009
334-001-0045	3-1-2009	Amend	3-1-2009	340-228-0614	12-31-2008	Repeal	2-1-2009
334-001-0060	3-1-2009	Amend	3-1-2009	340-228-0615	12-31-2008	Adopt	2-1-2009
334-010-0005	3-1-2009	Amend	3-1-2009	340-228-0616	12-31-2008	Repeal	2-1-2009
334-010-0010	3-1-2009	Amend	3-1-2009	340-228-0617	12-31-2008	Adopt	2-1-2009
334-010-0012	3-1-2009	Amend	3-1-2009	340-228-0618	12-31-2008	Repeal	2-1-2009
334-010-0015	3-1-2009	Amend	3-1-2009	340-228-0619	12-31-2008	Adopt	2-1-2009
334-010-0016	3-1-2009	Repeal	3-1-2009	340-228-0620	12-31-2008	Repeal	2-1-2009
334-010-0017	3-1-2009	Amend	3-1-2009	340-228-0621	12-31-2008	Adopt	2-1-2009
334-010-0025	3-1-2009	Amend	3-1-2009	340-228-0622	12-31-2008	Repeal	2-1-2009
334-010-0031	3-1-2009	Repeal	3-1-2009	340-228-0623	12-31-2008	Adopt	2-1-2009
334-010-0033	3-1-2009	Amend	3-1-2009	340-228-0624	12-31-2008	Repeal	2-1-2009
334-010-0041	3-1-2009	Am. & Ren.	3-1-2009	340-228-0625	12-31-2008	Adopt	2-1-2009
334-010-0046	3-1-2009	Amend	3-1-2009	340-228-0626	12-31-2008	Repeal	2-1-2009
334-010-0047	3-1-2009	Amend	3-1-2009	340-228-0627	12-31-2008	Adopt	2-1-2009
334-010-0050	3-1-2009	Amend	3-1-2009	340-228-0628	12-31-2008	Repeal	2-1-2009
334-020-0005	3-1-2009	Amend	3-1-2009	340-228-0629	12-31-2008	Adopt	2-1-2009
334-020-0015	3-1-2009	Amend	3-1-2009	340-228-0630	12-31-2008	Repeal	2-1-2009
334-020-0020	3-1-2009	Repeal	3-1-2009	340-228-0631	12-31-2008	Adopt	2-1-2009
334-020-0025	3-1-2009	Repeal	3-1-2009	340-228-0632	12-31-2008	Repeal	2-1-2009
334-020-0030	3-1-2009	Repeal	3-1-2009	340-228-0633	12-31-2008	Adopt	2-1-2009
334-020-0035	3-1-2009	Repeal	3-1-2009	340-228-0634	12-31-2008	Repeal	2-1-2009
334-020-0040	3-1-2009	Repeal	3-1-2009	340-228-0635	12-31-2008	Adopt	2-1-2009
334-020-0045	3-1-2009	Repeal	3-1-2009	340-228-0636	12-31-2008	Repeal	2-1-2009
334-020-0050	3-1-2009	Amend	3-1-2009	340-228-0637	12-31-2008	Adopt	2-1-2009
334-020-0055	3-1-2009	Amend	3-1-2009	340-228-0638	12-31-2008	Repeal	2-1-2009
334-020-0060	3-1-2009	Repeal	3-1-2009	340-228-0640	12-31-2008	Repeal	2-1-2009
334-020-0065	3-1-2009	Repeal	3-1-2009	340-228-0642	12-31-2008	Repeal	2-1-2009
334-020-0070	3-1-2009	Repeal	3-1-2009	340-228-0644	12-31-2008	Repeal	2-1-2009
334-020-0075	3-1-2009	Repeal	3-1-2009	340-228-0646	12-31-2008	Repeal	2-1-2009
334-020-0080	3-1-2009	Repeal	3-1-2009	340-228-0648	12-31-2008	Repeal	2-1-2009
334-020-0085	3-1-2009	Repeal	3-1-2009	340-228-0650	12-31-2008	Repeal	2-1-2009
334-020-0090	3-1-2009	Repeal	3-1-2009	340-228-0652	12-31-2008	Repeal	2-1-2009
334-030-0001	3-1-2009	Amend	3-1-2009	340-228-0654	12-31-2008	Repeal	2-1-2009
334-030-0002	3-1-2009	Repeal	3-1-2009	340-228-0656	12-31-2008	Repeal	2-1-2009
334-030-0005	3-1-2009	Amend	3-1-2009	340-228-0658	12-31-2008	Repeal	2-1-2009
334-030-0010	3-1-2009	Repeal	3-1-2009	340-228-0660	12-31-2008	Repeal	2-1-2009
334-030-0025	3-1-2009	Am. & Ren.	3-1-2009	340-228-0662	12-31-2008	Repeal	2-1-2009
334-040-0001	3-1-2009	Adopt	3-1-2009	340-228-0664	12-31-2008	Repeal	2-1-2009
339-010-0023	1-1-2009	Amend	1-1-2009	340-228-0666	12-31-2008	Repeal	2-1-2009
339-010-0035	1-1-2009	Amend	1-1-2009	340-228-0668	12-31-2008	Repeal	2-1-2009
339-010-0050	1-1-2009	Amend	1-1-2009	340-228-0670	12-31-2008	Repeal	2-1-2009
339-020-0015	1-1-2009	Adopt	1-1-2009	340-228-0671	12-31-2008	Repeal	2-1-2009
340-200-0040	12-31-2008	Amend	2-1-2009	340-228-0672	12-31-2008	Repeal	2-1-2009
340-216-0020	12-31-2008	Amend	2-1-2009	340-228-0673	12-31-2008	Repeal	2-1-2009
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
340-230-0359	12-31-2008	Adopt	2-1-2009	407-007-0290	1-1-2009	Amend	2-1-2009
340-232-0070	12-31-2008	Repeal	2-1-2009	407-007-0290	4-1-2009	Amend	5-1-2009
340-238-0040	12-31-2008	Amend	2-1-2009	407-007-0300	1-1-2009	Amend	2-1-2009
340-238-0050	12-31-2008	Repeal	2-1-2009	407-007-0310	1-1-2009	Repeal	2-1-2009
340-238-0060	12-31-2008	Amend	2-1-2009	407-007-0320	1-1-2009	Amend	2-1-2009
340-238-0090	12-31-2008	Amend	2-1-2009	407-007-0320	4-1-2009	Amend	5-1-2009
340-242-0520	12-31-2008	Amend	2-1-2009	407-007-0330	1-1-2009	Amend	2-1-2009
340-244-0020	12-31-2008	Amend	2-1-2009	407-007-0330	4-1-2009	Amend	5-1-2009
340-244-0030	12-31-2008	Amend	2-1-2009	407-007-0340	1-1-2009	Amend	2-1-2009
340-244-0100	12-31-2008	Amend	2-1-2009	407-007-0340	4-1-2009	Amend	5-1-2009
340-244-0110	12-31-2008	Repeal	2-1-2009	407-007-0350	1-1-2009	Amend	2-1-2009
340-244-0120	12-31-2008	Repeal	2-1-2009	407-007-0350	4-1-2009	Amend	5-1-2009
340-244-0130	12-31-2008	Repeal	2-1-2009	407-007-0355	1-1-2009	Adopt	2-1-2009
340-244-0140	12-31-2008	Repeal	2-1-2009	407-007-0355	4-1-2009	Amend	5-1-2009
340-244-0150	12-31-2008	Repeal	2-1-2009	407-007-0360	1-1-2009	Repeal	2-1-2009
340-244-0160	12-31-2008	Repeal	2-1-2009	407-007-0370	1-1-2009	Amend	2-1-2009
340-244-0170	12-31-2008	Repeal	2-1-2009	407-007-0380	1-1-2009	Repeal	2-1-2009
340-244-0180	12-31-2008	Repeal	2-1-2009	407-120-0300	12-27-2008	Amend	2-1-2009
340-244-0210	12-31-2008	Amend	2-1-2009	407-120-0300(T)	12-27-2008	Repeal	2-1-2009
340-244-0220	12-31-2008	Amend	2-1-2009	407-120-0310	12-27-2008	Amend	2-1-2009
340-244-0232	12-31-2008	Adopt	2-1-2009	407-120-0310(T)	12-27-2008	Repeal	2-1-2009
340-244-0234	12-31-2008	Adopt	2-1-2009	407-120-0320	12-27-2008	Amend	2-1-2009
340-244-0236	12-31-2008	Adopt	2-1-2009	407-120-0320(T)	12-27-2008	Repeal	2-1-2009
340-244-0238	12-31-2008	Adopt	2-1-2009	407-120-0325	12-27-2008	Adopt	2-1-2009
340-244-0240	12-31-2008	Adopt	2-1-2009	407-120-0325(T)	12-27-2008	Repeal	2-1-2009
340-244-0242	12-31-2008	Adopt	2-1-2009	407-120-0330	12-27-2008	Amend	2-1-2009
340-244-0244	12-31-2008	Adopt	2-1-2009	407-120-0330(T)	12-27-2008	Repeal	2-1-2009
340-244-0246	12-31-2008	Adopt	2-1-2009	407-120-0340	12-27-2008	Amend	2-1-2009
340-244-0248	12-31-2008	Adopt	2-1-2009	407-120-0340(T)	12-27-2008	Repeal	2-1-2009
340-244-0250	12-31-2008	Adopt	2-1-2009	407-120-0350	12-27-2008	Amend	2-1-2009
340-244-0252	12-31-2008	Adopt	2-1-2009	407-120-0350(T)	12-27-2008	Repeal	2-1-2009
350-040-0020	1-14-2009	Amend(T)	2-1-2009	407-120-0360	12-27-2008	Amend	2-1-2009
350-040-0020	5-1-2009	Amend	5-1-2009	407-120-0360(T)	12-27-2008	Repeal	2-1-2009
350-040-0040	1-14-2009	Amend(T)	2-1-2009	407-120-0370	12-27-2008	Amend	2-1-2009
350-040-0040	5-1-2009	Amend	5-1-2009	407-120-0370(T)	12-27-2008	Repeal	2-1-2009
350-050-0020	1-14-2009	Amend(T)	2-1-2009	407-120-0380	12-27-2008	Amend	2-1-2009
350-050-0020	5-1-2009	Amend	5-1-2009	407-120-0380(T)	12-27-2008	Repeal	2-1-2009
350-050-0060	1-14-2009	Amend(T)	2-1-2009	407-120-0400	1-12-2009	Adopt(T)	2-1-2009
350-050-0060	5-1-2009	Amend	5-1-2009	410-120-0000	12-1-2008	Amend	1-1-2009
407-001-0000	12-5-2008	Amend	1-1-2009	410-120-0027	1-12-2009	Adopt(T)	2-1-2009
407-001-0005	12-5-2008	Amend	1-1-2009	410-120-0027	1-16-2009	Amend(T)	3-1-2009
407-001-0010	12-5-2008	Amend	1-1-2009	410-120-0027(T)	1-16-2009	Suspend	3-1-2009
407-007-0200	1-1-2009	Amend	2-1-2009	410-120-1140	12-1-2008	Amend	1-1-2009
407-007-0200	4-1-2009	Amend	5-1-2009	410-120-1180	12-1-2008	Amend	1-1-2009
407-007-0210	1-1-2009	Amend	2-1-2009	410-120-1195	12-1-2008	Amend	1-1-2009
407-007-0210	4-1-2009	Amend	5-1-2009	410-120-1260	12-1-2008	Amend	1-1-2009
407-007-0220	1-1-2009	Amend	2-1-2009	410-120-1280	12-1-2008	Amend	1-1-2009
407-007-0220	4-1-2009	Amend	5-1-2009	410-120-1340	12-1-2008	Amend	1-1-2009
407-007-0230	1-1-2009	Amend	2-1-2009	410-120-1340	1-1-2009	Amend	1-1-2009
407-007-0230	4-1-2009	Amend	5-1-2009	410-121-0000	1-1-2009	Amend	1-1-2009
407-007-0240	1-1-2009	Amend	2-1-2009	410-121-0030	1-1-2009	Amend	1-1-2009
407-007-0240	4-1-2009	Amend	5-1-2009	410-121-0032	1-1-2009	Amend	1-1-2009
407-007-0250	1-1-2009	Amend	2-1-2009	410-121-0040	12-1-2008	Amend	1-1-2009
407-007-0250	4-1-2009	Amend	5-1-2009	410-121-0060	12-1-2008	Amend	1-1-2009
407-007-0260	1-1-2009	Repeal	2-1-2009	410-121-0060	1-1-2009	Amend	1-1-2009
407-007-0270	1-1-2009	Repeal	2-1-2009	410-121-0140	12-1-2008	Amend	1-1-2009
407-007-0280	1-1-2009	Amend	2-1-2009	410-121-0140	1-1-2009	Repeal	1-1-2009
407-007-0280	4-1-2009	Amend	5-1-2009	410-121-0150	12-1-2008	Amend	1-1-2009

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-121-0155	4-1-2009	Amend(T)	5-1-2009	410-136-0240	12-1-2008	Amend	1-1-2009
410-121-0157	12-1-2008	Amend	1-1-2009	410-136-0240	4-1-2009	Amend(T)	5-1-2009
410-121-0185	1-1-2009	Amend	1-1-2009	410-136-0260	12-1-2008	Amend	1-1-2009
410-121-0200	12-1-2008	Amend	1-1-2009	410-136-0300	12-1-2008	Amend	1-1-2009
410-121-0300	1-1-2009	Amend	1-1-2009	410-136-0300	4-1-2009	Amend(T)	5-1-2009
410-121-0320	12-1-2008	Amend	1-1-2009	410-138-0000	12-28-2008	Amend	2-1-2009
410-121-0625	1-1-2009	Amend	1-1-2009	410-138-0005	12-28-2008	Adopt	2-1-2009
410-122-0040	12-1-2008	Amend	1-1-2009	410-138-0007	12-28-2008	Adopt	2-1-2009
410-122-0182	1-1-2009	Amend	1-1-2009	410-138-0009	12-28-2008	Adopt	2-1-2009
410-122-0200	1-1-2009	Amend	1-1-2009	410-138-0020	12-28-2008	Amend	2-1-2009
410-122-0202	1-1-2009	Amend(T)	2-1-2009	410-138-0080	12-28-2008	Amend	2-1-2009
410-122-0203	1-1-2009	Amend	1-1-2009	410-138-0300	12-28-2008	Amend	2-1-2009
410-122-0204	1-1-2009	Amend	1-1-2009	410-138-0320	12-28-2008	Amend	2-1-2009
410-122-0211	1-1-2009	Adopt	1-1-2009	410-138-0380	12-28-2008	Amend	2-1-2009
410-122-0330	1-1-2009	Amend	1-1-2009	410-138-0500	12-28-2008	Amend	2-1-2009
410-122-0340	1-1-2009	Amend	1-1-2009	410-138-0520	12-28-2008	Amend	2-1-2009
410-122-0365	1-1-2009	Amend	1-1-2009	410-138-0560	12-28-2008	Amend	2-1-2009
410-122-0560	1-1-2009	Amend	1-1-2009	410-138-0600	12-28-2008	Amend	2-1-2009
410-122-0580	1-1-2009	Amend	1-1-2009	410-138-0620	12-28-2008	Amend	2-1-2009
410-122-0630	1-1-2009	Amend	1-1-2009	410-138-0680	12-28-2008	Amend	2-1-2009
410-122-0655	1-1-2009	Amend	1-1-2009	410-138-0700	12-28-2008	Amend	2-1-2009
410-123-1085	1-1-2009	Amend	1-1-2009	410-138-0720	12-28-2008	Amend	2-1-2009
410-123-1160	1-1-2009	Amend	1-1-2009	410-138-0740	12-28-2008	Amend	2-1-2009
410-123-1220	1-1-2009	Amend	1-1-2009	410-138-0780	12-28-2008	Amend	2-1-2009
410-123-1230	1-1-2009	Amend	1-1-2009	410-141-0000	12-1-2008	Amend	1-1-2009
410-123-1240	1-1-2009	Amend	1-1-2009	410-141-0020	12-1-2008	Amend	1-1-2009
410-123-1260	1-1-2009	Amend	1-1-2009	410-141-0120	1-1-2009	Amend	1-1-2009
410-123-1490	1-1-2009	Amend	1-1-2009	410-141-0220	12-1-2008	Amend	1-1-2009
410-123-1620	1-1-2009	Amend	1-1-2009	410-141-0266	1-1-2009	Amend	1-1-2009
410-123-1670	1-1-2009	Amend	1-1-2009	410-141-0425	1-5-2009	Adopt(T)	2-1-2009
410-125-0020	1-1-2009	Amend	1-1-2009	410-141-0520	1-1-2009	Amend	1-1-2009
410-125-0041	1-1-2009	Amend	1-1-2009	410-141-0520	1-30-2009	Amend(T)	3-1-2009
410-125-0045	1-1-2009	Amend	1-1-2009	410-141-0520	4-1-2009	Amend(T)	5-1-2009
410-125-0080	1-1-2009	Amend	1-1-2009	410-141-0520(T)	1-1-2009	Repeal	1-1-2009
410-125-0085	1-1-2009	Amend	1-1-2009	410-141-0520(T)	4-1-2009	Suspend	5-1-2009
410-125-0125	12-1-2008	Amend	1-1-2009	410-146-0021	12-1-2008	Amend	1-1-2009
410-125-0155	1-1-2009	Amend	1-1-2009	410-146-0040	1-1-2009	Amend	1-1-2009
410-125-0181	1-1-2009	Amend	1-1-2009	410-146-0060	12-1-2008	Amend	1-1-2009
410-125-0195	1-1-2009	Amend	1-1-2009	410-146-0080	12-1-2008	Amend	1-1-2009
410-125-0210	12-1-2008	Amend	1-1-2009	410-146-0085	12-1-2008	Amend	1-1-2009
410-125-0220	12-1-2008	Amend	1-1-2009	410-146-0086	12-1-2008	Amend	1-1-2009
410-125-0360	12-1-2008	Amend	1-1-2009	410-146-0100	12-1-2008	Amend	1-1-2009
410-125-0400	12-1-2008	Amend	1-1-2009	410-146-0120	12-1-2008	Amend	1-1-2009
410-125-0600	12-1-2008	Amend	1-1-2009	410-146-0130	12-1-2008	Amend	1-1-2009
410-125-0640	12-1-2008	Amend	1-1-2009	410-146-0140	12-1-2008	Amend	1-1-2009
410-125-0720	12-1-2008	Amend	1-1-2009	410-146-0340	12-1-2008	Amend	1-1-2009
410-125-1020	1-1-2009	Amend	1-1-2009	410-146-0380	12-1-2008	Amend	1-1-2009
410-125-1070	12-1-2008	Amend	1-1-2009	410-146-0440	12-1-2008	Amend	1-1-2009
410-127-0080	12-1-2008	Amend	1-1-2009	410-147-0020	12-1-2008	Amend	1-1-2009
410-129-0080	12-1-2008	Amend	1-1-2009	410-147-0040	1-1-2009	Amend	1-1-2009
410-130-0180	12-1-2008	Amend	1-1-2009	410-147-0060	12-1-2008	Amend	1-1-2009
410-132-0100	12-1-2008	Amend	1-1-2009	410-147-0120	12-1-2008	Amend	1-1-2009
410-133-0040	12-28-2008	Amend	2-1-2009	410-147-0125	12-1-2008	Amend	1-1-2009
410-133-0090	12-28-2008	Amend	2-1-2009	410-147-0140	12-1-2008	Amend	1-1-2009
410-133-0100	12-28-2008	Amend	2-1-2009	410-147-0160	12-1-2008	Amend	1-1-2009
410-133-0140	12-28-2008	Amend	2-1-2009	410-147-0180	12-1-2008	Amend	1-1-2009
410-133-0220	12-28-2008	Amend	2-1-2009	410-147-0200	12-1-2008	Amend	1-1-2009
410-133-0280	12-28-2008	Amend	2-1-2009	410-147-0220	12-1-2008	Amend	1-1-2009

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-147-0320	12-1-2008	Amend	1-1-2009	413-070-0950	3-31-2009	Suspend	5-1-2009
410-147-0340	12-1-2008	Amend	1-1-2009	413-070-0955	3-31-2009	Amend(T)	5-1-2009
410-147-0360	12-1-2008	Amend	1-1-2009	413-070-0960	3-31-2009	Amend(T)	5-1-2009
410-147-0460	12-1-2008	Amend	1-1-2009	413-070-0965	3-31-2009	Amend(T)	5-1-2009
410-147-0480	12-1-2008	Amend	1-1-2009	413-070-0970	3-31-2009	Amend(T)	5-1-2009
410-147-0540	12-1-2008	Amend	1-1-2009	413-070-0980	3-31-2009	Amend(T)	5-1-2009
410-147-0560	12-1-2008	Amend	1-1-2009	413-070-0981	3-31-2009	Suspend	5-1-2009
410-147-0610	12-1-2008	Amend	1-1-2009	413-120-0400	2-2-2009	Amend	3-1-2009
410-147-0620	12-1-2008	Amend	1-1-2009	413-120-0400(T)	2-2-2009	Repeal	3-1-2009
411-001-0010	3-3-2009	Repeal	4-1-2009	413-120-0410	2-2-2009	Repeal	3-1-2009
411-030-0002	1-1-2009	Amend	2-1-2009	413-120-0420	2-2-2009	Amend	3-1-2009
411-030-0020	1-1-2009	Amend	2-1-2009	413-120-0420(T)	2-2-2009	Repeal	3-1-2009
411-030-0033	1-1-2009	Amend	2-1-2009	413-120-0440	2-2-2009	Amend	3-1-2009
411-030-0040	1-1-2009	Amend	2-1-2009	413-120-0440(T)	2-2-2009	Repeal	3-1-2009
411-030-0050	1-1-2009	Amend	2-1-2009	413-120-0450	2-2-2009	Amend	3-1-2009
411-030-0055	1-1-2009	Amend	2-1-2009	413-120-0450(T)	2-2-2009	Repeal	3-1-2009
411-030-0070	1-1-2009	Amend	2-1-2009	413-120-0455	2-2-2009	Amend	3-1-2009
411-030-0080	1-1-2009	Amend	2-1-2009	413-120-0455(T)	2-2-2009	Repeal	3-1-2009
411-030-0090	1-1-2009	Amend	2-1-2009	413-120-0460	2-2-2009	Amend	3-1-2009
411-030-0100	1-1-2009	Amend	2-1-2009	413-120-0460(T)	2-2-2009	Repeal	3-1-2009
411-054-0005	1-1-2009	Amend	2-1-2009	413-120-0470	2-2-2009	Amend	3-1-2009
411-054-0008	1-1-2009	Repeal	2-1-2009	413-120-0470(T)	2-2-2009	Repeal	3-1-2009
411-054-0012	1-1-2009	Amend	2-1-2009	413-200-0270	2-2-2009	Amend	3-1-2009
411-054-0105	1-1-2009	Amend	2-1-2009	413-200-0272	2-2-2009	Amend	3-1-2009
411-054-0125	3-3-2009	Adopt	4-1-2009	413-200-0272(T)	2-2-2009	Repeal	3-1-2009
411-054-0125(T)	3-3-2009	Repeal	4-1-2009	413-200-0274	2-2-2009	Amend	3-1-2009
411-350-0010	3-1-2009	Amend	4-1-2009	413-200-0274(T)	2-2-2009	Repeal	3-1-2009
411-350-0020	3-1-2009	Amend	4-1-2009	413-200-0276	2-2-2009	Amend	3-1-2009
411-350-0030	3-1-2009	Amend	4-1-2009	413-200-0278	2-2-2009	Amend	3-1-2009
411-350-0040	3-1-2009	Amend	4-1-2009	413-200-0278(T)	2-2-2009	Repeal	3-1-2009
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
413-200-0393	2-2-2009	Amend	3-1-2009	437-002-0076	4-17-2009	Adopt	5-1-2009
413-200-0395	2-2-2009	Amend	3-1-2009	437-002-0187	12-31-2008	Amend	2-1-2009
413-200-0396	2-2-2009	Amend	3-1-2009	437-002-0320	4-17-2009	Amend	5-1-2009
416-340-0010	4-17-2009	Amend	5-1-2009	437-004-1120	1-26-2009	Amend	3-1-2009
416-340-0020	4-17-2009	Amend	5-1-2009	441-025-0060	2-3-2009	Adopt	3-1-2009
416-340-0030	4-17-2009	Amend	5-1-2009	441-500-0020	2-3-2009	Amend	3-1-2009
416-340-0040	4-17-2009	Amend	5-1-2009	441-730-0030	2-3-2009	Amend	3-1-2009
416-340-0060	4-17-2009	Amend	5-1-2009	441-865-0025	12-10-2008	Adopt	1-1-2009
416-340-0070	4-17-2009	Amend	5-1-2009	442-001-0000	1-1-2009	Amend	2-1-2009
416-530-0070	2-2-2009	Amend	3-1-2009	442-001-0005	1-1-2009	Amend	2-1-2009
423-001-0006	12-12-2008	Amend(T)	1-1-2009	442-001-0010	1-1-2009	Repeal	2-1-2009
423-010-0023	12-12-2008	Amend	1-1-2009	442-001-0015	1-1-2009	Repeal	2-1-2009
436-009-0005	1-1-2009	Amend	1-1-2009	442-001-0050	1-1-2009	Adopt	2-1-2009
436-009-0008	1-1-2009	Amend	1-1-2009	442-001-0060	1-1-2009	Adopt	2-1-2009
436-009-0018	1-1-2009	Adopt	1-1-2009	442-001-0070	1-1-2009	Adopt	2-1-2009
436-009-0020	1-1-2009	Amend	1-1-2009	442-001-0080	1-1-2009	Adopt	2-1-2009
436-009-0022	1-1-2009	Amend	1-1-2009	442-001-0090	1-1-2009	Adopt	2-1-2009
436-009-0030	1-1-2009	Amend	1-1-2009	442-001-0100	1-1-2009	Adopt	2-1-2009
436-009-0035	1-1-2009	Amend	1-1-2009	442-001-0110	1-1-2009	Adopt	2-1-2009
436-009-0040	1-1-2009	Amend	1-1-2009	442-001-0120	1-1-2009	Adopt	2-1-2009
436-009-0070	1-1-2009	Amend	1-1-2009	442-001-0130	1-1-2009	Adopt	2-1-2009
436-009-0080	1-1-2009	Amend	1-1-2009	442-001-0140	1-1-2009	Adopt	2-1-2009
436-009-0090	1-1-2009	Amend	1-1-2009	442-001-0150	1-1-2009	Adopt	2-1-2009
436-009-0095	1-1-2009	Adopt	1-1-2009	442-001-0160	1-1-2009	Adopt	2-1-2009
436-009-0100	1-1-2009	Amend	1-1-2009	443-002-0070	2-12-2009	Amend(T)	3-1-2009
436-015-0007	1-1-2009	Adopt	1-1-2009	443-002-0070	4-15-2009	Amend	5-1-2009
436-015-0120	1-1-2009	Amend	1-1-2009	443-002-0070(T)	4-15-2009	Repeal	5-1-2009
436-060-0005	1-1-2009	Amend	1-1-2009	443-002-0180	4-15-2009	Amend	5-1-2009
436-060-0009	1-1-2009	Amend	1-1-2009	459-005-0001	2-12-2009	Amend	3-1-2009
436-060-0010	1-1-2009	Amend	1-1-2009	459-005-0525	11-26-2008	Amend	1-1-2009
436-060-0015	1-1-2009	Amend	1-1-2009	459-005-0535	11-26-2008	Amend	1-1-2009
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	5-1-2009
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	5-1-2009
437-001-0160	2-3-2009	Amend	3-1-2009	459-007-0330	4-6-2009	Adopt	5-1-2009
437-001-0205	2-3-2009	Amend	3-1-2009	459-007-0340	4-6-2009	Adopt	5-1-2009
437-001-0760	2-3-2009	Amend	3-1-2009	459-007-0400	4-6-2009	Adopt	5-1-2009
437-001-1015	2-3-2009	Amend	3-1-2009	459-007-0410	4-6-2009	Adopt	5-1-2009
437-001-1020	2-3-2009	Amend	3-1-2009	459-007-0420	4-6-2009	Adopt	5-1-2009
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
459-030-0011	2-12-2009	Amend	3-1-2009	461-145-0830	1-1-2009	Amend	2-1-2009
459-030-0025	2-12-2009	Amend	3-1-2009	461-145-0840	1-1-2009	Repeal	2-1-2009
459-030-0030	2-12-2009	Amend	3-1-2009	461-150-0048	1-1-2009	Repeal	2-1-2009
459-050-0037	11-26-2008	Amend	1-1-2009	461-150-0049	1-1-2009	Amend	2-1-2009
459-050-0075	2-12-2009	Amend	3-1-2009	461-150-0050	1-1-2009	Amend	2-1-2009
459-070-0001	2-12-2009	Amend	3-1-2009	461-155-0150	4-1-2009	Amend(T)	4-1-2009
459-075-0175	11-26-2008	Adopt	1-1-2009	461-155-0180	1-27-2009	Amend	3-1-2009
459-076-0001	2-12-2009	Amend	3-1-2009	461-155-0190	4-1-2009	Amend(T)	5-1-2009
459-080-0100	2-12-2009	Amend	3-1-2009	461-155-0235	1-27-2009	Amend	3-1-2009
459-080-0200	4-6-2009	Amend	5-1-2009	461-155-0250	1-1-2009	Amend	2-1-2009
459-080-0250	4-6-2009	Amend	5-1-2009	461-155-0250	3-1-2009	Amend(T)	4-1-2009
461-001-0000	1-1-2009	Amend	2-1-2009	461-155-0270	1-1-2009	Amend	2-1-2009
461-001-0000	4-1-2009	Amend	5-1-2009	461-155-0290	4-1-2009	Amend(T)	5-1-2009
461-001-0025	1-1-2009	Amend	2-1-2009	461-155-0291	4-1-2009	Amend(T)	5-1-2009
461-101-0010	1-1-2009	Amend	2-1-2009	461-155-0295	1-1-2009	Amend	2-1-2009
461-110-0330	1-1-2009	Amend	2-1-2009	461-155-0295	4-1-2009	Amend(T)	5-1-2009
461-110-0350	1-1-2009	Amend	2-1-2009	461-155-0300	1-1-2009	Amend	2-1-2009
461-110-0350	4-1-2009	Amend	5-1-2009	461-155-0320	1-1-2009	Amend	2-1-2009
461-110-0370	4-1-2009	Amend	5-1-2009	461-155-0500	1-1-2009	Amend	2-1-2009
461-115-0050	1-1-2009	Amend	2-1-2009	461-155-0500(T)	1-1-2009	Repeal	2-1-2009
461-115-0530	1-1-2009	Amend	2-1-2009	461-155-0526	1-1-2009	Amend	2-1-2009
461-120-0110	4-1-2009	Amend(T)	4-1-2009	461-155-0526(T)	1-1-2009	Repeal	2-1-2009
461-120-0110	4-1-2009	Amend(T)	5-1-2009	461-155-0600	1-1-2009	Amend	2-1-2009
461-120-0110(T)	4-1-2009	Suspend	5-1-2009	461-155-0600(T)	1-1-2009	Repeal	2-1-2009
461-120-0125	1-1-2009	Amend(T)	2-1-2009	461-155-0610	1-1-2009	Amend	2-1-2009
461-120-0125	4-1-2009	Amend	5-1-2009	461-155-0610(T)	1-1-2009	Repeal	2-1-2009
461-120-0125(T)	4-1-2009	Repeal	5-1-2009	461-155-0700	1-1-2009	Adopt	2-1-2009
461-130-0335	1-1-2009	Amend	2-1-2009	461-155-0700(T)	1-1-2009	Repeal	2-1-2009
461-135-0010	1-1-2009	Amend	2-1-2009	461-155-0710	1-1-2009	Adopt	2-1-2009
461-135-0010	4-1-2009	Amend(T)	5-1-2009	461-155-0710(T)	1-1-2009	Repeal	2-1-2009
461-135-0075	1-1-2009	Amend	2-1-2009	461-160-0040	4-1-2009	Amend(T)	4-1-2009
461-135-0075(T)	1-1-2009	Repeal	2-1-2009	461-160-0060	4-1-2009	Amend	5-1-2009
461-135-0085	1-1-2009	Amend	2-1-2009	461-160-0100	1-1-2009	Amend	2-1-2009
461-135-0089	1-1-2009	Amend	2-1-2009	461-160-0410	1-1-2009	Amend	2-1-2009
461-135-0400	4-1-2009	Amend(T)	4-1-2009	461-160-0410	4-1-2009	Amend	5-1-2009
461-135-0400	4-1-2009	Amend(T)	5-1-2009	461-160-0550	1-1-2009	Amend(T)	2-1-2009
461-135-0400(T)	4-1-2009	Suspend	5-1-2009	461-160-0550	4-1-2009	Amend	5-1-2009
461-135-0475	4-1-2009	Amend(T)	5-1-2009	461-160-0550(T)	4-1-2009	Repeal	5-1-2009
461-135-0730	1-1-2009	Amend	2-1-2009	461-160-0551	1-1-2009	Amend(T)	2-1-2009
461-135-0745	1-1-2009	Amend	2-1-2009	461-160-0551	4-1-2009	Amend	5-1-2009
461-135-0780	1-1-2009	Amend	2-1-2009	461-160-0551(T)	4-1-2009	Repeal	5-1-2009
461-135-0832	1-1-2009	Amend	2-1-2009	461-160-0580	1-1-2009	Amend	2-1-2009
461-135-1102	1-1-2009	Amend	2-1-2009	461-160-0620	1-1-2009	Amend	2-1-2009
461-135-1175	4-1-2009	Amend	5-1-2009	461-165-0030	1-1-2009	Amend	2-1-2009
461-135-1195	1-1-2009	Amend	2-1-2009	461-165-0060	4-1-2009	Amend	5-1-2009
461-135-1230	4-1-2009	Amend	5-1-2009	461-165-0060	4-1-2009	Amend(T)	5-1-2009
461-135-1250	1-1-2009	Amend(T)	2-1-2009	461-165-0060(T)	4-1-2009	Repeal	5-1-2009
461-135-1250	4-1-2009	Amend	5-1-2009	461-165-0180	4-1-2009	Amend	5-1-2009
461-135-1250(T)	4-1-2009	Repeal	5-1-2009	461-165-0410	4-1-2009	Amend	5-1-2009
461-140-0040	4-1-2009	Amend	5-1-2009	461-165-0420	4-1-2009	Amend	5-1-2009
461-145-0143	3-3-2009	Adopt(T)	4-1-2009	461-170-0010	1-1-2009	Amend	2-1-2009
461-145-0380	1-1-2009	Amend	2-1-2009	461-170-0011	4-1-2009	Amend	5-1-2009
461-145-0455	4-1-2009	Amend	5-1-2009	461-170-0015	1-1-2009	Am. & Ren.	2-1-2009
461-145-0460	4-1-2009	Amend	5-1-2009	461-170-0020	1-1-2009	Am. & Ren.	2-1-2009
461-145-0540	1-1-2009	Amend	2-1-2009	461-170-0025	1-1-2009	Am. & Ren.	2-1-2009
461-145-0550	3-3-2009	Amend(T)	4-1-2009	461-170-0030	1-1-2009	Am. & Ren.	2-1-2009
461-145-0580	4-1-2009	Amend	5-1-2009	461-170-0035	1-1-2009	Am. & Ren.	2-1-2009
461-145-0820	1-1-2009	Amend	2-1-2009	461-170-0100	1-1-2009	Amend	2-1-2009

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
461-170-0101	1-1-2009	Amend	2-1-2009	471-031-0072	12-1-2008	Amend	1-1-2009
461-170-0101	4-1-2009	Amend	5-1-2009	471-031-0151	12-1-2008	Amend	1-1-2009
461-170-0102	1-1-2009	Amend	2-1-2009	471-031-0190	12-1-2008	Adopt	1-1-2009
461-170-0102	4-1-2009	Amend	5-1-2009	471-031-0195	12-1-2008	Adopt	1-1-2009
461-170-0103	4-1-2009	Amend	5-1-2009	471-031-0200	12-1-2008	Adopt	1-1-2009
461-170-0104	4-1-2009	Amend	5-1-2009	471-031-0205	12-1-2008	Adopt	1-1-2009
461-170-0120	1-1-2009	Amend	2-1-2009	471-031-0210	12-1-2008	Adopt	1-1-2009
461-170-0150	1-1-2009	Amend	2-1-2009	471-031-0215	12-1-2008	Adopt	1-1-2009
461-170-0150	4-1-2009	Amend	5-1-2009	471-031-0220	12-1-2008	Adopt	1-1-2009
461-170-0160	1-1-2009	Amend	2-1-2009	471-031-0225	12-1-2008	Adopt	1-1-2009
461-170-0160	4-1-2009	Amend	5-1-2009	471-031-0230	12-1-2008	Adopt	1-1-2009
461-170-0170	1-1-2009	Repeal	2-1-2009	543-060-0000	3-2-2009	Amend	4-1-2009
461-170-0200	1-1-2009	Amend	2-1-2009	543-060-0010	3-2-2009	Amend	4-1-2009
461-175-0220	1-1-2009	Amend	2-1-2009	543-060-0020	3-2-2009	Amend	4-1-2009
461-175-0240	1-1-2009	Amend	2-1-2009	543-060-0030	3-2-2009	Amend	4-1-2009
461-175-0270	1-1-2009	Amend	2-1-2009	543-060-0040	3-2-2009	Amend	4-1-2009
461-175-0280	1-1-2009	Amend	2-1-2009	543-060-0060	3-2-2009	Amend	4-1-2009
461-175-0280	4-1-2009	Amend	5-1-2009	543-060-0070	3-2-2009	Adopt	4-1-2009
461-175-0305	1-1-2009	Amend	2-1-2009	574-050-0005	2-13-2009	Amend	3-1-2009
461-180-0005	1-1-2009	Amend	2-1-2009	579-020-0006	3-12-2009	Amend	4-1-2009
461-180-0006	4-1-2009	Amend	5-1-2009	580-021-0027	3-13-2009	Adopt(T)	4-1-2009
461-180-0070	4-1-2009	Amend	5-1-2009	580-040-0035	1-22-2009	Amend	3-1-2009
461-180-0090	1-1-2009	Amend	2-1-2009	580-040-0040	2-20-2009	Amend(T)	4-1-2009
461-180-0125	1-1-2009	Amend	2-1-2009	580-040-0040	3-13-2009	Amend(T)	4-1-2009
461-193-0000	4-1-2009	Amend	5-1-2009	580-040-0040(T)	3-13-2009	Suspend	4-1-2009
461-193-0001	4-1-2009	Repeal	5-1-2009	581-001-0100	12-19-2008	Amend	2-1-2009
461-193-0005	4-1-2009	Repeal	5-1-2009	581-011-0136	2-24-2009	Adopt(T)	4-1-2009
461-193-0007	4-1-2009	Repeal	5-1-2009	581-011-0142	2-24-2009	Adopt(T)	4-1-2009
461-193-0010	4-1-2009	Amend	5-1-2009	581-022-0610	12-19-2008	Amend	2-1-2009
461-193-0016	4-1-2009	Repeal	5-1-2009	581-022-0711	12-19-2008	Adopt	2-1-2009
461-193-0026	4-1-2009	Repeal	5-1-2009	582-001-0003	12-19-2008	Amend(T)	2-1-2009
461-193-0031	4-1-2009	Amend	5-1-2009	582-001-0003	3-27-2009	Amend	5-1-2009
461-193-0040	4-1-2009	Repeal	5-1-2009	582-001-0003(T)	3-27-2009	Repeal	5-1-2009
461-193-0042	4-1-2009	Amend	5-1-2009	582-001-0005	12-19-2008	Amend(T)	2-1-2009
461-193-0046	4-1-2009	Repeal	5-1-2009	582-001-0005	3-27-2009	Amend	5-1-2009
461-193-0130	4-1-2009	Amend	5-1-2009	582-001-0005(T)	3-27-2009	Repeal	5-1-2009
461-193-0185	4-1-2009	Amend	5-1-2009	582-001-0010	12-19-2008	Amend(T)	2-1-2009
461-193-0190	4-1-2009	Amend	5-1-2009	582-001-0010	3-27-2009	Amend	5-1-2009
461-193-0221	4-1-2009	Amend	5-1-2009	582-001-0010(T)	3-27-2009	Repeal	5-1-2009
461-193-0240	4-1-2009	Amend	5-1-2009	582-010-0005	2-11-2009	Suspend	3-1-2009
461-193-0246	4-1-2009	Amend	5-1-2009	582-010-0010	2-11-2009	Suspend	3-1-2009
461-193-0470	4-1-2009	Amend	5-1-2009	582-010-0015	2-11-2009	Suspend	3-1-2009
461-193-0560	4-1-2009	Amend	5-1-2009	582-010-0020	2-11-2009	Suspend	3-1-2009
461-193-0610	4-1-2009	Repeal	5-1-2009	582-010-0021	2-11-2009	Suspend	3-1-2009
461-193-0640	4-1-2009	Repeal	5-1-2009	582-010-0022	2-11-2009	Suspend	3-1-2009
461-193-0650	4-1-2009	Amend	5-1-2009	582-010-0025	2-11-2009	Suspend	3-1-2009
461-193-0660	4-1-2009	Repeal	5-1-2009	582-010-0030	2-11-2009	Suspend	3-1-2009
461-193-0670	4-1-2009	Amend	5-1-2009	582-050-0000	3-27-2009	Amend	5-1-2009
461-193-0690	4-1-2009	Amend	5-1-2009	582-070-0010	2-11-2009	Amend(T)	3-1-2009
461-193-0890	4-1-2009	Amend	5-1-2009	582-070-0020	2-11-2009	Amend(T)	3-1-2009
461-193-0940	4-1-2009	Amend	5-1-2009	582-080-0010	2-11-2009	Amend(T)	3-1-2009
461-193-0960	4-1-2009	Amend	5-1-2009	582-080-0020	2-11-2009	Amend(T)	3-1-2009
461-193-1200	4-1-2009	Amend	5-1-2009	582-080-0030	2-11-2009	Amend(T)	3-1-2009
461-193-1230	4-1-2009	Amend	5-1-2009	582-080-0040	2-11-2009	Amend(T)	3-1-2009
461-193-1610	4-1-2009	Repeal	5-1-2009	582-080-0050	2-11-2009	Amend(T)	3-1-2009
461-195-0521	4-1-2009	Amend(T)	5-1-2009	582-085-0004	2-11-2009	Suspend	3-1-2009
471-010-0025	12-1-2008	Adopt	1-1-2009	582-100-0040	12-19-2008	Amend(T)	2-1-2009
471-010-0045	12-1-2008	Adopt	1-1-2009	582-100-0040	3-27-2009	Amend	5-1-2009

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
582-100-0040(T)	3-27-2009	Repeal	5-1-2009	620-010-0020(T)	3-1-2009	Repeal	2-1-2009
584-036-0010	3-12-2009	Amend	4-1-2009	629-022-0030	2-1-2009	Amend	2-1-2009
584-036-0015	3-12-2009	Amend	4-1-2009	629-022-0035	2-1-2009	Adopt	2-1-2009
584-036-0055	2-27-2009	Amend(T)	4-1-2009	629-022-0040	2-1-2009	Amend	2-1-2009
584-036-0080	3-12-2009	Amend	4-1-2009	629-022-0050	2-1-2009	Adopt	2-1-2009
584-036-0083	3-12-2009	Adopt	4-1-2009	629-022-0060	2-1-2009	Adopt	2-1-2009
584-050-0004	3-12-2009	Am. & Ren.	4-1-2009	629-022-0070	2-1-2009	Adopt	2-1-2009
584-050-0040	3-12-2009	Amend	4-1-2009	629-022-0080	2-1-2009	Adopt	2-1-2009
584-050-0042	3-12-2009	Am. & Ren.	4-1-2009	629-022-0100	2-1-2009	Repeal	2-1-2009
584-050-0043	3-12-2009	Am. & Ren.	4-1-2009	629-022-0110	2-1-2009	Amend	2-1-2009
584-050-0100	3-12-2009	Adopt	4-1-2009	629-022-0120	2-1-2009	Amend	2-1-2009
584-052-0027	3-12-2009	Amend	4-1-2009	629-022-0130	2-1-2009	Amend	2-1-2009
584-052-0030	3-12-2009	Amend	4-1-2009	629-022-0140	2-1-2009	Amend	2-1-2009
584-052-0031	3-12-2009	Amend	4-1-2009	629-022-0150	2-1-2009	Amend	2-1-2009
584-052-0032	3-12-2009	Amend	4-1-2009	629-022-0160	2-1-2009	Amend	2-1-2009
584-052-0033	3-12-2009	Amend	4-1-2009	629-022-0200	2-1-2009	Amend	2-1-2009
584-060-0040	3-12-2009	Repeal	4-1-2009	629-022-0210	2-1-2009	Amend	2-1-2009
584-060-0091	3-12-2009	Repeal	4-1-2009	629-022-0220	2-1-2009	Amend	2-1-2009
584-060-0171	3-12-2009	Amend	4-1-2009	629-022-0230	2-1-2009	Amend	2-1-2009
584-060-0181	3-12-2009	Amend	4-1-2009	629-022-0250	2-1-2009	Amend	2-1-2009
584-060-0182	3-12-2009	Adopt	4-1-2009	629-022-0300	2-1-2009	Amend	2-1-2009
584-060-0210	3-12-2009	Amend	4-1-2009	629-022-0320	2-1-2009	Amend	2-1-2009
584-100-0006	3-12-2009	Amend	4-1-2009	629-022-0380	2-1-2009	Amend	2-1-2009
585-010-0310	4-13-2009	Amend	5-1-2009	629-022-0390	2-1-2009	Amend	2-1-2009
585-020-0005	4-13-2009	Amend	5-1-2009	629-022-0400	2-1-2009	Amend	2-1-2009
585-020-0020	4-13-2009	Amend	5-1-2009	629-022-0410	2-1-2009	Amend	2-1-2009
585-020-0025	4-13-2009	Amend	5-1-2009	629-022-0500	2-1-2009	Repeal	2-1-2009
585-020-0030	4-13-2009	Amend	5-1-2009	629-022-0600	2-1-2009	Repeal	2-1-2009
585-020-0040	4-13-2009	Amend	5-1-2009	629-022-0700	2-1-2009	Repeal	2-1-2009
585-020-0045	4-13-2009	Amend	5-1-2009	629-022-0800	2-1-2009	Adopt	2-1-2009
585-020-0055	4-13-2009	Repeal	5-1-2009	629-022-0810	2-1-2009	Adopt	2-1-2009
585-020-0060	4-13-2009	Amend	5-1-2009	629-022-0820	2-1-2009	Adopt	2-1-2009
589-020-0225	12-29-2008	Amend	2-1-2009	629-022-0830	2-1-2009	Adopt	2-1-2009
603-052-0129	2-13-2009	Amend	3-1-2009	629-022-0840	2-1-2009	Adopt	2-1-2009
603-052-0153	2-13-2009	Amend	3-1-2009	629-022-0850	2-1-2009	Adopt	2-1-2009
603-052-0160	2-13-2009	Amend	3-1-2009	629-041-0100	3-25-2009	Amend(T)	5-1-2009
603-052-0201	2-13-2009	Amend	3-1-2009	635-001-0050	1-14-2009	Amend(T)	2-1-2009
603-052-0265	2-13-2009	Amend	3-1-2009	635-003-0004	3-15-2009	Amend(T)	4-1-2009
603-052-0360	2-13-2009	Amend	3-1-2009	635-004-0014	11-21-2008	Amend	1-1-2009
603-052-1020	4-9-2009	Amend	5-1-2009	635-004-0016	1-1-2009	Amend(T)	2-1-2009
603-052-1230	4-9-2009	Amend	5-1-2009	635-004-0016	2-23-2009	Amend(T)	4-1-2009
603-052-1250	4-9-2009	Amend	5-1-2009	635-004-0016(T)	2-23-2009	Suspend	4-1-2009
603-057-0500	1-23-2009	Amend(T)	3-1-2009	635-004-0019	12-4-2008	Amend(T)	1-1-2009
603-057-0502	1-23-2009	Adopt(T)	3-1-2009	635-004-0019	1-5-2009	Amend(T)	2-1-2009
603-057-0510	1-23-2009	Amend(T)	3-1-2009	635-004-0019	3-18-2009	Amend(T)	5-1-2009
603-057-0515	1-23-2009	Suspend	3-1-2009	635-004-0019(T)	12-4-2008	Suspend	1-1-2009
603-057-0520	1-23-2009	Amend(T)	3-1-2009	635-004-0019(T)	3-18-2009	Suspend	5-1-2009
603-057-0525	1-23-2009	Amend(T)	3-1-2009	635-004-0020	11-21-2008	Amend	1-1-2009
603-057-0530	1-23-2009	Amend(T)	3-1-2009	635-004-0027	1-1-2009	Amend(T)	2-1-2009
603-057-0532	1-23-2009	Adopt(T)	3-1-2009	635-004-0033	1-1-2009	Amend(T)	2-1-2009
603-074-0080	1-30-2009	Amend	3-1-2009	635-004-0033	3-1-2009	Amend(T)	4-1-2009
619-005-0010	12-17-2008	Adopt	2-1-2009	635-004-0033(T)	3-1-2009	Suspend	4-1-2009
619-005-0020	12-17-2008	Adopt	2-1-2009	635-004-0035	11-21-2008	Amend	1-1-2009
619-005-0030	12-17-2008	Adopt	2-1-2009	635-004-0048	11-21-2008	Amend	1-1-2009
619-005-0040	12-17-2008	Adopt	2-1-2009	635-004-0050	11-21-2008	Amend	1-1-2009
619-005-0050	12-17-2008	Adopt	2-1-2009	635-004-0060	11-21-2008	Amend	1-1-2009
619-005-0060	12-17-2008	Adopt	2-1-2009	635-004-0090	1-1-2009	Amend(T)	2-1-2009
620-010-0020	3-1-2009	Amend	2-1-2009	635-004-0135	11-21-2008	Amend	1-1-2009

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-004-0170	11-21-2008	Amend	1-1-2009	635-013-0009	3-15-2009	Amend(T)	4-1-2009
635-005-0001	11-21-2008	Amend	1-1-2009	635-014-0080	1-1-2009	Amend	2-1-2009
635-005-0005	11-21-2008	Amend	1-1-2009	635-014-0090	1-1-2009	Amend	2-1-2009
635-005-0005	12-17-2008	Amend	2-1-2009	635-016-0080	1-1-2009	Amend	2-1-2009
635-005-0016	11-21-2008	Amend	1-1-2009	635-016-0090	1-1-2009	Amend	2-1-2009
635-005-0045	11-21-2008	Amend	1-1-2009	635-017-0080	1-1-2009	Amend	2-1-2009
635-005-0047	11-21-2008	Amend	1-1-2009	635-017-0090	1-1-2009	Amend	2-1-2009
635-005-0048	11-21-2008	Amend	1-1-2009	635-017-0090	2-25-2009	Amend	4-1-2009
635-005-0055	11-21-2008	Amend	1-1-2009	635-017-0090	3-1-2009	Amend(T)	3-1-2009
635-005-0055	12-1-2008	Amend(T)	1-1-2009	635-017-0090(T)	2-25-2009	Repeal	4-1-2009
635-005-0064	12-17-2008	Amend	2-1-2009	635-017-0095	1-1-2009	Amend	2-1-2009
635-005-0065	11-21-2008	Amend	1-1-2009	635-017-0095	1-1-2009	Amend(T)	2-1-2009
635-005-0065	12-17-2008	Amend	2-1-2009	635-017-0095	2-25-2009	Amend	4-1-2009
635-005-0067	12-17-2008	Amend	2-1-2009	635-017-0095(T)	2-25-2009	Repeal	4-1-2009
635-005-0068	12-17-2008	Adopt	2-1-2009	635-018-0080	1-1-2009	Amend	2-1-2009
635-005-0069	12-17-2008	Adopt	2-1-2009	635-018-0090	1-1-2009	Amend	2-1-2009
635-005-0084	11-21-2008	Amend	1-1-2009	635-018-0090	4-15-2009	Amend(T)	4-1-2009
635-005-0090	11-21-2008	Amend	1-1-2009	635-019-0080	1-1-2009	Amend	2-1-2009
635-005-0095	11-21-2008	Amend	1-1-2009	635-019-0090	1-1-2009	Amend	2-1-2009
635-005-0100	11-21-2008	Amend	1-1-2009	635-021-0080	1-1-2009	Amend	2-1-2009
635-005-0135	11-21-2008	Amend	1-1-2009	635-021-0090	1-1-2009	Amend	2-1-2009
635-005-0140	11-21-2008	Amend	1-1-2009	635-023-0080	1-1-2009	Amend	2-1-2009
635-005-0145	11-21-2008	Amend	1-1-2009	635-023-0090	1-1-2009	Amend	2-1-2009
635-005-0180	11-21-2008	Amend	1-1-2009	635-023-0095	1-1-2009	Amend	2-1-2009
635-006-0001	11-21-2008	Amend	1-1-2009	635-023-0095	1-1-2009	Amend(T)	2-1-2009
635-006-0132	11-21-2008	Amend	1-1-2009	635-023-0095	2-26-2009	Amend	4-1-2009
635-006-0133	11-21-2008	Amend	1-1-2009	635-023-0095	4-13-2009	Amend(T)	5-1-2009
635-006-0145	11-21-2008	Amend	1-1-2009	635-023-0095(T)	2-26-2009	Repeal	4-1-2009
635-006-0150	11-21-2008	Amend	1-1-2009	635-023-0125	1-1-2009	Amend	2-1-2009
635-006-0165	11-21-2008	Amend	1-1-2009	635-023-0125	2-26-2009	Amend	4-1-2009
635-006-0200	11-21-2008	Amend	1-1-2009	635-023-0125	3-1-2009	Amend(T)	3-1-2009
635-006-0205	11-21-2008	Amend	1-1-2009	635-023-0125(T)	2-26-2009	Repeal	4-1-2009
635-006-0207	11-21-2008	Amend	1-1-2009	635-023-0128	1-1-2009	Amend	2-1-2009
635-006-0210	11-21-2008	Amend	1-1-2009	635-023-0130	1-1-2009	Amend	2-1-2009
635-006-0211	11-21-2008	Amend	1-1-2009	635-023-0134	1-1-2009	Amend	2-1-2009
635-006-0213	11-21-2008	Amend	1-1-2009	635-039-0080	1-1-2009	Amend	2-1-2009
635-006-0215	11-21-2008	Amend	1-1-2009	635-039-0085	1-1-2009	Amend	2-1-2009
635-006-0225	11-21-2008	Amend	1-1-2009	635-039-0090	1-1-2009	Amend	2-1-2009
635-006-0230	11-21-2008	Amend	1-1-2009	635-039-0090	2-2-2009	Amend(T)	3-1-2009
635-006-0232	1-13-2009	Amend	2-1-2009	635-041-0005	11-21-2008	Amend	1-1-2009
635-006-0235	11-21-2008	Amend	1-1-2009	635-041-0010	11-21-2008	Amend	1-1-2009
635-006-0412	11-21-2008	Amend	1-1-2009	635-041-0030	11-21-2008	Amend	1-1-2009
635-006-0425	11-21-2008	Amend	1-1-2009	635-041-0030	2-26-2009	Amend	4-1-2009
635-006-0810	11-21-2008	Amend	1-1-2009	635-041-0040	11-21-2008	Amend	1-1-2009
635-006-0850	12-17-2008	Amend	2-1-2009	635-041-0045	11-21-2008	Amend	1-1-2009
635-006-0910	12-17-2008	Amend	2-1-2009	635-041-0060	11-21-2008	Amend	1-1-2009
635-006-1035	11-21-2008	Amend	1-1-2009	635-041-0061	11-21-2008	Amend	1-1-2009
635-006-1035	12-17-2008	Amend	2-1-2009	635-041-0061	2-26-2009	Amend	4-1-2009
635-006-1075	11-21-2008	Amend	1-1-2009	635-041-0063	11-21-2008	Amend	1-1-2009
635-006-1085	12-17-2008	Amend	2-1-2009	635-041-0063	2-26-2009	Amend	4-1-2009
635-006-1085	2-26-2009	Amend(T)	4-1-2009	635-041-0065	11-21-2008	Amend	1-1-2009
635-008-0145	1-15-2009	Amend	2-1-2009	635-041-0065	2-2-2009	Amend(T)	3-1-2009
635-008-0147	3-11-2009	Amend(T)	4-1-2009	635-041-0065	2-16-2009	Amend(T)	3-1-2009
635-008-0147	3-30-2009	Amend(T)	5-1-2009	635-041-0065	3-6-2009	Amend(T)	4-1-2009
635-010-0170	12-9-2008	Amend(T)	1-1-2009	635-041-0065(T)	2-16-2009	Suspend	3-1-2009
635-011-0100	1-1-2009	Amend	2-1-2009	635-041-0065(T)	3-6-2009	Suspend	4-1-2009
635-013-0003	1-1-2009	Amend	2-1-2009	635-041-0510	11-21-2008	Amend	1-1-2009
635-013-0004	1-1-2009	Amend	2-1-2009	635-041-0520	11-21-2008	Amend	1-1-2009

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-041-0600	11-21-2008	Amend	1-1-2009	635-080-0050	1-1-2009	Amend	2-1-2009
635-042-0001	11-21-2008	Amend	1-1-2009	635-080-0051	1-1-2009	Amend	2-1-2009
635-042-0007	11-21-2008	Amend	1-1-2009	635-080-0062	1-1-2009	Amend	2-1-2009
635-042-0022	11-21-2008	Amend	1-1-2009	635-080-0063	1-1-2009	Amend	2-1-2009
635-042-0022	3-27-2009	Amend(T)	5-1-2009	635-195-0000	11-24-2008	Adopt	1-1-2009
635-042-0022	4-7-2009	Amend(T)	5-1-2009	635-195-0010	11-24-2008	Adopt	1-1-2009
635-042-0022	4-14-2009	Amend(T)	5-1-2009	660-024-0000	4-16-2009	Amend	5-1-2009
635-042-0022(T)	4-7-2009	Suspend	5-1-2009	660-024-0010	4-16-2009	Amend	5-1-2009
635-042-0022(T)	4-14-2009	Suspend	5-1-2009	660-024-0020	4-16-2009	Amend	5-1-2009
635-042-0110	11-21-2008	Amend	1-1-2009	660-024-0030	4-16-2009	Amend	5-1-2009
635-042-0130	1-1-2009	Amend(T)	2-1-2009	660-024-0040	4-16-2009	Amend	5-1-2009
635-042-0130	2-26-2009	Amend	4-1-2009	660-024-0050	4-16-2009	Amend	5-1-2009
635-042-0130(T)	2-26-2009	Repeal	4-1-2009	660-024-0060	4-16-2009	Amend	5-1-2009
635-042-0133	2-26-2009	Amend	4-1-2009	660-024-0070	4-16-2009	Amend	5-1-2009
635-042-0135	1-1-2009	Amend(T)	2-1-2009	660-024-0080	4-16-2009	Adopt	5-1-2009
635-042-0135	2-2-2009	Amend(T)	3-1-2009	660-033-0120	1-2-2009	Amend	2-1-2009
635-042-0135(T)	2-2-2009	Suspend	3-1-2009	660-033-0130	1-2-2009	Amend	2-1-2009
635-042-0145	2-15-2009	Amend(T)	3-1-2009	660-041-0010	4-2-2009	Amend	5-1-2009
635-042-0145	3-11-2009	Amend(T)	4-1-2009	660-041-0110	4-2-2009	Amend	5-1-2009
635-042-0145(T)	3-11-2009	Suspend	4-1-2009	660-041-0170	4-2-2009	Adopt	5-1-2009
635-042-0160	2-15-2009	Amend(T)	3-1-2009	690-200-0050	1-2-2009	Amend	2-1-2009
635-042-0170	2-15-2009	Amend(T)	3-1-2009	690-205-0200	1-2-2009	Amend	2-1-2009
635-042-0180	2-15-2009	Amend(T)	3-1-2009	690-205-0205	1-2-2009	Adopt	2-1-2009
635-042-0180	3-6-2009	Amend(T)	4-1-2009	690-215-0005	1-2-2009	Amend	2-1-2009
635-042-0180	4-7-2009	Amend(T)	5-1-2009	690-215-0006	1-2-2009	Adopt	2-1-2009
635-042-0180(T)	3-6-2009	Suspend	4-1-2009	690-215-0025	1-2-2009	Adopt	2-1-2009
635-042-0180(T)	4-7-2009	Suspend	5-1-2009	690-215-0030	1-2-2009	Amend	2-1-2009
635-043-0105	4-13-2009	Amend(T)	5-1-2009	690-215-0035	1-2-2009	Adopt	2-1-2009
635-045-0000	1-1-2009	Amend	2-1-2009	690-215-0040	1-2-2009	Amend	2-1-2009
635-045-0002	1-1-2009	Amend	2-1-2009	690-220-0030	1-2-2009	Amend	2-1-2009
635-049-0205	11-24-2008	Amend	1-1-2009	690-220-0040	1-2-2009	Amend	2-1-2009
635-049-0210	1-1-2009	Repeal	2-1-2009	690-220-0050	1-2-2009	Amend	2-1-2009
635-049-0235	1-1-2009	Adopt	2-1-2009	690-220-0060	1-2-2009	Repeal	2-1-2009
635-055-0035	1-1-2009	Amend	2-1-2009	690-220-0070	1-2-2009	Amend	2-1-2009
635-055-0035	5-15-2009	Amend(T)	4-1-2009	690-220-0080	1-2-2009	Amend	2-1-2009
635-055-0037	1-1-2009	Adopt	2-1-2009	690-220-0115	1-2-2009	Adopt	2-1-2009
635-060-0000	1-1-2009	Amend	2-1-2009	690-240-0010	1-2-2009	Amend	2-1-2009
635-060-0009	1-1-2009	Amend	2-1-2009	690-240-0035	1-2-2009	Amend	2-1-2009
635-060-0055	1-1-2009	Amend	2-1-2009	690-240-0375	1-2-2009	Amend	2-1-2009
635-065-0001	1-1-2009	Amend	2-1-2009	690-240-0385	1-2-2009	Adopt	2-1-2009
635-065-0401	1-1-2009	Amend	2-1-2009	733-030-0006	4-3-2009	Amend	5-1-2009
635-065-0625	1-1-2009	Amend	2-1-2009	733-030-0011	4-3-2009	Amend	5-1-2009
635-065-0740	1-1-2009	Amend	2-1-2009	733-030-0016	4-3-2009	Amend	5-1-2009
635-065-0760	1-1-2009	Amend	2-1-2009	733-030-0021	4-3-2009	Amend	5-1-2009
635-065-0765	1-9-2009	Amend	2-1-2009	733-030-0026	4-3-2009	Amend	5-1-2009
635-066-0000	1-1-2009	Amend	2-1-2009	733-030-0036	4-3-2009	Amend	5-1-2009
635-066-0010	1-1-2009	Amend	2-1-2009	733-030-0045	4-3-2009	Amend	5-1-2009
635-066-0020	1-1-2009	Amend	2-1-2009	733-030-0050	4-3-2009	Amend	5-1-2009
635-067-0000	1-1-2009	Amend	2-1-2009	733-030-0055	4-3-2009	Amend	5-1-2009
635-067-0004	1-1-2009	Amend	2-1-2009	733-030-0060	4-3-2009	Amend	5-1-2009
635-068-0000	3-1-2009	Amend	4-1-2009	733-030-0065	4-3-2009	Amend	5-1-2009
635-069-0000	2-3-2009	Amend	3-1-2009	733-030-0080	4-3-2009	Amend	5-1-2009
635-070-0000	4-1-2009	Amend	5-1-2009	733-030-0085	4-3-2009	Amend	5-1-2009
635-071-0000	4-1-2009	Amend	5-1-2009	733-030-0090	4-3-2009	Amend	5-1-2009
635-072-0000	1-1-2009	Amend	2-1-2009	733-030-0095	4-3-2009	Amend	5-1-2009
635-073-0000	2-3-2009	Amend	3-1-2009	733-030-0100	4-3-2009	Amend	5-1-2009
635-073-0065	2-3-2009	Amend	3-1-2009	733-030-0105	4-3-2009	Amend	5-1-2009
635-073-0070	2-3-2009	Amend	3-1-2009	733-030-0110	4-3-2009	Amend	5-1-2009

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
733-030-0115	4-3-2009	Amend	5-1-2009	735-062-0140	2-20-2009	Amend	4-1-2009
733-030-0120	4-3-2009	Amend	5-1-2009	735-063-0000	2-20-2009	Adopt	4-1-2009
733-030-0125	4-3-2009	Amend	5-1-2009	735-063-0050	2-20-2009	Amend	4-1-2009
733-030-0130	4-3-2009	Amend	5-1-2009	735-063-0055	2-20-2009	Repeal	4-1-2009
733-030-0135	4-3-2009	Amend	5-1-2009	735-063-0060	2-20-2009	Amend	4-1-2009
733-030-0140	4-3-2009	Repeal	5-1-2009	735-063-0065	2-20-2009	Amend	4-1-2009
733-030-0150	4-3-2009	Amend	5-1-2009	735-063-0070	2-20-2009	Amend	4-1-2009
733-030-0155	4-3-2009	Amend	5-1-2009	735-063-0075	2-20-2009	Amend	4-1-2009
733-030-0160	4-3-2009	Amend	5-1-2009	735-064-0110	12-15-2008	Amend	1-1-2009
733-030-0180	4-3-2009	Amend	5-1-2009	735-070-0043	1-26-2009	Adopt	3-1-2009
733-030-0190	4-3-2009	Amend	5-1-2009	735-070-0043(T)	1-26-2009	Repeal	3-1-2009
733-030-0250	4-3-2009	Amend	5-1-2009	735-150-0005	3-20-2009	Amend	5-1-2009
733-030-0260	4-3-2009	Amend	5-1-2009	735-158-0000	3-20-2009	Amend	5-1-2009
733-030-0270	4-3-2009	Amend	5-1-2009	735-158-0005	3-20-2009	Adopt	5-1-2009
733-030-0280	4-3-2009	Amend	5-1-2009	735-158-0010	3-20-2009	Adopt	5-1-2009
733-030-0290	4-3-2009	Amend	5-1-2009	735-160-0010	2-20-2009	Amend	4-1-2009
733-030-0300	4-3-2009	Amend	5-1-2009	735-160-0011	2-20-2009	Amend	4-1-2009
733-030-0320	4-3-2009	Amend	5-1-2009	735-160-0012	2-20-2009	Repeal	4-1-2009
733-030-0330	4-3-2009	Amend	5-1-2009	735-160-0013	2-20-2009	Repeal	4-1-2009
733-030-0340	4-3-2009	Amend	5-1-2009	735-160-0075	2-20-2009	Amend	4-1-2009
733-030-0350	4-3-2009	Amend	5-1-2009	735-160-0080	2-20-2009	Amend	4-1-2009
734-059-0015	2-20-2009	Amend	4-1-2009	735-160-0085	2-20-2009	Repeal	4-1-2009
734-060-0000	3-23-2009	Adopt	5-1-2009	735-160-0093	2-20-2009	Repeal	4-1-2009
734-060-0010	2-20-2009	Amend	4-1-2009	735-160-0125	2-20-2009	Amend	4-1-2009
734-060-0105	2-20-2009	Amend	4-1-2009	736-004-0062	12-15-2008	Amend	1-1-2009
734-060-0175	2-20-2009	Amend	4-1-2009	736-010-0040	12-15-2008	Amend	1-1-2009
734-060-0185	2-20-2009	Amend	4-1-2009	736-010-0055	12-15-2008	Amend	1-1-2009
734-062-0100	3-23-2009	Adopt	5-1-2009	736-015-0020	2-10-2009	Amend	3-1-2009
734-062-0105	3-23-2009	Adopt	5-1-2009	736-015-0040	2-10-2009	Amend	3-1-2009
734-062-0110	3-23-2009	Adopt	5-1-2009	736-018-0045	2-1-2009	Amend	2-1-2009
734-062-0115	3-23-2009	Adopt	5-1-2009	736-018-0045	4-1-2009	Amend	4-1-2009
734-062-0120	3-23-2009	Adopt	5-1-2009	736-018-0045	5-1-2009	Adopt	5-1-2009
734-062-0125	3-23-2009	Adopt	5-1-2009	736-018-0045	5-1-2009	Amend	5-1-2009
734-071-0010	12-15-2008	Amend	1-1-2009	736-146-0010	12-15-2008	Amend	1-1-2009
734-072-0010	3-20-2009	Amend	5-1-2009	736-146-0012	12-15-2008	Amend	1-1-2009
734-072-0020	3-20-2009	Amend	5-1-2009	736-146-0015	12-15-2008	Amend	1-1-2009
734-072-0022	3-20-2009	Amend	5-1-2009	736-146-0020	12-15-2008	Amend	1-1-2009
734-072-0030	3-20-2009	Amend	5-1-2009	736-146-0025	12-15-2008	Repeal	1-1-2009
734-073-0110	12-15-2008	Amend	1-1-2009	736-146-0030	12-15-2008	Repeal	1-1-2009
734-073-0120	12-15-2008	Repeal	1-1-2009	736-146-0040	12-15-2008	Repeal	1-1-2009
734-075-0010	3-20-2009	Amend	5-1-2009	736-146-0050	12-15-2008	Amend	1-1-2009
734-082-0015	3-20-2009	Amend	5-1-2009	736-146-0060	12-15-2008	Amend	1-1-2009
734-082-0025	3-20-2009	Amend	5-1-2009	736-146-0070	12-15-2008	Amend	1-1-2009
734-082-0040	3-20-2009	Amend	5-1-2009	736-146-0080	12-15-2008	Amend	1-1-2009
735-010-0130	1-1-2009	Amend	1-1-2009	736-146-0090	12-15-2008	Amend	1-1-2009
735-010-0130(T)	1-1-2009	Repeal	1-1-2009	736-146-0100	12-15-2008	Amend	1-1-2009
735-032-0036	2-20-2009	Adopt	4-1-2009	736-146-0110	12-15-2008	Amend	1-1-2009
735-062-0005	1-1-2009	Amend	1-1-2009	736-146-0120	12-15-2008	Amend	1-1-2009
735-062-0014	1-1-2009	Adopt	1-1-2009	736-146-0130	12-15-2008	Amend	1-1-2009
735-062-0014(T)	1-1-2009	Repeal	1-1-2009	736-146-0140	12-15-2008	Amend	1-1-2009
735-062-0015	1-1-2009	Amend	1-1-2009	736-147-0010	12-15-2008	Amend	1-1-2009
735-062-0015(T)	1-1-2009	Repeal	1-1-2009	736-147-0020	12-15-2008	Repeal	1-1-2009
735-062-0020	1-1-2009	Amend	1-1-2009	736-147-0030	12-15-2008	Amend	1-1-2009
735-062-0020(T)	1-1-2009	Repeal	1-1-2009	736-147-0040	12-15-2008	Adopt	1-1-2009
735-062-0040	2-20-2009	Amend	4-1-2009	736-147-0050	12-15-2008	Amend	1-1-2009
735-062-0078	2-20-2009	Adopt	4-1-2009	736-147-0060	12-15-2008	Amend	1-1-2009
735-062-0080	2-20-2009	Amend	4-1-2009	736-147-0070	12-15-2008	Adopt	1-1-2009
735-062-0096	3-20-2009	Adopt	5-1-2009	736-148-0010	12-15-2008	Amend	1-1-2009

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
736-148-0020	12-15-2008	Amend	1-1-2009	800-025-0027	2-5-2009	Amend	3-1-2009
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	806-010-0095	2-5-2009	Amend	3-1-2009
741-100-0040	2-20-2009	Adopt	4-1-2009	808-002-0780	2-1-2009	Amend	3-1-2009
741-105-0010	2-20-2009	Repeal	4-1-2009	811-015-0025	12-23-2008	Amend	2-1-2009
741-105-0020	2-20-2009	Repeal	4-1-2009	811-015-0030	1-29-2009	Amend	3-1-2009
741-105-0030	2-20-2009	Repeal	4-1-2009	812-001-0200	2-23-2009	Amend(T)	4-1-2009
741-110-0020	2-20-2009	Amend	4-1-2009	812-002-0060	11-20-2008	Amend	1-1-2009
741-110-0030	2-20-2009	Amend	4-1-2009	812-002-0262	2-1-2009	Adopt	3-1-2009
741-110-0040	2-20-2009	Amend	4-1-2009	812-002-0420	11-20-2008	Amend	1-1-2009
741-110-0050	2-20-2009	Amend	4-1-2009	812-003-0140	2-1-2009	Amend	3-1-2009
741-110-0060	2-20-2009	Amend	4-1-2009	812-003-0141	2-1-2009	Adopt	3-1-2009
741-110-0070	2-20-2009	Amend	4-1-2009	812-003-0450	11-20-2008	Repeal	1-1-2009
741-110-0080	2-20-2009	Amend	4-1-2009	812-005-0280	11-20-2008	Amend	1-1-2009
741-110-0090	2-20-2009	Amend	4-1-2009	812-005-0800	11-20-2008	Amend	1-1-2009
741-115-0030	2-20-2009	Amend	4-1-2009	812-005-0800	2-1-2009	Amend	3-1-2009
741-115-0040	2-20-2009	Amend	4-1-2009	812-006-0100	11-20-2008	Amend	1-1-2009
741-115-0060	2-20-2009	Amend	4-1-2009	812-006-0200	11-20-2008	Amend	1-1-2009
741-115-0070	2-20-2009	Amend	4-1-2009	812-020-0050	11-20-2008	Adopt	1-1-2009
741-120-0020	2-20-2009	Amend	4-1-2009	812-020-0055	11-20-2008	Adopt	1-1-2009
741-120-0040	2-20-2009	Amend	4-1-2009	812-020-0060	11-20-2008	Adopt	1-1-2009
741-125-0020	2-20-2009	Repeal	4-1-2009	812-020-0062	11-20-2008	Adopt	1-1-2009
741-200-0010	2-20-2009	Amend	4-1-2009	812-020-0065	11-20-2008	Adopt	1-1-2009
741-200-0040	2-20-2009	Amend	4-1-2009	812-020-0070	11-20-2008	Adopt	1-1-2009
741-200-0065	2-20-2009	Adopt	4-1-2009	812-020-0070	2-1-2009	Amend	3-1-2009
800-010-0020	2-5-2009	Amend	3-1-2009	812-020-0072	11-20-2008	Adopt	1-1-2009
800-010-0025	2-5-2009	Amend	3-1-2009	812-020-0080	11-20-2008	Adopt	1-1-2009
800-010-0030	2-5-2009	Amend	3-1-2009	812-020-0082	11-20-2008	Adopt	1-1-2009
800-010-0040	2-5-2009	Amend	3-1-2009	812-020-0085	11-20-2008	Adopt	1-1-2009
800-010-0041	2-5-2009	Amend	3-1-2009	812-020-0087	11-20-2008	Adopt	1-1-2009
800-010-0042	2-5-2009	Amend	3-1-2009	812-020-0090	11-20-2008	Adopt	1-1-2009
800-015-0005	2-5-2009	Amend	3-1-2009	813-110-0010	2-9-2009	Amend(T)	3-1-2009
800-015-0010	2-5-2009	Amend	3-1-2009	817-030-0005	12-1-2008	Amend(T)	1-1-2009
800-015-0015	2-5-2009	Amend	3-1-2009	817-030-0015	12-1-2008	Amend(T)	1-1-2009
800-015-0020	2-5-2009	Amend	3-1-2009	817-030-0020	12-1-2008	Amend(T)	1-1-2009
800-015-0030	2-5-2009	Amend	3-1-2009	817-030-0040	12-1-2008	Amend(T)	1-1-2009
800-020-0015	2-5-2009	Amend	3-1-2009	817-030-0045	12-1-2008	Amend(T)	1-1-2009
800-020-0020	2-5-2009	Amend	3-1-2009	817-030-0065	12-1-2008	Amend(T)	1-1-2009
800-020-0025	2-5-2009	Amend	3-1-2009	817-030-0100	12-1-2008	Suspend	1-1-2009
800-020-0030	2-5-2009	Amend	3-1-2009	817-035-0030	12-1-2008	Amend(T)	1-1-2009
800-020-0035	2-5-2009	Amend	3-1-2009	820-010-0215	12-12-2008	Amend	1-1-2009
800-025-0020	2-5-2009	Amend	3-1-2009	833-020-0050	12-26-2008	Amend	2-1-2009
800-025-0023	2-5-2009	Amend	3-1-2009	833-020-0164	12-26-2008	Amend	2-1-2009
800-025-0025	2-5-2009	Amend	3-1-2009	833-025-0050	12-26-2008	Amend	2-1-2009

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
833-030-0001	12-26-2008	Amend	2-1-2009	837-012-0625	4-10-2009	Amend	5-1-2009
833-030-0010	12-26-2008	Amend	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
833-060-0001	12-26-2008	Am. & Ren.	2-1-2009	837-040-0020	12-31-2008	Amend	2-1-2009
833-060-0001	12-26-2008	Am. & Ren.	2-1-2009	839-003-0005	12-5-2008	Amend	1-1-2009
833-060-0001	12-26-2008	Am. & Ren.	2-1-2009	839-003-0010	12-5-2008	Amend	1-1-2009
833-060-0001	12-26-2008	Am. & Ren.	2-1-2009	839-003-0020	12-5-2008	Amend	1-1-2009
833-060-0001	12-26-2008	Am. & Ren.	2-1-2009	839-003-0025	12-5-2008	Amend	1-1-2009
836-011-0000	1-29-2009	Amend	3-1-2009	839-003-0040	12-5-2008	Amend	1-1-2009
836-042-0045	1-1-2009	Amend	2-1-2009	839-003-0045	12-5-2008	Amend	1-1-2009
836-043-0005	1-1-2009	Amend	1-1-2009	839-003-0050	12-5-2008	Amend	1-1-2009
836-043-0009	1-1-2009	Amend	1-1-2009	839-003-0055	12-5-2008	Amend	1-1-2009
836-043-0017	1-1-2009	Amend	1-1-2009	839-003-0060	12-5-2008	Amend	1-1-2009
836-043-0021	1-1-2009	Amend	1-1-2009	839-003-0065	12-5-2008	Amend	1-1-2009
836-043-0024	1-1-2009	Amend	1-1-2009	839-003-0070	12-5-2008	Amend	1-1-2009
836-043-0028	1-1-2009	Amend	1-1-2009	839-003-0080	12-5-2008	Amend	1-1-2009
836-043-0032	1-1-2009	Amend	1-1-2009	839-003-0085	12-5-2008	Amend	1-1-2009
836-043-0034	1-1-2009	Adopt	1-1-2009	839-003-0090	12-5-2008	Amend	1-1-2009
836-043-0036	1-1-2009	Repeal	1-1-2009	839-003-0095	12-5-2008	Amend	1-1-2009
836-043-0037	1-1-2009	Repeal	1-1-2009	839-003-0100	12-5-2008	Amend	1-1-2009
836-043-0041	1-1-2009	Amend	1-1-2009	839-003-0200	12-5-2008	Amend	1-1-2009
836-043-0044	1-1-2009	Amend	1-1-2009	839-003-0205	12-5-2008	Amend	1-1-2009
836-043-0046	1-1-2009	Amend	1-1-2009	839-003-0210	12-5-2008	Amend	1-1-2009
836-043-0048	1-1-2009	Amend	1-1-2009	839-003-0215	12-5-2008	Amend	1-1-2009
836-043-0050	1-1-2009	Amend	1-1-2009	839-003-0220	12-5-2008	Amend	1-1-2009
836-043-0053	1-1-2009	Amend	1-1-2009	839-003-0225	12-5-2008	Amend	1-1-2009
836-043-0060	1-1-2009	Amend	1-1-2009	839-003-0230	12-5-2008	Amend	1-1-2009
836-043-0062	1-1-2009	Amend	1-1-2009	839-003-0235	12-5-2008	Amend	1-1-2009
836-043-0064	1-1-2009	Amend	1-1-2009	839-003-0240	12-5-2008	Amend	1-1-2009
836-043-0066	1-1-2009	Amend	1-1-2009	839-003-0245	12-5-2008	Amend	1-1-2009
836-043-0068	1-1-2009	Amend	1-1-2009	839-005-0000	12-5-2008	Amend	1-1-2009
836-043-0070	1-1-2009	Repeal	1-1-2009	839-005-0003	12-5-2008	Amend	1-1-2009
836-043-0071	1-1-2009	Adopt	1-1-2009	839-005-0010	12-5-2008	Amend	1-1-2009
836-043-0076	1-1-2009	Amend	1-1-2009	839-005-0016	12-5-2008	Amend	1-1-2009
836-043-0079	1-1-2009	Amend	1-1-2009	839-005-0026	12-5-2008	Amend	1-1-2009
836-043-0082	1-1-2009	Amend	1-1-2009	839-005-0195	12-5-2008	Amend	1-1-2009
836-043-0086	1-1-2009	Repeal	1-1-2009	839-005-0200	12-5-2008	Amend	1-1-2009
836-043-0087	1-1-2009	Adopt	1-1-2009	839-005-0205	12-5-2008	Amend	1-1-2009
836-043-0089	1-1-2009	Amend	1-1-2009	839-005-0220	12-5-2008	Amend	1-1-2009
836-051-0106	12-9-2008	Amend	1-1-2009	839-020-0050	1-12-2009	Amend	2-1-2009
836-051-0750	12-9-2008	Adopt	1-1-2009	839-025-0700	12-1-2008	Amend	1-1-2009
836-051-0755	12-9-2008	Adopt	1-1-2009	839-025-0700	12-29-2008	Amend	2-1-2009
836-051-0760	12-9-2008	Adopt	1-1-2009	839-025-0700	1-1-2009	Amend	2-1-2009
836-051-0765	12-9-2008	Adopt	1-1-2009	839-025-0700	1-6-2009	Amend	2-1-2009
836-051-0770	12-9-2008	Adopt	1-1-2009	839-025-0700	1-12-2009	Amend	2-1-2009
836-051-0775	12-9-2008	Adopt	1-1-2009	839-025-0700	2-11-2009	Amend	3-1-2009
836-072-0001	12-10-2008	Adopt	1-1-2009	839-025-0700	3-17-2009	Amend	5-1-2009
836-072-0005	12-10-2008	Adopt	1-1-2009	839-025-0700	3-24-2009	Amend	5-1-2009
836-072-0010	12-10-2008	Adopt	1-1-2009	839-025-0700	4-1-2009	Amend	5-1-2009
836-072-0015	12-10-2008	Adopt	1-1-2009	839-025-0750	3-1-2009	Amend	4-1-2009
836-072-0020	12-10-2008	Adopt	1-1-2009	839-025-0750	4-16-2009	Amend	5-1-2009
836-072-0025	12-10-2008	Adopt	1-1-2009	845-005-0405	4-1-2009	Amend	5-1-2009
836-072-0030	12-10-2008	Adopt	1-1-2009	845-005-0410	4-1-2009	Amend	5-1-2009
836-072-0035	12-10-2008	Adopt	1-1-2009	845-005-0415	4-1-2009	Amend	5-1-2009
836-072-0040	12-10-2008	Adopt	1-1-2009	845-006-0335	4-1-2009	Amend	5-1-2009
836-072-0045	12-10-2008	Adopt	1-1-2009	845-010-0154	12-20-2008	Adopt	2-1-2009
837-012-0530	4-10-2009	Amend	5-1-2009	845-020-0025	1-1-2009	Amend	2-1-2009

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
845-020-0035	1-1-2009	Amend	2-1-2009	863-014-0038	1-1-2009	Adopt	1-1-2009
847-005-0005	1-22-2009	Amend	3-1-2009	863-014-0042	1-1-2009	Adopt	1-1-2009
847-008-0020	1-22-2009	Amend	3-1-2009	863-015-0000	1-1-2009	Adopt	1-1-2009
847-008-0040	1-22-2009	Amend	3-1-2009	863-015-0005	1-1-2009	Am. & Ren.	1-1-2009
847-008-0070	1-22-2009	Adopt	3-1-2009	863-015-0010	1-1-2009	Am. & Ren.	1-1-2009
847-010-0054	1-22-2009	Repeal	3-1-2009	863-015-0015	1-1-2009	Am. & Ren.	1-1-2009
847-010-0055	1-22-2009	Repeal	3-1-2009	863-015-0020	1-1-2009	Am. & Ren.	1-1-2009
847-010-0100	1-22-2009	Amend	3-1-2009	863-015-0025	1-1-2009	Repeal	1-1-2009
847-020-0130	1-22-2009	Amend	3-1-2009	863-015-0030	1-1-2009	Am. & Ren.	1-1-2009
847-020-0170	4-9-2009	Amend(T)	5-1-2009	863-015-0035	1-1-2009	Am. & Ren.	1-1-2009
847-070-0019	1-22-2009	Amend	3-1-2009	863-015-0040	1-1-2009	Am. & Ren.	1-1-2009
847-070-0020	1-22-2009	Amend	3-1-2009	863-015-0045	1-1-2009	Am. & Ren.	1-1-2009
847-070-0045	1-22-2009	Amend	3-1-2009	863-015-0050	1-1-2009	Am. & Ren.	1-1-2009
848-010-0015	1-2-2009	Amend	2-1-2009	863-015-0055	1-1-2009	Am. & Ren.	1-1-2009
848-010-0020	1-2-2009	Amend	2-1-2009	863-015-0060	1-1-2009	Am. & Ren.	1-1-2009
848-010-0022	1-2-2009	Adopt	2-1-2009	863-015-0061	1-1-2009	Am. & Ren.	1-1-2009
848-010-0026	1-2-2009	Amend	2-1-2009	863-015-0062	1-1-2009	Am. & Ren.	1-1-2009
848-010-0044	1-2-2009	Amend	2-1-2009	863-015-0063	1-1-2009	Am. & Ren.	1-1-2009
848-015-0030	1-2-2009	Amend	2-1-2009	863-015-0065	1-1-2009	Am. & Ren.	1-1-2009
848-020-0030	1-2-2009	Amend	2-1-2009	863-015-0070	1-1-2009	Am. & Ren.	1-1-2009
848-020-0060	1-2-2009	Amend	2-1-2009	863-015-0075	1-1-2009	Am. & Ren.	1-1-2009
848-035-0020	1-2-2009	Amend	2-1-2009	863-015-0076	1-1-2009	Am. & Ren.	1-1-2009
848-035-0030	1-2-2009	Amend	2-1-2009	863-015-0080	1-1-2009	Am. & Ren.	1-1-2009
848-035-0035	1-2-2009	Adopt	2-1-2009	863-015-0085	1-1-2009	Am. & Ren.	1-1-2009
848-035-0040	1-2-2009	Amend	2-1-2009	863-015-0095	1-1-2009	Am. & Ren.	1-1-2009
848-040-0100	1-2-2009	Amend	2-1-2009	863-015-0100	1-1-2009	Am. & Ren.	1-1-2009
848-040-0117	1-2-2009	Amend	2-1-2009	863-015-0120	1-1-2009	Am. & Ren.	1-1-2009
848-040-0145	1-2-2009	Amend	2-1-2009	863-015-0130	1-1-2009	Amend	1-1-2009
848-040-0160	1-2-2009	Amend	2-1-2009	863-015-0135	1-1-2009	Amend	1-1-2009
848-040-0175	1-2-2009	Adopt	2-1-2009	863-015-0140	1-1-2009	Amend	1-1-2009
848-045-0020	1-2-2009	Amend	2-1-2009	863-015-0145	1-1-2009	Amend	1-1-2009
850-060-0225	12-8-2008	Amend	1-1-2009	863-015-0150	1-1-2009	Amend	1-1-2009
850-060-0226	12-8-2008	Amend	1-1-2009	863-015-0155	1-1-2009	Amend	1-1-2009
851-050-0138	11-26-2008	Amend	1-1-2009	863-015-0160	1-1-2009	Am. & Ren.	1-1-2009
851-056-0006	11-26-2008	Amend	1-1-2009	863-015-0165	1-1-2009	Repeal	1-1-2009
851-056-0022	11-26-2008	Amend	1-1-2009	863-015-0175	1-1-2009	Amend	1-1-2009
851-062-0020	11-26-2008	Amend	1-1-2009	863-015-0180	1-1-2009	Repeal	1-1-2009
855-007-0010	1-5-2009	Adopt(T)	2-1-2009	863-015-0185	1-1-2009	Repeal	1-1-2009
855-007-0020	1-5-2009	Adopt(T)	2-1-2009	863-015-0186	1-1-2009	Amend	1-1-2009
855-007-0030	1-5-2009	Adopt(T)	2-1-2009	863-015-0188	1-1-2009	Adopt	1-1-2009
855-007-0040	1-5-2009	Adopt(T)	2-1-2009	863-015-0190	1-1-2009	Amend	1-1-2009
855-007-0050	1-5-2009	Adopt(T)	2-1-2009	863-015-0195	1-1-2009	Repeal	1-1-2009
855-007-0060	1-5-2009	Adopt(T)	2-1-2009	863-015-0200	1-1-2009	Amend	1-1-2009
855-007-0080	1-5-2009	Adopt(T)	2-1-2009	863-015-0205	1-1-2009	Amend	1-1-2009
855-007-0090	1-5-2009	Adopt(T)	2-1-2009	863-015-0210	1-1-2009	Amend	1-1-2009
855-007-0100	1-5-2009	Adopt(T)	2-1-2009	863-015-0215	1-1-2009	Amend	1-1-2009
855-007-0110	1-5-2009	Adopt(T)	2-1-2009	863-015-0220	1-1-2009	Repeal	1-1-2009
855-007-0120	1-5-2009	Adopt(T)	2-1-2009	863-015-0225	1-1-2009	Am. & Ren.	1-1-2009
856-010-0015	2-10-2009	Amend(T)	3-1-2009	863-015-0230	1-1-2009	Am. & Ren.	1-1-2009
859-040-0010	12-17-2008	Amend(T)	2-1-2009	863-015-0250	1-1-2009	Amend	1-1-2009
859-040-0015	12-17-2008	Amend(T)	2-1-2009	863-015-0255	1-1-2009	Amend	1-1-2009
860-022-0041	4-15-2009	Amend(T)	5-1-2009	863-015-0260	1-1-2009	Amend	1-1-2009
860-022-0070	3-25-2009	Amend	5-1-2009	863-015-0265	1-1-2009	Amend	1-1-2009
860-024-0010	12-29-2008	Amend	2-1-2009	863-015-0275	1-1-2009	Amend	1-1-2009
860-027-0400	2-5-2009	Adopt	3-1-2009	863-024-0000	1-1-2009	Adopt	1-1-2009
860-032-0620	4-14-2009	Amend	5-1-2009	863-024-0003	1-1-2009	Adopt	1-1-2009
863-014-0000	1-1-2009	Adopt	1-1-2009	863-024-0005	1-1-2009	Adopt	1-1-2009
863-014-0003	1-1-2009	Adopt	1-1-2009	863-024-0010	1-1-2009	Adopt	1-1-2009

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
863-024-0015	1-1-2009	Adopt	1-1-2009	863-050-0150	1-1-2009	Amend	1-1-2009
863-024-0020	1-1-2009	Adopt	1-1-2009	863-050-0151	1-1-2009	Repeal	1-1-2009
863-024-0030	1-1-2009	Adopt	1-1-2009	863-050-0205	1-1-2009	Repeal	1-1-2009
863-024-0050	1-1-2009	Adopt	1-1-2009	863-050-0210	1-1-2009	Repeal	1-1-2009
863-024-0055	1-1-2009	Adopt	1-1-2009	863-050-0215	1-1-2009	Repeal	1-1-2009
863-024-0060	1-1-2009	Adopt	1-1-2009	863-050-0220	1-1-2009	Repeal	1-1-2009
863-024-0061	1-1-2009	Adopt	1-1-2009	863-050-0225	1-1-2009	Repeal	1-1-2009
863-024-0062	1-1-2009	Adopt	1-1-2009	863-050-0230	1-1-2009	Repeal	1-1-2009
863-024-0063	1-1-2009	Adopt	1-1-2009	863-050-0235	1-1-2009	Repeal	1-1-2009
863-024-0065	1-1-2009	Adopt	1-1-2009	863-050-0240	1-1-2009	Amend	1-1-2009
863-024-0070	1-1-2009	Adopt	1-1-2009	875-010-0090	12-15-2008	Amend	1-1-2009
863-024-0075	1-1-2009	Adopt	1-1-2009	875-020-0005	12-15-2008	Amend	1-1-2009
863-024-0076	1-1-2009	Adopt	1-1-2009	875-030-0010	12-15-2008	Amend	1-1-2009
863-024-0085	1-1-2009	Adopt	1-1-2009	875-030-0050	12-15-2008	Amend	1-1-2009
863-024-0095	1-1-2009	Adopt	1-1-2009	918-008-0075	1-1-2009	Amend	2-1-2009
863-024-0100	1-1-2009	Adopt	1-1-2009	918-008-0080	1-1-2009	Amend	2-1-2009
863-025-0005	1-1-2009	Amend	1-1-2009	918-008-0085	1-1-2009	Amend	2-1-2009
863-025-0010	1-1-2009	Amend	1-1-2009	918-008-0090	1-1-2009	Amend	2-1-2009
863-025-0015	1-1-2009	Amend	1-1-2009	918-008-0095	1-1-2009	Amend	2-1-2009
863-025-0020	1-1-2009	Amend	1-1-2009	918-008-0110	1-1-2009	Amend	2-1-2009
863-025-0025	1-1-2009	Amend	1-1-2009	918-008-0115	1-1-2009	Amend	2-1-2009
863-025-0030	1-1-2009	Amend	1-1-2009	918-020-0370	1-1-2009	Adopt	2-1-2009
863-025-0035	1-1-2009	Amend	1-1-2009	918-050-0000	1-1-2009	Amend	1-1-2009
863-025-0040	1-1-2009	Amend	1-1-2009	918-050-0010	1-1-2009	Amend	1-1-2009
863-025-0045	1-1-2009	Amend	1-1-2009	918-050-0020	1-1-2009	Amend	1-1-2009
863-025-0050	1-1-2009	Amend	1-1-2009	918-050-0030	1-1-2009	Amend	1-1-2009
863-025-0055	1-1-2009	Amend	1-1-2009	918-050-0100	1-1-2009	Amend	1-1-2009
863-025-0060	1-1-2009	Amend	1-1-2009	918-050-0110	1-1-2009	Amend	1-1-2009
863-025-0065	1-1-2009	Amend	1-1-2009	918-050-0120	1-1-2009	Amend	1-1-2009
863-025-0070	1-1-2009	Amend	1-1-2009	918-050-0130	1-1-2009	Amend	1-1-2009
863-025-0080	1-1-2009	Amend	1-1-2009	918-050-0140	1-1-2009	Amend	1-1-2009
863-027-0000	1-1-2009	Adopt	1-1-2009	918-050-0150	1-1-2009	Amend	1-1-2009
863-027-0005	1-1-2009	Adopt	1-1-2009	918-050-0160	1-1-2009	Amend	1-1-2009
863-050-0000	1-1-2009	Amend	1-1-2009	918-050-0170	1-1-2009	Amend	1-1-2009
863-050-0015	1-1-2009	Amend	1-1-2009	918-225-0430	1-1-2009	Amend	2-1-2009
863-050-0020	1-1-2009	Amend	1-1-2009	918-225-0435	1-1-2009	Amend	2-1-2009
863-050-0025	1-1-2009	Amend	1-1-2009	918-225-0445	1-1-2009	Adopt	2-1-2009
863-050-0030	1-1-2009	Amend	1-1-2009	918-225-0450	1-1-2009	Amend	2-1-2009
863-050-0033	1-1-2009	Amend	1-1-2009	918-225-0570	1-1-2009	Amend	2-1-2009
863-050-0035	1-1-2009	Amend	1-1-2009	918-261-0015	1-1-2009	Adopt	2-1-2009
863-050-0040	1-1-2009	Repeal	1-1-2009	918-261-0015(T)	1-1-2009	Repeal	2-1-2009
863-050-0050	1-1-2009	Amend	1-1-2009	918-305-0280	4-1-2009	Amend	5-1-2009
863-050-0052	1-1-2009	Adopt	1-1-2009	918-311-0065	1-1-2009	Adopt	2-1-2009
863-050-0055	1-1-2009	Amend	1-1-2009	918-311-0065(T)	1-1-2009	Repeal	2-1-2009
863-050-0060	1-1-2009	Amend	1-1-2009	918-400-0455	1-1-2009	Amend	2-1-2009
863-050-0065	1-1-2009	Amend	1-1-2009	918-400-0458	1-1-2009	Amend	2-1-2009
863-050-0066	1-1-2009	Amend	1-1-2009	918-480-0010	2-1-2009	Amend	3-1-2009
863-050-0100	1-1-2009	Amend	1-1-2009	918-480-0010(T)	2-1-2009	Repeal	3-1-2009
863-050-0105	1-1-2009	Amend	1-1-2009	918-480-0150	1-1-2009	Adopt	2-1-2009
863-050-0115	1-1-2009	Amend	1-1-2009	918-480-0150(T)	1-1-2009	Repeal	2-1-2009