

OREGON BULLETIN

Supplements the 2009 *Oregon Administrative Rules Compilation*

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KATE BROWN
Secretary of State
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INFORMATION AND PUBLICATION SCHEDULE

General Information

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

Background on Oregon Administrative Rules

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

How to Cite

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

Understanding an Administrative Rule’s “History”

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

Locating the Most Recent Version of an Administrative Rule

The online OAR Compilation is updated on the first of each month to include all rule actions filed with the Secretary of State’s office by the 15th of the previous month, or by the previous workday if the 15th is on a weekend or holiday. The annual printed *Oregon Administrative Rules Compilation* contains the full text of all permanent rules filed through November 15 of the previous year. Subsequent changes to individual rules are listed in the OAR Revision Cumulative Index which is published monthly in the *Oregon Bulletin*. Changes to individual administrative rules are listed in the OAR Revision Cumulative Index by OAR number and include the effective date, the specific rulemaking action and the issue of the *Oregon Bulletin* which contains the full text of the amended rule. The *Oregon Bulletin* publishes the full text of permanent and temporary administrative rules submitted for publication.

Locating Administrative Rules Unit Publications

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

2008–2009 Oregon Bulletin Publication Schedule

The Administrative Rules Unit accepts rulemaking notices and filings Monday through Friday 8:00 a.m. to 5:00 p.m. at the Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310. To expedite the rulemaking process agencies are encouraged file a Notice of Proposed Rulemaking Hearing specifying hearing date, time and location, and submit their filings early in the submission period to meet the following publication deadlines.

Submission Deadline — Publishing Date

December 15, 2008	January 1, 2009
January 15, 2009	February 1, 2009
February 13, 2009	March 1, 2009
March 13, 2009	April 1, 2009
April 15, 2009	May 1, 2009
May 15, 2009	June 1, 2009
June 15, 2009	July 1, 2009
July 15, 2009	August 1, 2009
August 14, 2009	September 1, 2009
September 15, 2009	October 1, 2009
October 15, 2009	November 1, 2009
November 13, 2009	December 1, 2009

Reminder for Agency Rules Coordinators

Each agency that engages in rulemaking must appoint a rules coordinator and file an “Appointment of Agency Rules Coordinator” form, ARC 910-2003, with the Administrative Rules Unit, Archives Division, Secretary of State. Agencies which delegate rulemaking authority to an officer or employee within the agency must also file a “Delegation of Rulemaking Authority” form, ARC 915-2005. It is the agency’s responsibility to monitor the rulemaking authority of selected employees and to keep the appropriate forms updated. The Administrative Rules Unit does not verify agency signatures as part of the rulemaking process. Forms are available from the Administrative Rules Unit, Archives Division, 800 Summer Street NE, Salem, Oregon 97301, (503) 373-0701, or are downloadable at <http://arcweb.sos.state.or.us/banners/rules.htm>

Publication Authority

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

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OTHER NOTICES

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION DECISION FOR UNOCAL BULK PLANT NO. 309016 (FORMER) WASCO, OREGON

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

PROJECT LOCATION: Church and Columbia Streets, Wasco

PROPOSAL: Pursuant to Oregon Revised Statute (ORS) 465.315, the Oregon Department of Environmental Quality (DEQ) is proposing to issue a no further action (NFA) determination for former Unocal Bulk Plant No. 309016 site located at corner of Church and Columbia Streets in Wasco, Oregon.

HIGHLIGHTS: The Voluntary Cleanup Program has reviewed site assessment activities performed at the site. Concentrations of petroleum products detected in soil, groundwater, and surface water samples are below applicable risk based pathways for the site.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Eastern Regional Office at 700 SE Emigrant, Suite #330, Pendleton, OR 97801. Summary information and a copy of "No Further Action Decision Document" memo are available in DEQ's Environmental Cleanup Site Information (ECSI) database <http://www.deq.state.or.us/lq/ecsi/ecsi.htm> under Site ID 2962.

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

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

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION DECISION FOR UNOCAL BULK PLANT NO. 307838 (FORMER) HOOD RIVER, OREGON

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

PROJECT LOCATION: 1200 Industrial Loop, Hood River

PROPOSAL: Pursuant to Oregon Revised Statute (ORS) 465.315, the Oregon Department of Environmental Quality (DEQ) is proposing to issue a no further action (NFA) determination for former Unocal Bulk Plant No. 307838 site located at 1200 Industrial Loop in Hood River, Oregon.

HIGHLIGHTS: The Voluntary Cleanup Program has reviewed site assessment activities performed at the site. Concentrations of petroleum products detected in soil samples are below applicable risk based pathways for the site.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Eastern Regional Office at 700 SE Emigrant, Suite #330, Pendleton, OR 97801. Summary information and a copy of "No Further Action Decision Document" memo are available in DEQ's Environmental Cleanup Site Information (ECSI) database <http://www.deq.state.or.us/lq/ecsi/ecsi.htm> under Site ID 2985.

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

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

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION DECISION FOR TEXACO BULK PLANT NO. 308080 (FORMER) HOOD RIVER, OREGON

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

PROJECT LOCATION: 1210 Industrial Loop, Hood River

PROPOSAL: Pursuant to Oregon Revised Statute (ORS) 465.315, the Oregon Department of Environmental Quality (DEQ) is proposing to issue a no further action (NFA) determination for former Texaco Bulk Plant No. 308080 site located at 1210 Industrial Loop in Hood River, Oregon.

HIGHLIGHTS: The Voluntary Cleanup Program has reviewed site assessment activities performed at the site. Concentrations of petroleum products detected in soil samples are below applicable risk based pathways for the site.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Eastern Regional Office at 700 SE Emigrant, Suite #330, Pendleton, OR 97801. Summary information and a copy of "No Further Action Decision Document" memo are available in DEQ's Environmental Cleanup Site Information (ECSI) database <http://www.deq.state.or.us/lq/ecsi/ecsi.htm> under Site ID 3369.

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

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

NO FURTHER ACTION DECISION FOR UNOCAL BULK PLANT NO. 0744 (FORMER) BURNS, OREGON

PROJECT LOCATION: 225 Railroad Avenue, Burns

PROPOSAL: Pursuant to Oregon Revised Statute (ORS) 465.315, the Oregon Department of Environmental Quality (DEQ) is issuing a no further action (NFA) determination for the former Unocal Bulk Plant No. 0744 site located at 225 Railroad Avenue, Burns, Oregon.

HIGHLIGHTS: The Voluntary Cleanup Program has reviewed site assessment activities performed at the site. Concentrations of petroleum products detected in soil and groundwater are below applicable risk based pathways for the site.

The public comment period ended December 31, 2008 and all comments were incorporated into the requirements for closure. The DEQ is issuing the "No Further Action" determination.

A CHANCE TO COMMENT ON A PROPOSED CONSENT JUDGMENT FOR PROSPECTIVE PURCHASER REMEDIAL ACTIVITIES AT THE FORMER PORTABLE EQUIPMENT SALVAGE COMPANY

COMMENTS DUE: May 1, 2009

PROJECT LOCATION: 10215 and 10281 SE Mather Road, Clackamas, Oregon

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) is proposing to enter into a General Judgment by consent (Consent Judgment) for remedial activities with Doane Enterprises, LLC (Doane) for the former Portable Equipment Salvage Company property.

HIGHLIGHTS: Portable Equipment Salvage Company (PESC) salvaged copper, lead, and other metals from discarded electrical equipment. Those operations resulted in the release of petroleum hydrocarbons, polynuclear aromatic hydrocarbons, polychlorinated biphenyls (PCBs), and heavy metals. Remedial actions completed at the site in 1993 included the removal of over 28,000 tons of PCB-contaminated soil and the placement of a clean soil and gravel cap on the property.

Doane owns the adjacent property to the west of the former PESC facility and is working to acquire the PESC property to expand its recycling facility. Doane meets the requirements for DEQ's prospective purchaser program. The Consent Judgment will provide that Doane carry out additional investigation at the former PESC

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property as well as at the Doane property, and implement any necessary cleanup actions.

The proposed Consent Judgment will provide Doane with a release from liability for claims by the State of Oregon under ORS 465.255, including claims for damages to natural resources, relating to historical releases of hazardous substances at or from the former PESC property. The proposed Consent Judgment will also provide Doane with protection from potential contribution actions by third parties for recovery of remedial action costs associated with historical releases at or from the former PESC 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 Tom Roick at DEQ, 811 SW Sixth Avenue, Portland, Oregon 97204. Comments must be received by DEQ by 5:00 pm May 1, 2009. Questions may be directed to Tom Roick by email at roick.tom@deq.state.or.us or by calling 503-229-5502. The proposed Consent Judgment and DEQ file on the property may be reviewed at DEQ's Northwest Region office, 2020 SW Fourth Avenue, Suite 400, Portland. For a review appointment call 503-229-6729.

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.

PUBLIC COMMENT PERIOD PROPOSED REMEDIAL ACTION FORMER CENTRAL DOCK PROPERTY 1210 NORTH BAYSHORE, COOS BAY, OREGON

COMMENTS DUE: April 30, 2009

PROJECT LOCATION: Central Dock, 1210 N. Bayshore, Coos Bay, Oregon

PROPOSAL: As required by ORS 465.320, the Department of Environmental Quality (DEQ) invites public comment on the proposed remedial action for the Former Central Dock property in Coos Bay, OR. This remedial action consists of importation of approximately 3 feet of clean fill material to act as a cap at the 600' X 200' property located along the Coos Bay waterfront, where the former Hall-Buck Marine copper ore storage and shipping facility operated between 1992 and 1996. The property was also used for petroleum storage at different times in its history. The proposed cap will prevent direct human contact with heavy metal and petroleum contamination at the site. Further investigation activities required to complete an assessment of potential impacts to the sediments and water of the Coos estuary immediately adjacent to the upland portion of the former Central Dock property will be conducted separately.

HIGHLIGHTS: This property has been used as a waterfront warehouse and shipping facility as early as 1900. Materials stored and handled at the property include wood products, petroleum and copper ore. In 1992, Hall-Buck Marine leased the property and stored, handled, and shipped concentrated copper ore until 1996. Aboveground structures have been removed with the exception of asphalt/concrete surfacing, two railroad spur lines, and a wharf structure. In 2003, the city of Coos Bay (Urban Renewal Agency) purchased the Central Dock property from Coos County who had taken ownership of the property through foreclosure. Site development is currently being planned through the Coos County Historical Society.

Petroleum contaminated soil was discovered at the site in May 1993 and the DEQ assigned leaking underground storage tank file #06-93-0042 to the site. Heavy metal contamination to soil and groundwater at the site was discovered in December 2005 and Environmental Cleanup Site Inventory file #4646 was assigned to the site. Since then, soil and groundwater investigation has been conducted and a risk-based conceptual site model and request for no further action reports have been submitted to the DEQ.

The results of site investigations indicate: (1) petroleum and heavy metal (copper and Arsenic) remain in soil and groundwater at the site that could pose risks to human health through direct exposure pathways without some type of control; (2) an engineering control mech-

anism of 3 feet of fill material has been proposed as part of the future development plan to control these direct contact exposure risks; (3) an Easement & Equitable Servitudes document will be executed to ensure the fill is maintained and that any development activities include proper management of contaminated media; (4) the extent of chemicals remaining in soil and groundwater on-site have been adequately defined; and, (5) assessment of water and sediment impacts to the Coos estuary from operations associated with the Central Dock property remain to be completed and are not part of this proposed remedial action.

HOW TO COMMENT: The DEQ staff report on this determination will be available for public review at the DEQ Western Region Office in Coos Bay beginning April 1, 2009. To schedule an appointment to review files in DEQ's Coos Bay office, call (541) 269-2721 x31. The DEQ Project Manager is Eric Clough. Written comments should be sent to the Project Manager at the DEQ, Western Region, 381 North 2nd Street, Coos Bay, OR 97420. Comments must be received by April 30, 2009.

THE NEXT STEP: DEQ will consider all public comments prior to making a final decision.

OPPORTUNITY TO COMMENT RECORD OF DECISION, AMERICAN PINE PRODUCTS PRINEVILLE, OREGON

COMMENT DUE: April 30, 2009

PROJECT LOCATION: Prineville, Oregon

PROPOSAL: The Department of Environmental Quality (DEQ) is providing notice for a public opportunity to review and comment on a draft Record of Decision (ROD) for the American Pine Products site. The draft ROD details the analysis and selection of preferred and protective remedial options designed to address contaminated environmental media at the site located at 1948 North Main Street in Prineville, Oregon.

The site has been in nearly continuous use as a wood-products manufacturing facility since at least 1938 to the current day. The recommended remedial action addresses the presence of pentachlorophenol (PCP) contaminants and underlying constituents in contaminated soil and groundwater at and near the site. The recommended remedial action consists of prohibiting the use of groundwater on three properties, prohibiting future residential use of the mill property, continuing the removal of separate phase product from the groundwater, and long-term groundwater monitoring.

The draft ROD as well as more information concerning site-specific investigations and remedial actions is available in DEQ's Environmental Cleanup Site Information (ECSI) database located on the web at <http://www.deq.state.or.us/lq/ecsi/ecsi.htm> under Site ID 4212.

Site specific information is also available by contacting Katie Robertson, DEQ's project manager for this site. The Administrative File for this facility is located at DEQ's Pendleton office, and can be reviewed in person by contacting project manager at the number below to arrange for an appointment.

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

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

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

THE NEXT STEP: DEQ will consider all public comments received before finalizing the ROD for the American Pine Products site. DEQ will provide written responses to all received public comments.

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REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION DETERMINATION FOR HERBICIDE SPILL AT SIMPLOT GROWER SOLUTIONS FACILITY, UMATILLA, OREGON

COMMENTS DUE: Friday, May 1, 2009, 5:00 pm

PROJECT LOCATION: Old River Road, Umatilla

PROPOSAL: The Department of Environmental Quality is proposing to issue a No Further Action (NFA) determination based on results of site investigation and remedial activities performed to address an herbicide release at the Simplot Grower Solutions facility in Umatilla, Oregon. DEQ has determined that no further action is required because the site no longer poses a risk that exceeds the acceptable risk level defined in ORS 465.315.

HIGHLIGHTS: On April 22, 2008, site workers noticed a release of the herbicide Eptam 7E, at a fill port on the south side of the chemical warehouse. Approximately 1,000 gallons were released. A spill response contractor began removing contaminated soil the day the spill was discovered. Subsequent soil testing showed elevated contaminant concentrations in soil, so a second round of soil removal was conducted in May 2008. In total, approximately 250 cubic yards of contaminated soil were taken to the Finley Buttes Regional Landfill for disposal. Sampling results following the May excavation indicated that residual contaminant concentrations posed a possible risk of leaching to groundwater. However, additional soil removal was not done because of concerns that that could jeopardize the structural integrity of the building. Instead, two borings were drilled so that the depth of contamination could be determined. Soil samples collected at five-foot intervals showed that the herbicide concentration dropped to barely detectable concentrations at depths above the groundwater table. A water sample collected from one of these borings also showed that groundwater concentrations of the chemical were well below safe levels.

HOW TO COMMENT: The project file may be reviewed by appointment at DEQ's Columbia Gorge office, located at 400 East Scenic Drive, Suite 307, The Dalles, Oregon, 97058. If you have questions or would like to review the project file, please contact Bob Schwarz, project manager (541-298-7255 x30, schwarz.bob@deq.state.or.us). 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/ecsiquery.asp>, then enter 3916 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 3916 in the Site ID/Info column. DEQ will consider all public comments received by the close of the comment period before issuing the NFA determination. Comments must be received by 5:00 PM on May 1, 2009 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.

REQUEST FOR COMMENTS PROPOSED CONDITIONAL NO FURTHER ACTION DECISION FOR THE FIRST AND MAIN PROPERTY IN PORTLAND

COMMENTS DUE: 5 p.m., Thursday, April 30, 2009

PROJECT LOCATION: 100 SW Main Street, Portland, OR

PROPOSAL: The Department of Environmental Quality (DEQ) invites comments on a proposed Conditional No Further Action decision for the First Avenue and Main Street property in downtown Portland.

HIGHLIGHTS: The First and Main site is comprised of a city block in downtown Portland. A 16-story office building is currently being

constructed on the site. Environmental investigations completed between 2000 and 2007 identified soil and groundwater contaminants including total petroleum hydrocarbons (TPH), TPH constituents, and solvents. The likely sources of site TPH contamination are former fueling stations and a garage that were present at the site from 1932 to 1975. Solvents detected in groundwater are likely attributable to an off-site source. In a Record of Decision (ROD) dated February 2005, a remedy was selected for site contamination consisting of removal of contaminated soil and institutional controls. Soil removal was completed to 37 feet below ground surface in 2007 and 2008 as part of site development, and excavated soil transported to solid waste landfills for disposal. While residual soil and groundwater contamination remain at the site, the office building under construction has been designed to prevent the intrusion of vapors or groundwater. Give the age and relative immobility of site contaminants, they are not expected to present a significant off-site migration potential. As remedial actions outlined in the ROD have been completed, no further action (NFA) appears to be necessary. A Conditional NFA is proposed given that residual contamination is present and institutional controls remain on the site.

HOW TO COMMENT: Send written comments on the proposed Conditional No Further Action decision to DEQ Project Manager Ken Thiessen, Oregon DEQ, Northwest Region, 2020 SW 4th Ave., Suite 400, Portland, Oregon 97201, or e-mail to thiessen.kenneth@deq.state.or.us. To view the project files please call (503) 229-6729 to schedule an appointment. For more information, please contact Thiessen at 503-229-6015. To access site summary information and the Proposed No Further Action Staff Memo in the DEQ Environmental Cleanup Site Information (ECSI) database, go to <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, enter ECSI #4085 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI #4085 in the Site ID/Info column.

THE NEXT STEP: Once the public comment period has closed DEQ will consider all comments before making a decision.

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 DECISION FOR JACK ROBINSON AND SONS EQUIPMENT YARD BEND, OREGON

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

PROJECT LOCATION: OB Riley Road and Archie Briggs Road, Bend, Oregon

PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to issue a "No Further Action" determination based on results of site investigation 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: The Jack Robinson and Sons Equipment Yard was used for storage and maintenance of its fleet of heavy construction equipment and vehicles. Approximately 6600 cubic yards of petroleum contaminated soil was removed from the property in 2005 and 2007. Low levels of petroleum-contaminated soil remain onsite, 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/ecsiquery.asp>, then

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enter 4233 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 4856 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.

REQUEST FOR COMMENTS PROPOSED CLEANUP ACTIONS FOR THE PORT OF NEWPORT

COMMENTS DUE: 5 pm, May 15th, 2009

PROJECT LOCATION: Terminal Facilities near Dock Road, Newport, OR

PROPOSAL: The Oregon Department of Environmental Quality (DEQ) requests public comment on the proposal for the Port of Newport's initial cleanup actions on the deteriorating scuttled World War II ships that comprise the terminal facilities near Dock Road in Newport, Oregon (ECSI No. 1827). The Port has secured funding to replace the terminal facilities and clean up contamination left behind when the ships were scuttled.

HIGHLIGHTS: The terminal site was developed by a private company in 1948 by scuttling the Pasley and Hennebique which are two former U.S. Navy 1940s concrete ships. It consists of a deepwater front, docks, and storage facilities. The Port took ownership in 1982 and uses the facility for cargo and fishing operations. In 2001 operations ceased at the terminal because of declining structural integrity of the Pasley. It continues to twist, crack, and list towards the bay. There was a release of about 100 gallons of oil from the Pasley into the Yaquina Bay in 1996.

It was unknown what contaminants were left on the ships when they were scuttled. With funding from the U.S. Environmental Protection Agency (EPA), the Port's consultants conducted several investigations in December 2006/January 2007 and April 2008. Samples were collected from compartments in both ships including water, oil residue, fill material (sediment), lead paint, and asbestos. Oil,

metals, asbestos, and polynuclear aromatic compounds (PAHs) were detected in some of the samples. In 2007 around 8,000 gallons of oil and oily water discovered during and subsequent to site investigations was removed from the Pasley.

Cleanup of the hazardous chemicals on the ships has been planned in two phases. The first phase will remove and treat oily water, remove contaminated sediments, and clean oily compartment walls that are accessible and not in contact with the bay. The second phase of work will address contaminants in remaining compartments during construction activities of terminal facilities.

As required by EPA, the Port's consultant prepared reports analyzing cleanup alternatives based on effectiveness, reliability, implementability, implementation risk and cost for proposed work. EPA requires that this document, which includes the Port's preferred cleanup alternative for the first phase of cleanup, be made available for public review and comment. DEQ will be providing oversight during cleanup activities. In addition, several DEQ permits will be needed to conduct the work including permits for handling disposal of contaminated sediment, and treating and disposing of contaminated water. DEQ is providing a chance to comment on the work proposed for the first phase, and will hold separate public comment periods when DEQ receives applications from the Port for the several DEQ permits required for the work.

HOW TO COMMENT: Two reports detailing the proposed first phase cleanup actions for removal of oily water and contaminated sediments, and compartment cleaning were prepared by the Port's consultant, Kennedy Jenks. The reports are available for review, electronically, by contacting the DEQ project manager, Mary Camarata, at 541-687-7438 or by email at camarata.mary@deq.state.or.us, or the report can be viewed in person at the DEQ Eugene office by appointment. The Eugene office address and contact information is presented to the right.

Comments on the proposed determination need to be received by the Eugene Office, attn: Mary Camarata, by 5 pm on May 15th, 2009. Fax or email comments are acceptable.

THE NEXT STEP: Upon completion of the comment period, the comments will be addressed by DEQ. Once the comments have been adequately addressed, the DEQ may approve, modify, or deny the Phase 1 cleanup actions for terminal 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, 541-687-5603.

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 Clinical Social Workers Chapter 877

Rule Caption: Adopts rule to reduce licensing burden on semi-retired licensees.

Date: 5-12-09 **Time:** 11:30 a.m. **Location:** 3218 Pringle Rd. SE
2nd Flr. Conference Rm.
Salem, OR

Hearing Officer: Mark Oldham, Board Chair
Stat. Auth.: ORS 675.510–675.600
Stats. Implemented: ORS 675.560, 675.565 & 675.571
Proposed Adoptions: 877-020-0060
Last Date for Comment: 5-12-09

Summary: This rule proposal reduces licensing renewal fees and continuing education requirements for those licensees who have been licensed a minimum of 20 years, have not been disciplined by a licensing authority during the past 15 years, and seek to maintain an active part-time practice of no more than 500 hours per year.

Rules Coordinator: Martin Pittioni
Address: State Board of Clinical Social Workers, 3218 Pringle Rd. SE, Suite 240, Salem, OR 97302
Telephone: (503) 373-1163

Rule Caption: Amends and repeals rule adoption, client records, complain process, and impairment program rules.

Date: 5-12-09 **Time:** 11:30 a.m. **Location:** 3218 Pringle Rd. SE
2nd Flr. Conference Rm.
Salem, OR

Hearing Officer: Mark Oldham, Board Chair
Stat. Auth.: ORS 675.510–675.600, 675.990, 676.175–676.177, 183.335 & 183.360
Stats. Implemented: ORS 675.510–675.600, 675.990, 183.335 & 183.360
Proposed Amendments: 877-001-0005, 877-030-0100, 877-035-0000, 877-035-0010, 877-035-0012, 877-035-0013, 877-035-0015,

877-040-0000, 877-040-0003, 877-040-0010, 877-040-0015, 877-040-0045, 877-040-0050, 877-040-0055

Proposed Repeals: 877-001-0000, 877-001-0010, 877-035-0005, 877-040-0020

Last Date for Comment: 5-12-09

Summary: This rule proposal: (1) Eliminates duplicative rule notice and rulemaking requirements already provided for in other statutes and rules; (2) Adopts the most current version of model rules for state agencies applicable to rulemaking; (3) Specifies rules addressing retention of client records; (4) Amends Impaired Professional rules and (5) Amends Complaint Process Rules with special emphasis on updating rules to reflect authority to delegate some complaint process functions to the staff level.

Rules Coordinator: Martin Pittioni
Address: State Board of Clinical Social Workers, 3218 Pringle Rd. SE, Suite 240, Salem, OR 97302
Telephone: (503) 373-1163

Board of Examiners for Engineering and Land Surveying Chapter 820

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

Date: 5-12-09 **Time:** 1:30 p.m. **Location:** 670 Hawthorne Avenue, SE
Suite 220
Salem, OR 97301

Hearing Officer: Sue Laszlo
Stat. Auth.: ORS 672.060, 672.129, 672.155, & 672.255
Other Auth.: ORS 182.462 & 670.310
Stats. Implemented: ORS 672.002–372.325

Proposed Amendments: 820-010-0325, 820-010-0635, 820-030-0060, 820-040-0005

Last Date for Comment: 5-12-09, Close of Hearing
Summary: OAR 820-010-0325 — Budget — To adopt the Board's 2009–2011 biennial budget.

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

OAR 820-030-0060 — Filing Time and Place — Housekeeping.
OAR 820-040-0005 — Definitions — To clarify the definition of “Ground Area” and “Height” as used in ORS 672.060(10), 672.107(1)(a)(B), and 672.107(1)(a)(D).

Rules Coordinator: Mari Lopez
Address: 670 Hawthorne Avenue, SE Suite 220, Salem, OR 97301
Telephone: (503) 362-2666, ext. 26

Board of Pharmacy Chapter 855

Rule Caption: Provide regulatory structure for health officials, pharmacists and drug outlets in a Public Health Emergency.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 401.055 & 2008 OL Ch. 25
Proposed Adoptions: 855-007-0010, 855-007-0020, 855-007-0030, 855-007-0040, 855-007-0050, 855-007-0060, 855-007-0080, 855-007-0090, 855-007-0100, 855-007-0110, 855-007-0120

Proposed Repeals: 855-007-0010(T), 855-007-0020(T), 855-007-0030(T), 855-007-0040(T), 855-007-0050(T), 855-007-0060(T), 855-007-0080(T), 855-007-0090(T), 855-007-0100(T), 855-007-0110(T), 855-007-0120(T)

Last Date for Comment: 5-5-09, 5 p.m.
Summary: This new chapter of rules will provide a legal structure for licensees and registrants of the Board, and the public health officials when there is a public health emergency that requires extraordinary measures to protect public health. The rules provide for a storage and distribution system for medications received in Oregon from the Strategic National Stockpile as well as for emergency immunization procedures. The rules also provide for emergency

NOTICES OF PROPOSED RULEMAKING

dispensing when patients do not have access to their prescribing physician. The rules give a framework for licensees from other states to work in Oregon under existing license as authorized in the Emergency Management Assistance Compact and the Pacific Northwest Emergency Management Arrangement ratified in Chapter 25 Oregon Laws 2008.

Rules Coordinator: Karen MacLean

Address: Board of Pharmacy, 800 NE Oregon St., # 150, Portland, OR 97232

Telephone: (971) 673-0001

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**Commission for the Blind
Chapter 585**

Rule Caption: Criminal Records Check and Fitness Determination Rules.

Stat. Auth.: ORS 346.300

Stats. Implemented: ORS 181.534(9)

Proposed Adoptions: 585-005-0015, 585-005-0020, 585-005-0025, 585-005-0030, 585-005-0035, 585-005-0040, 585-005-0045, 585-005-0050, 585-005-0055, 585-005-0060, 585-005-0065, 585-005-0070, 585-005-0075

Last Date for Comment: 4-24-09

Summary: These rules control the Commission for the Blind's (OCB) acquisition of information about a subject individual's (SI) criminal history through criminal records checks or other means and its use of that information to determine whether the subject individual is fit to provide services to OCB as an employee, volunteer, or contractor.

Rules Coordinator: Linda Mock

Address: Commission for the Blind, 535 SE 12th Ave., Portland, OR 97214

Telephone: (971) 673-1588

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**Construction Contractors Board
Chapter 812**

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

Date:	Time:	Location:
4-28-09	11 a.m.	West Salem Roth's IGA Santiam Rm. 1130 Wallace Rd. Salem, OR

Hearing Officer: Tom Skaar

Stat. Auth.: ORS 183.310-183.500, 670.310, 701.235, 701.238 & 701.992

Stats. Implemented: ORS 87.093, 279C.590, 701.005, 701.026, 701.042, 701.046, 701.056, 701.068, 701.073, 701.088, 701.091, 701.102, 701.106, 701.109, 701.227, 701.238, 701.305, 701.315, 701.330, 701.345 & 701.992

Proposed Adoptions: 812-001-0220, 812-012-0170

Proposed Amendments: 812-003-0200, 812-003-0320, 812-005-0280, 812-005-0800

Last Date for Comment: 4-28-09, 11 a.m.

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

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

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

• 812-005-0280 is amended to renumber to add a subsection that permits CCB to sanction a contractor who fails to pay a civil penalty final order for OR-OSHA violations, correct and make the language consistent wording changing "reissue" to "issue", adds

language that permits CCB to sanction a contractor who has been sanctioned by DCBS for a fifth (or subsequent) repeat violation of OR-OSHA laws; and permits CCB to sanction a contractor who has been sanctioned by DCBS for willful or egregious violation of OR-OSHA laws.

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

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

Rules Coordinator: Catherine Dixon

Address: Construction Contractors Board, 700 Summer St. NE, Suite 300, Salem, OR 97310

Telephone: (503) 378-4621, ext. 4077

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

Date:	Time:	Location:
4-28-09	11 a.m.	West Salem Roth's IGA Santiam Rm. 1130 Wallace Rd. Salem, OR

Hearing Officer: Tom Skaar

Stat. Auth.: ORS 87.093, 670.310, 701.122, 701.235, 701.325, 701.330 & 701.530

Stats. Implemented: ORS 87-093, 701.005, 701.010, 701.026, 701.056, 701.063, 701.122, 701.131, 701.225, 701.235, 701.325, 701.330 & 701.530

Proposed Amendments: 812-001-0200, 812-002-0420, 812-003-0120, 812-003-0330, 812-006-0300, 812-006-0400

Last Date for Comment: 4-28-09, 11 a.m.

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

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

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

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

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

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

Rules Coordinator: Catherine Dixon

Address: Construction Contractors Board, 700 Summer St. NE, Suite 300, Salem, OR 97310

Telephone: (503) 378-4621, ext. 4077

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

NOTICES OF PROPOSED RULEMAKING

Date: 4-28-09
Time: 11 a.m.
Location: West Salem Roth's IGA,
Santiam Rm.
1130 Wallace Rd.
Salem, OR

Hearing Officer: Tom Skaar
Stat. Auth.: ORS 670.310, 701.124, 701.126 & 701.235
Other Auth.: 2007 OL Ch. 648 (HB 2654)
Stats. Implemented: ORS 701.063, 701.124 & 701.126
Proposed Adoptions: 812-020-0071, Rules in 812-021
Last Date for Comment: 4-28-09, 11 a.m.
Summary: Adopt 812-020-0071 to allow continuing education hours earned as a residential contractor apply toward commercial continuing education credits.

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

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

Note: Draft proposed rule language will be available on CCB's website March 18, 2009.

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

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

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

Date: 4-20-09
Time: 9-10 a.m.
Location: PEBB/OEBB Boardroom
1225 Ferry St. SE
Salem, OR 97301

Hearing Officer: Denise Hall
Stat. Auth.: ORS 243.860-243.886
Stats. Implemented: ORS 243.860
Proposed Amendments: 111-010-0015
Last Date for Comment: 4-20-09
Summary: OAR 111-010-0015 is amended to include revised definitions for Subject and Provisional Non-subject districts under the Oregon Educators Benefit Board program.
Rules Coordinator: April Kelly
Address: Department of Administrative Services, Oregon Educators Benefit Board, 1225 Ferry St. SE, Salem, OR 97301
Telephone: (503) 378-6588

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

Date: 4-20-09
Time: 9-10 a.m.
Location: PEBB/OEBB Boardroom
1225 Ferry St. SE
Salem, OR 97301

Hearing Officer: Denise Hall
Stat. Auth.: ORS 243.860-243.886
Stats. Implemented: ORS 243.860
Proposed Amendments: 111-020-0001
Last Date for Comment: 4-20-09
Summary: OAR 111-020-0001 is amended to clarify what measurement is used to determine cost comparability for Provisional Non-subject Districts.
Rules Coordinator: April Kelly
Address: Department of Administrative Services, Oregon Educators Benefit Board, 1225 Ferry St. SE, Salem, OR 97301
Telephone: (503) 378-6588

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**Department of Agriculture,
Oregon Processed Vegetable Commission
Chapter 647**

Rule Caption: Amend rules related to assessment rules.

Date: 4-23-09
Time: 7:30 p.m.
Location: 3415 Commercial St. SE
Salem, OR

Hearing Officer: Gary Hull
Stat. Auth.: ORS 576.051-576.595
Stats. Implemented: ORS 576.051-576.595
Proposed Amendments: 647-010-0010
Last Date for Comment: 4-23-09, 7:30 p.m.
Summary: The proposed rule amendments set the assessment rates for the six processed vegetable crops governed by the commission.
Rules Coordinator: John McCulley
Address: Department of Agriculture, Processed Vegetable Commission, PO Box 2042, Salem, OR 97308
Telephone: (503) 370-7019

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

Rule Caption: Proposed changes to Personal Protective Equipment (PPE) rules in general industry, construction and maritime.

Date: 4-29-09
Time: 2:30 p.m.
Location: Labor & Industries Bldg.
2nd Flr., Room 260
350 Winter St. NE
Salem, OR 97301

Hearing Officer: Sue C. Joye
Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001-654.295
Proposed Amendments: 437-002-0005, 437-002-0080, 437-002-0120, 437-002-0180, 437-002-0360, 437-003-0001, 437-005-0002, 437-005-0003

Last Date for Comment: 5-4-09
Summary: In this rulemaking, Oregon OSHA is amending its standards to add language clarifying that the personal protective equipment (PPE) and training requirements impose a compliance duty to each and every employee covered by the standards and that noncompliance may expose the employer to liability on a per-employee basis. The amendments consist of new paragraphs added to the introductory sections of the affected rules and changes to the language of some existing respirator and training requirements.

These Federal OSHA changes are in general industry, construction, and maritime and were published in the December 12, 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

NOTICES OF PROPOSED RULEMAKING

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

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Rule Caption: Proposed changes to compactors and balers rules in general industry and agriculture.

Date:	Time:	Location:
4-29-09	1:30 p.m.	Labor & Industries Bldg. 2nd Flr., Room 260 350 Winter St. NE Salem, OR

Hearing Officer: Sue C. Joye

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

Stats. Implemented: ORS 654.001-654.295

Proposed Adoptions: 437-004-2150

Proposed Amendments: 437-002-0256

Last Date for Comment: 5-4-09

Summary: The general industry rule in Division 2/O (OAR 437-002-0256, Oregon Rules for Refuse Collection and Compaction Equipment) is amended to include balers, stationary compactors, and self-contained compactors. It identifies guarding measures, appropriate signage, installation procedures, inspection requirements, and maintenance instructions. It is in plain language for easy reading and understanding.

The agriculture rule in Division 4/O is entirely new and functionally identical to the Division 2 rule outlined above except that the Division 4 rule restricts application to stationary balers, stationary compactors and self-contained compactors.

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

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Department of Consumer and Business Services, Workers' Compensation Division Chapter 436

Rule Caption: Proposed rules affecting workers' compensation medical treatment and fees.

Date:	Time:	Location:
4-21-09	10 a.m.	Labor & Industries Bldg. Rm. 260 (2nd Floor) 350 Winter St. NE Salem, OR

Hearing Officer: Fred Bruyns

Stat. Auth.: ORS 656.726(4)

Stats. Implemented: ORS 656, 656.245, 656.248 & 656.260

Proposed Amendments: Rules in 436-009, 436-010-0230, 436-010-0275

Last Date for Comment: 4-27-09

Summary: The agency proposes to amend OAR chapter 436, division 009, "Oregon Medical Fee and Payment Rules." These proposed rules address: Adoption of updated medical fee schedules and resources for the payment of health care providers; good cause exceptions for late billing; compensability of cervical artificial disc replacements; requirement for procedural codes on hospital bills; the basis for the director to exclude rural hospitals from imposition of the adjusted cost/charge ratio; billing procedures for ambulatory surgical centers; and payment of physician assistants or nurse practitioners who perform or assist in surgery.

The agency proposes to amend OAR chapter 436, division 010, "Medical Services." These proposed rules address: Contraindications to cervical artificial disc replacement; and procedures for giv-

ing workers lists of eligible attending physicians in a managed care organization.

Address questions to: Fred Bruyns, Rules Coordinator; phone 503-947-7717; fax 503-947-7514; e-mail fred.h.bruyns@state.or.us

Proposed rules are available on the Workers' Compensation Division's Web site: <http://wcd.oregon.gov/policy/rules/rules.html#propurules> or from WCD Publications, 503-947-7627 or fax 503-947-7630.

Rules Coordinator: Fred Bruyns

Address: Department of Consumer and Business Services, Workers' Compensation Division, PO Box 14480, Salem, OR 97309-0405

Telephone: (503) 947-7717

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Department of Environmental Quality Chapter 340

Rule Caption: Amend solid waste composting facility rules. Clarify financial assurance requirements for solid waste disposal facilities and public notice requirements for renewal of several solid waste permits.

Date:	Time:	Location:
4-23-09	6 p.m. Info Mtg. 7 p.m. Hearing	1102 Lincoln St., Suite 210 Eugene, OR Call-in Tel. 503-378-3003
4-28-09	6 p.m. Info Mtg.. 7 p.m. Hearing	475 NE Bellevue, Suite 110 Bend, OR Call-in Tel. 503-378-3313
4-28-09	6 p.m. Info Mtg. 7 p.m. Hearing	811 SW 6th Ave. 10th Flr., EQC Rm. A Portland, OR Call-in Tel. 503-378-3003

Hearing Officer: Bob Barrows, Susan Christensen, Charles Landman

Stat. Auth.: ORS 459.045, 459.235, 459.236, 459A.025, 459A.110 & 459A.115

Stats. Implemented: ORS 459.005, 459.015, 459.045, 459.205, 459.215, 459.225, 459.235, 459.236, 459.245, 459.248, 459.272, 459.273 459A.025, 459A.110 & 459A.115

Proposed Adoptions: 340-096-0060, 340-096-0070, 340-096-0080, 340-096-0090, 340-096-0100, 340-096-0110, 340-096-0120, 340-096-0130, 340-096-0140, 340-096-0150

Proposed Amendments: 340-012-0065, 340-093-0030, 340-093-0050, 340-093-0070, 340-093-0100, 340-093-0105, 340-093-0130, 340-093-0140, 340-093-0150, 340-096-0001, 340-096-0010, 340-096-0050, 340-097-0110, 340-097-0120

Proposed Repeals: 340-096-0020, 340-096-0024, 340-096-0028

Last Date for Comment: 4-30-09, 5 p.m.

Summary: DEQ supports and encourages composting. At the same time, if not conducted in the proper manner, or if conducted at an improper location, composting presents potential environmental problems, most notably to surface water and groundwater.

The proposed rules include performance standards that all composting facilities must meet. These standards protect surface water and groundwater, require control of offensive odors and vectors, and require testing of finished compost to make sure human pathogens have been reduced to safe levels. The proposed rules also eliminate several existing exemptions and one permit category; provide greater specificity for composting facility plans, refine composting facility design features for stormwater and leachate control; clarify financial assurance requirements for solid waste disposal facilities, clarify public notice requirements for renewal of several solid waste permits; and adopt enforcement provisions specifically for composting facilities.

To request additional information, please contact Charlie Landman at the Department of Environmental Quality (DEQ), 811 SW 6th Avenue, Portland, Oregon 97241, toll free in Oregon at 800-452-4011 or 503-229-6461, or at landman.charlie@deq.state.or.us, by viewing <http://www.deq.state.or.us/news/publicnotices/pn.asp>, or visit DEQ's website at <http://www.oregon.gov/DEQ/>

NOTICES OF PROPOSED RULEMAKING

You may submit comments by email to <http://www.compostingrules@deq.state.or.us>, by fax to 503-229-6977, or by letter to the Department of Environmental Quality (DEQ), 811 SW 6th Avenue, Portland, Oregon 97241.

Rules Coordinator: Larry McAllister

Address: Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204

Telephone: (503) 229-6412

Department of Fish and Wildlife Chapter 635

Rule Caption: Adopt Commercial and Sport Fishing Seasons for the Pacific Ocean, Estuaries and Columbia River.

Date:	Time:	Location:
5-15-09	8 a.m.	Commission Rm. Dept. of Fish & Wildlife 3406 Cherry Ave NE Salem, OR 97103

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.138, 496.146, 506.036, 506.119, 506.129 & 506.750 et. Seq.

Other Auth.: Magnusson-Stevens Sustainable Fisheries Act

Stats. Implemented: ORS 496.162, 506.036, 506.109, 506.129 & 506.750 et. Seq.

Proposed Adoptions: Rules in 635-003, 635-013, 635-014, 635-016, 635-017, 635-018, 635-023, 635-042

Proposed Amendments: Rules in 635-003, 635-013, 635-014, 635-016, 635-017, 635-018, 635-023, 635-042

Proposed Repeals: Rules in 635-003, 635-013, 635-014, 635-016, 635-017, 635-018, 635-023, 635-042

Last Date for Comment: 5-15-09

Summary: Amend rules relating to commercial and sport salmon fishing in the Pacific Ocean; salmon fishing in specific nearshore ocean waters, bays and coastal streams; and sport salmon fishing in the Columbia River.

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

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

Department of Geology and Mineral Industries Chapter 632

Rule Caption: Provide better enforcement, clarify existing language, and maintain proper protection of off-site resources.

Date:	Time:	Location:
4-23-09	9 a.m.-12 p.m.	Public Service Building 255 Capitol St NE, Salem, OR

Hearing Officer: Gary Lynch

Stat. Auth.: ORS 516.090, 517.780, 517.800, 517.837 & 517.840

Stats. Implemented: ORS 517.750-517.992

Proposed Amendments: 632-030-0005 – 632-030-0070

Last Date for Comment: 4-23-09, Close of Hearing

Summary: This proposed rule addresses readability and housekeeping issues, and is directly related to the passage of SB 149 by the 2007 legislative session. Provisions include survey and marking, late fees, clarification and addition of application requirements, total exemptions, permit processing time frame, and emergency and temporary operating permits.

Rules Coordinator: Gary W. Lynch

Address: 229 Broadalbin Street SW, Albany OR 97321

Telephone: (541) 967-2053

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

Rule Caption: Abuse Reporting and Protective Services in Community Programs and Community Facilities.

Date:	Time:	Location:
4-22-09	10-11 a.m.	Human Services Bldg. Rm. 137-A 500 Summer St. NE Salem, OR 97301

Hearing Officer: Jennifer Bittel

Stat. Auth.: ORS 179.040 & 409.050

Stats. Implemented: ORS 430.735-430.765, 443.400-443.460 & 443.705-443.825

Proposed Amendments: 407-045-0250, 407-045-0260, 407-045-0280, 407-045-0290, 407-045-0300, 407-045-0310, 407-045-0320, 407-045-0330, 407-045-0340, 407-045-0350, 407-045-0360

Proposed Repeals: 407-045-0270

Last Date for Comment: 4-24-09, 5 p.m.

Summary: These proposed amendments update and clarify the process by which community programs conduct abuse investigations as the Department's designees. The rules require community county programs to designate at least one employee to conduct protective services investigations, require that these investigators be trained in core competencies, update and clarify definitions, require certain notices be sent in a uniform manner, identify timelines in which investigations must be completed, provide a process for requesting extensions when timelines cannot be met, and standardize the types of information to be included in an investigative report.

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

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

Rules Coordinator: Jennifer Bittel

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

Telephone: (503) 947-5250

Department of Human Services, Public Health Division Chapter 333

Rule Caption: WIC Vendor and Farmer Administration.

Date:	Time:	Location:
4-27-09	9 a.m.	Portland State Office Bldg. 800 NE Oregon St., Rm. 1A Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 409.600

Stats. Implemented: ORS 409.600

Proposed Adoptions: 333-054-0027, 333-054-0035, 333-054-0055, 333-054-0065

Proposed Amendments: 333-054-0010, 333-054-0020, 333-054-0025, 333-054-0030, 333-054-0040, 333-054-0050, 333-054-0060, 333-054-0070

Last Date for Comment: 4-30-09, 5 p.m.

Summary: The Department of Human Services, Public Health Division is proposing to adopt and amend administrative rules in chapter 333, division 54 as they pertain to vendors and farmers accepting a newly implemented format for supplemental food distribution known as cash value vouchers (CVVs). Additionally, clarifications and adjustments to definitions, the vendor agreement, violations and sanctions have been made to reflect current program vendor and farmer management practices.

Rules Coordinator: Sally Peters

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

Telephone: (971) 673-0561

NOTICES OF PROPOSED RULEMAKING

Department of State Lands Chapter 141

Rule Caption: Revision to rules for the sale, exchange and purchase of land et al (OAR 141-067).

Date:	Time:	Location:
4-22-09	1:30–3:30 p.m.	State Lands Bldg., Land Board Rm. 775 Summer St. NE Salem, OR 97301
4-23-09	6:30–8:30 p.m.	Redmond Fire Hall Conference Rm. 341 NW Dogwood Ave. Redmond, OR 97756

Hearing Officer: John Lilly

Stat. Auth.: ORS 183, 273.041–243.071, 273.245, 273.247, 273.251–273.311, 273.316–273.321, 273.416–273.456, 273.553, 273.775–273.790, 273.805–273.825, 274.040, 274.085, 274.450, 274.905–274.940 & 274.960

Other Auth.: OR Constitution Art. VIII, Sec. 2 & 5

Stats. Implemented: SB 311 (2003) & ORS 273.787

Proposed Adoptions: 141-067-0155, 141-067-0165, 141-067-0215

Proposed Amendments: 141-067-0130, 141-067-0150, 141-067-0160, 141-067-0170, 141-067-0180, 141-067-0190, 141-067-0220, 141-067-0230, 141-067-0250, 141-067-0260, 141-067-0300, 141-067-0310, 141-067-0320, 141-067-0340

Proposed Repeals: 141-067-0140, 141-067-0210, 141-067-0240, 141-067-0280, 141-067-0290

Last Date for Comment: 5-8-09, 5 p.m.

Summary: These rules first adopted in this form in 2002, guide the Department in all aspects of activities involving Department-managed land and interests regarding land sales, land exchanges and the release of mineral and geothermal resource rights. These rules are being revised in order to: accommodate changes in law (ORS 273.787); update procedures; and clarify process. Since their initial adoption in 2002 the Department has conducted a number of sales transactions and determined where changes in the rule would speed the transaction process and produce efficiencies.

Rules Coordinator: Elizabeth Martino

Address: Department of State Lands, 775 Summer St. NE, Suite 100, Salem, OR 97301-1279

Telephone: (503) 986-5239

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Rule Caption: Revision of rules governing public recreational use of property managed by the Department of State Lands.

Date:	Time:	Location:
4-24-09	9–11 a.m.	State Lands Bldg. Land Board Rm. 775 Summer St. NE Salem, OR 97301

Hearing Officer: Jeff Kroft

Stat. Auth.: ORS 183 & 273

Other Auth.: OR Constitution Art. VIII, Sec. 5

Stats. Implemented:

Proposed Adoptions: 141-088-0002, 141-088-0003, 141-088-0004, 141-088-0005, 141-088-0006, 141-088-0007, 141-088-0008, 141-088-0009

Proposed Amendments: 141-088-0000

Last Date for Comment: 4-24-09, 5 p.m.

Summary: These rules govern public recreational use of various parcels of state-owned land managed by DSL. Typically, the restrictions provided in these rules have been established to protect the land and related natural, cultural and archaeological resources and/or to protect public health and safety. The proposed changes to these rules will:

(1) Give the Director of DSL the authority to quickly place restrictions on, or close to recreational use state-owned land to address an emergency (as defined in the proposed rules). Under the rules

currently in effect, the Director cannot address emergency situations without going through a formal rulemaking process.

(2) Give the Director the authority to place restrictions on, or close to recreational use state-owned land to facilitate site specific environmental remedial actions (such as in the Portland Harbor). Under the rules currently in effect, the Director cannot do this without going through a formal rulemaking process.

(3) Provide clear processes that the Director and State Land Board will use to consider and impose such restrictions or closures.

Rules Coordinator: Elizabeth Martino

Address: Department of State Lands, 775 Summer St. NE, Suite 100, Salem, OR 97301-1279

Telephone: (503) 986-5239

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Rule Caption: Rules Governing the issuance of Forage Leases and Livestock Training Permits.

Date:	Time:	Location:
4-22-09	5:30–7:30 p.m.	Burns Paiute Gathering Ctr. 100 Pasigo St. Burns, OR

Hearing Officer: Jeff Kroft

Stat. Auth.: ORS 183, 273.045 & 273.805–273.825

Other Auth.: OR Constitution Art. VIII, Sec. 5

Stats. Implemented: ORS 183, 273.045 & 273.805–273.825

Proposed Adoptions: 141-110-0045, 141-110-0085, 141-110-0135, 141-110-0145

Proposed Amendments: 141-110-0000, 141-110-0010, 141-110-0040, 141-110-0060, 141-110-0080, 141-110-0100, 141-110-0110, 141-110-0120, 141-110-0150

Proposed Repeals: 141-110-0030, 141-110-0070, 141-110-0090, 141-110-0130, 141-110-0140

Proposed Ren. & Amends: 141-110-0010 to 141-110-0005, 141-110-0050 to 141-110-0035

Last Date for Comment: 5-8-09

Summary: These rules apply to the grazing of livestock on Common School grazing lands. The proposed rules reflect changes to the grazing fee formula based on the results of an audit conducted by the Secretary of State's office in 2004 as well as required for leasing and livestock trailing on state-owned land.

Rules Coordinator: Elizabeth Martino

Address: Department of State Lands, 775 Summer St. NE, Suite 100, Salem, OR 97301-1279

Telephone: (503) 986-5239

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

Rule Caption: ODOT intends to adopt, amend, and repeal administrative rules regarding Oregon Fuels Tax.

Stat. Auth.: ORS 184.616, 184.619, 319.010–319.430, 314.990, 319.520–319.880 & 2008 OL Ch. 44

Stats. Implemented: ORS 319

Proposed Adoptions: 735-170-0105, 735-170-0115, 735-174-0035, 735-174-0045, 735-176-0017, 735-176-0019, 735-176-0021, 735-176-0022, 735-176-0045

Proposed Amendments: 735-170-0000, 735-170-0010, 735-170-0020, 735-170-0040, 735-170-0045, 735-170-0050, 735-170-0090, 735-170-0100, 735-170-0110, 735-170-0120, 735-170-0130, 735-170-0140, 735-174-0000, 735-174-0010, 735-174-0020, 735-174-0030, 735-174-0040, 735-176-0000, 735-176-0010, 735-176-0020, 735-176-0030, 735-176-0040

Proposed Repeals: 735-170-0030, 735-170-0060, 735-170-0070, 735-170-0080, 735-176-0015, 735-176-0018

Last Date for Comment: 4-21-09

Summary: This rulemaking is needed to implement legislation enacted by the 2008 Legislative Assembly. Chapter 44, Oregon Laws 2008 amended ORS 319.520 and 319.665 to ensure uniform documentation requirements for retail and non-retail use fuel sales in the

NOTICES OF PROPOSED RULEMAKING

state of Oregon. ODOT is proposing these amendments to implement the requirements of Chapter 44, Oregon Laws 2008. Other changes are proposed to ensure uniform reporting requirements for all fuel transactions in the state of Oregon, and to correct and clarify current rule language for divisions 170, 174, and 176. Fuel tax reports and remittance are due to the Department in the following month (except for quarterly and annual filers) in which the tax is charged and collected from customers. For Use Fuel Sellers and Users the due date is the 20th and for Motor Vehicle Fuel Dealers the due date is the 25th. There has been a longstanding precedent to accept tax reports postmarked by the tax report due date. The Department intends to further clarify in rule that fuel taxes and accompanying reports are to be received in the Department or its agent by applicable due dates as evidenced by legible United States Postal Service postmarks or cancellation stamps, certified/registered mail receipts or other valid third party evidence of timely remittance.

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

Economic and Community Development Department Chapter 123

Rule Caption: Rules define standards and application process for Cultural Participation Grants.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 359.400-359.444

Proposed Adoptions: 123-500-0000, 123-500-0005, 123-500-0020, 123-500-0030, 123-500-0040, 123-500-0050, 123-500-0060, 123-500-0070

Last Date for Comment: 4-21-09

Summary: The new proposed Cultural Participation rules help to protect and stabilize Oregon Cultural resources, creating a solid process administering cultural participation grants. The rules define who is eligible for participation grants, and set out cultural planning expectations for communities who can then access the participation grants.

Rules Coordinator: Janelle Lacefield

Address: Economic and Community Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301
Telephone: (503) 986-0036

Landscape Contractors Board Chapter 808

Rule Caption: Clarifies the definition of an irrigation system.

Date:	Time:	Location:
4-23-09	9 a.m.	2111 Front St. NE, Suite 2-101 Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 183.325-183.410, 670.310 & 671.670

Stats. Implemented: ORS 671.520

Proposed Amendments: 808-002-0480

Last Date for Comment: 4-23-09, Close of Hearing

Summary: 808-002-0480 — Clarifies the definition of irrigation system.

Rules Coordinator: Kim Gladwill-Rowley

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

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

Oregon Department of Education Chapter 581

Rule Caption: Clarifies authority to impose civil penalties on person who operates unlicensed private career school.

Stat. Auth.: ORS 345.992 & 345.995

Stats. Implemented: ORS 345.995

Proposed Amendments: 581-045-0190

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

Summary: ORS 345.992 specifies that the Department of Education may impose a civil penalty on a person who operates a private career school without a license from the department. However, the state board never adopted rules to specify the amount of the penalty. The rule will apply the same schedule of penalties that applies to licensed schools that was previously adopted by the state board to a person who operates a school without a license.

Rules Coordinator: Paula Merritt

Address: 255 Capitol St. NE, Salem OR 97310

Telephone: (503) 947-5746

Rule Caption: Modifies requirements for school and district performance reports.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 329.105

Proposed Amendments: 581-022-1060

Last Date for Comment: 4-22-09, 5 p.m.

Summary: The 2007 legislature modified the criteria used in the school and district performance reports issued each year. The rule implements these modifications.

Rules Coordinator: Paula Merritt

Address: 255 Capitol Street NE, Salem, OR 97310

Telephone: (503) 947-5746

Rule Caption: Specifies requirements relating to paraprofessionals and educational assistants employed by school districts.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.051

Proposed Amendments: 581-037-0005, 581-037-0006, 581-037-0015, 581-037-0025, 581-037-0030

Last Date for Comment: 4-22-09, 5 p.m.

Summary: The rule amendments modify the requirements relating to paraprofessionals and educational assistants employed by school districts. The amendments make the rules compliant with federal law. The amendments include provisions on qualifications, assignment, supervision, training and credentialing of paraprofessionals and educational assistants.

Rules Coordinator: Paula Merritt

Address: 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5746

Oregon Liquor Control Commission Chapter 845

Rule Caption: Amendments allowing packaged alcohol sales within Portland International Airport to ticketed passengers beginning at 5:00 a.m.

Date:	Time:	Location:
4-24-09	10 a.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Jennifer Huntsman

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

Stats. Implemented: ORS 471.030

Proposed Amendments: 845-006-0425

Last Date for Comment: 5-8-09

Summary: This rule sets the hours during which licensees of the Commission may sell, dispense, serve, allow consumption of, or allow removal of alcohol. The Commission accepted a petition from the Food & Beverage Concessionaires at the Portland International Airport (PDX) requesting to amend this rule by adding language which would allow both On-Premises and Off-Premises sales licensees located at PDX to sell and serve alcohol between the hours of 5:00 a.m. and 2:30 a.m. This would be an additional two hours in the morning outside of the currently allowed hours of 7:00 a.m. to 2:30 a.m. The current proposed rule amendments differ from the

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petitioners' request in that they would only allow Off-Premises sales at PDX between the hours of 5:00 a.m. and 7:00 a.m.

Rules Coordinator: Jennifer Huntsman

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

Telephone: (503) 872-5004

Rule Caption: Amendments to simplify private club regulations, eliminating requirements to track event types and guest relationships.

Date:	Time:	Location:
4-22-09	10 a.m.	9079 McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Jennifer Huntsman

Stat. Auth.: ORS 471, including 471.030, 471.040, 471.175, 471.730(1) & (5)

Stats. Implemented: ORS 471.168, 471.175, 471.313

Proposed Adoptions: 845-005-0321

Proposed Amendments: 845-005-0320

Proposed Repeals: 845-008-0045 – 845-0060-0490

Last Date for Comment: 5-6-09

Summary: OAR 845-008-0045 (Service to Guests by Full On-Premises Sales Licensees) describes to whom and under what conditions private clubs may sell and serve alcoholic beverages under the privileges of their full on-premises sales license. This rule package would eliminate the Division 8 private club rule, and instead create two new rules governing private clubs that would follow our normal rule structure, one in Division 5 setting license criteria (OAR 845-005-0321) and one in Division 6 setting compliance requirements (OAR 845-006-0490). The proposal would also amend OAR 845-005-0320 (License Refusal Reasons that Can Not be Overcome) by deleting section (5) regarding private clubs and moving the concepts of minimum membership, required nonprofit registration, and the definition of members into the new licensing rule specific to private clubs. Staff recommends a greatly simplified requirements rule for private clubs in that the new OAR 845-006-0490 would eliminate both the concept of private clubs having to track all their different types of events and guest relationships, and also of requiring guest lists. Instead the proposed rule language would focus on the core compliance issues of when the higher Full-Commercial food service standard is required, and the requirements regarding accompanying nonmembers when they are in the private club together with the service of alcohol. The goal is to leave the operational details up to the private club and instead focus the Commission's compliance efforts on responsible alcohol service.

Rules Coordinator: Jennifer Huntsman

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

Telephone: (503) 872-5004

Oregon Military Department, Office of Emergency Management Chapter 104

Rule Caption: Establish rules for Seismic Rehabilitation Grant Program enacted by the 2005 Legislative Assembly.

Date:	Time:	Location:
4-15-09	10 a.m.	Anderson Readiness Center 3225 State St., Rm. 114 Salem, OR 97301

Hearing Officer: Paulina Layton

Stat. Auth.: ORS 401.260–401.325

Stats. Implemented: ORS 401.260

Proposed Adoptions: 104-050-0000, 104-050-0010, 104-050-0020, 104-050-0030, 104-050-0040, 104-050-0050, 104-050-0060, 104-050-0070, 104-050-0080, 104-050-0090, 104-050-0100

Last Date for Comment: 4-15-09

Summary: 104-050-0000, Purpose; 104-050-0010, Definitions; 104-050-0020, Eligible Applicants and Activities; 104-050-0030, Pro-

gram Information; 104-050-0040, Program Sanctions; 104-050-0050, Project Eligibility and Criteria; 104-050-0060, Application Submittal, Review and Approval; 104-050-0070, Project Administration; 104-050-0080, Grant Awards and Match; 104-050-0090, Grant Agreements Conditions; and 104-050-0100, Waivers, Exceptions and Appeals establishes the guidelines and criteria for grant applications for the Seismic Rehabilitation Grant Program which will provide funds for the seismic rehabilitation of critical public buildings which include: hospital buildings with acute inpatient care facilities, fire stations, police stations, sheriffs' offices, other facilities used by state, county, district or municipal law enforcement agencies and kindergarten through grade 12 public school, community college, education service districts and institutions of higher education buildings with a capacity of 250 or more persons that are routinely used for student activities.

Rules Coordinator: Cherie Zastoupil

Address: Oregon Military Department, Office of Emergency Management, PO Box 14370, Salem, OR 97309-5062

Telephone: (503) 378-2911, ext. 22221

Oregon Student Assistance Commission Chapter 575

Rule Caption: Adopt permanent rules governing confidentiality and inadmissibility of mediation communications in subsequent adjudicatory proceedings.

Date:	Time:	Location:
4-24-09	10 a.m.	Chemeketa Comm. College Boardroom 4000 Lancaster Dr. NE Salem, OR 97309

Hearing Officer: Bridget Burns, Commission Chair

Stat. Auth.: ORS 36.224 & 348.530

Stats. Implemented: ORS 36.220–36.238 & 183

Proposed Adoptions: 575-055-0010

Last Date for Comment: 4-27-09

Summary: This rule is identical to the rule on confidentiality of mediation communications, developed by the Attorney General pursuant to ORS 36.224(2). The rule covers all mediations involving the Oregon Student Assistance Commission, except those express exclusions. The rule limits information that the mediator may disclose and allows the parties to agree in writing to limit what may be disclosed or used in a subsequent administrative proceeding.

Rules Coordinator: Beverly R. Boyd

Address: Oregon Student Assistance Commission, 1500 Valley River Dr., Suite 100, Eugene, OR 97401

Telephone: (541) 687-7394

Parks and Recreation Department Chapter 736

Rule Caption: Amend the Administrative Rules on Rates to require full payment of all fees at the time of reservation.

Date:	Time:	Location:
4-16-09	7–9 p.m.	Champoeg State Park 7670 Champoeg Rd. NE St. Paul, OR
4-21-09	7–9 p.m.	Central Lincoln Public Utility Meeting Rm. 2129 N. Coast Hwy. Newport, OR
4-23-09	7–9 p.m.	Holiday Inn 20615 Grandview Dr. Bend, OR

Hearing Officer: Richard Walkoski, Marilyn Borgelt

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.111, 390.121 & 390.124

Proposed Amendments: 736-015-0006 – 736-015-0040

Last Date for Comment: 4-24-09, 5 p.m.

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Summary: Amend the rules to require full payment of fees at time of reservation, adjust the cancellation/change rule to deal with full payment, and make other housekeeping changes as required.

Rules Coordinator: Joyce Merritt

Address: Parks and Recreation Department, 725 Summer St. NE, Suite C, Salem, OR 97301

Telephone: (503) 986-0756

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Physical Therapist Licensing Board
Chapter 848

Rule Caption: Amend current rule expense budget figure for 2007–2009 Board budget.

Date:	Time:	Location:
5-8-09	8:30 a.m.	800 NE Oregon St., Rm. 445 Portland, OR

Hearing Officer: James Heider

Stat. Auth.: ORS 182.462

Stats. Implemented: ORS 182.462

Proposed Amendments: 848-005-0010

Last Date for Comment: 5-7-09, 4:30 p.m. (written comment)

Summary: Projections indicate that the Board will exceed its approved 2007–2009 biennium budget. The expenditure variance is a direct result of the Governor’s implementation of a new executive salary plan not considered in original budget; increase in investigative case loads and usage of contract investigator to manage case loads, and DOJ expenses associated with investigative case advisement, and contested case hearing preparation. The board is proposing to amend its current 2007–2009 budget by \$41,000. In order to amend the current budget, the Board must first notify all licensees, and interested parties, and hold a public hearing thereon as required by ORS Chapter 182.462(1) and (2). Copies of the proposed budget amendment are available on the Board website and by contacting the Board’s office.

Rules Coordinator: James Heider

Address: Physical Therapist Licensing Board, 800 NE Oregon St, Suite 407, Portland, OR 97232

Telephone: (971) 673-0203

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Rule Caption: Amend current rule expense budget figure to reflect 2009–2011 Board approved expense budget.

Date:	Time:	Location:
5-8-09	8:30 a.m.	800 NE Oregon St., Rm. 445 Portland, OR

Hearing Officer: James Heider

Stat. Auth.: ORS 182.462

Stats. Implemented: ORS 182.462

Proposed Amendments: 848-005-0010

Last Date for Comment: 5-7-09, 4:30 p.m. (written comment)

Summary: The Physical Therapist Licensing Board hereby adopts by reference the Physical Therapist Licensing Board 2009–2011 Biennium Budget of \$938,000 covering the period from July 1, 2009 through June 30, 2011. The Executive Director of the Board will amend budgeted accounts as necessary within the approved budget of \$938,000 for the effective operation of the Board. The holding a public hearing thereon as required by ORS Chapter 182.462(1) and (2). Copies of the budget are available on the Board’s website or by contacting the Board’s office.

Rules Coordinator: James Heider

Address: Physical Therapist Licensing Board, 800 NE Oregon St, Suite 407, Portland, OR 97232

Telephone: (971) 673-0203

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Public Utility Commission
Chapter 860

Rule Caption: In the Matter of a Rulemaking to Adopt Federal Pipeline Safety Regulation Amendments.

Stat. Auth.: ORS 183, 756.040 & 757.039

Stats. Implemented: ORS 757.039

Proposed Amendments: 860-024-0020, 860-024-0021

Last Date for Comment: 4-23-09, Close of Business

Summary: The proposed rules adopt published US Department of Transportation (USDOT) amendments associated with the construction, operation and maintenance of intrastate gas pipelines and liquefied natural gas facilities. The amendments being adopted are from the Code of Federal Regulations, CFR Title 49, Part 192 (6 amendments), Part 193 (1 amendment), and Part 199 (1 amendment).

Pursuant to ORS 757.039(3), the Commission has agreements with USDOT to enforce federal pipeline safety regulations pertaining to pipeline facilities in Oregon. As a condition of those agreements, the Commission must annually certify to USDOT that the Commission adopted or is in the process of adopting all current federal pipeline safety regulations applicable to intrastate gas pipelines and liquefied natural gas facilities. This rulemaking is necessary to update the Commission’s gas safety rules to be current with federal gas pipeline safety regulations.

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 534 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=15402>

Rules Coordinator: Diane Davis

Address: PO Box 2148, Salem, OR 97308-2148

Telephone: (503) 378-4372

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Rule Caption: In the Matter of Housekeeping Amendments to OAR 860-034-0010, 860-034-0120 and 860-034-0310.

Stat. Auth.: ORS 756.040 & 759.045

Stats. Implemented: ORS 756.040, 759.040, 759.045, 759.220 & 759.225

Proposed Amendments: 860-034-0010, 860-034-0120, 860-034-0310

Last Date for Comment: 4-23-09, Close of Business

Summary: The proposed amendments to OAR 860-034-0010 clarify that “for good cause shown,” the Commission may waive or deviate from the division 034 rules. By making this clarification, the Commission may be able to process more efficiently such requests by subject companies. The proposed amendments to OAR 860-034-0120 are necessary because for the subject companies, an increase in the late payment charge falls within the scope of OAR 860-034-0310, and is not determined by the Commission as it is for the large telecommunications utilities. The proposed amendments to OAR 860-034-0310 use terms more readily understood by the industry, changing “rate for intrastate telecommunications services” to “rate contained in a tariff schedule.” Other proposed housekeeping changes to these three rules increase readability.

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 531 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 97308-2148. For more information about the Commission’s Filing Center, please see <http://apps.puc.state.or.us/edockets/center.htm>

Interested persons may review any comments filed and the proposed rules online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=15154>

Rules Coordinator: Diane Davis

Address: PO Box 2148, Salem, OR 97308-2148

Telephone: (503) 378-4372

NOTICES OF PROPOSED RULEMAKING

Racing Commission Chapter 462

Rule Caption: Amendments to account wagering and multi-jurisdictional simulcasting and interactive wagering totalizator hub rules.

Date: 4-16-09 **Time:** 10 a.m. **Location:** 800 NE Oregon St., Rm. 1A
Portland, OR

Hearing Officer: Charles Williamson, Commissioner

Stat. Auth.: ORS 462.270(3)

Other Auth.: ORS 462.725

Stats. Implemented: ORS 462.725

Proposed Amendments: 462-210-0030, 462-220-0030, 462-220-0070

Last Date for Comment: 4-16-09, Close of Hearing

Summary: The cited rules are proposed amendments to rules pertaining to multi-jurisdictional simulcasting and interactive wagering totalizator hubs regarding minimum deposit, source market migration, account for customer funds, affiliate sites, tote system approval and location, and reporting change of ownership.

Rules Coordinator: Carol N. Morgan

Address: Oregon Racing Commission, 800 NE Oregon St., Suite 310, Portland, OR 97232

Telephone: (971) 673-0208

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

Rule Caption: Registration Procedures for Newly Naturalized Citizens.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 247.015

Proposed Amendments: 165-005-0050

Last Date for Comment: 4-24-09

Summary: This rule is being amended to incorporate language which allows for 17 year olds who are newly naturalized U.S. Citizens to register to vote as provided for in ORS 247.016.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

.....
Rule Caption: Method of Calculating Total Eligible Voters for Property Tax Measure Elections.

Stat. Auth.: ORS 246.120, 246.150, 254.465, 254.470 & OR Cont. Art. XI, Sec. 11(8) and 11k

Stats. Implemented: OR Cont. Art. XI, Sec. 11(8) and 11k

Proposed Amendments: 165-007-0130

Last Date for Comment: 4-24-09

Summary: This rulemaking amendment addresses the recent adoption of Article XI, section 11k of the Oregon Constitution, which was passed at the November 4, 2008, General Election. The rule will now only apply to elections that are not held in May or November of every year. In addition this rulemaking amendment updates terminology.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

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Rule Caption: Adoption of Amendments to the 2008 Campaign Finance Manual.

Stat. Auth.: ORS 246.120, 246.150, 260.156 & 260.200

Stats. Implemented: ORS 246.120, 246.150, 260.156 & 260.200

Proposed Amendments: 165-012-0005

Last Date for Comment: 4-24-09

Summary: This amendment supplements the *2008 Campaign Finance Manual* by clarifying the deadline for providing amend-

ments to campaign transactions correcting any insufficient information.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

.....
Rule Caption: Update of the Mitigating Circumstances for Non-campaign Finance Civil Penalty Election Law Violations.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 260.995

Proposed Amendments: 165-013-0020

Last Date for Comment: 4-24-09

Summary: This rule describes the penalty matrix and mitigating circumstances for non-campaign finance election law violations. This amendment incorporates changes to the mitigating circumstances to reflect current practices within the Secretary of State Elections Division.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

.....
Rule Caption: Repeals Signature Verification Procedures for Petitions Submitted No Later than January 4, 2008.

Stat. Auth.: ORS 246.150 & 250.105

Stats. Implemented: ORS 250.045, 250.105 & 2007 OL Ch. 848

Proposed Repeals: 165-014-0031

Last Date for Comment: 4-24-09

Summary: This rule is proposed for repeal because all the signatures submitted under this rule have been processed. The rule had a limited application only to signatures submitted on or before January 4, 2008.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

.....
Rule Caption: Amends Signature Verification Procedures for Sponsorship Signatures.

Stat. Auth.: ORS 246.150, 250.045 & 250.105

Stats. Implemented: ORS 250.045 & 250.105

Proposed Amendments: 165-014-0032

Last Date for Comment: 4-24-09

Summary: This rule is proposed for amendment to incorporate the requirements for an SEL 301 Statement One or More/No Circulators Will Be Paid and and SEL 310 Prospective Petition for State Initiative Measure which designates not more than three chief petitioners must be filed at the time sponsorship signatures are submitted for verification. Technical updates are also included which reflect that sponsorship signatures must be attached to the text at all times during circulation and sponsorship signatures are not subject to ORS 260.567.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

.....
Rule Caption: Repeals the Adjusted Terms of Office for Joelson Road District Commissions.

Stat. Auth.: ORS 246.150 & 255.325

Stats. Implemented: ORS 255.335

Proposed Repeals: 165-020-0430

Last Date for Comment: 4-24-09

Summary: This rule is proposed for repeal because the adjusted terms have expired and each position is currently filled by election,

NOTICES OF PROPOSED RULEMAKING

as provided in ORS 255.335, at regular district elections for four year terms.

Rules Coordinator: Brenda Bayes

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

Telephone: (503) 986-1518

Teacher Standards and Practices Commission
Chapter 584

Rule Caption: Amends rules regarding administrator licenses, application fees, dual authorizations, endorsements, housekeeping issues and repeals redundant rule.

Date:	Time:	Location:
4-16-09	1-3 p.m.	TSPC Office 465 Commercial St. NE Salem, OR 97301

Hearing Officer: Victoria Chamberlain

Stat. Auth.: ORS 342

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

Proposed Amendments: 584-017-0042, 584-023-0005, 584-023-0015, 584-036-0055, 584-036-0082, 584-060-0014, 584-060-0062, 584-060-0071, 584-080-0022

Proposed Repeals: 584-023-0025

Last Date for Comment: 4-30-09, 4 p.m.

Summary: (1) Clarifies Continuing Education License to state graduate work for out-of-state applicants need not be all post masters and removes language related to civil rights workshops.

(2) Amends 584-036-0055 to clarify the statutory "90-day rule," clarifies the fee is good through the duration of the 120-day grace period; ensures late fees are imposed only one time for any application for reinstatement regardless if another license is issued.

(3) Amends 584-060-0071 requirement for dual authorizations in specialty endorsements.

(4) Amends 584-060-0062 to clarify alternative assessment allowed to add endorsement, clarifies out-of-state work in endorsement area; reduces practicum requirements to add endorsement to that equal to the Basic and Standard; clarifies adding a general education endorsement to special education licenses; clarifies adding multiple subjects to specialty endorsements and preserves middle-level multiple subject endorsement when adding general education to specialty endorsement.

(5) Housekeeping amendments, administrative clarification, removes incorrect citation, corrects and removes language that has expired in rules.

(6) Repeals 584-023-0025 *Charter School Fees*. Charter School fees are found in rule 584-036-0055 *Fees*.

Rules Coordinator: Victoria Chamberlain

Address: Teacher Standards and Practices Commission, 465 Commercial St. NE, Salem, OR 97301

Telephone: (503) 378-6813

Water Resources Department
Chapter 690

Rule Caption: Modifies the Malheur Lake Basin Program to create a reservation of water for multi-purpose storage for future economic development.

Date:	Time:	Location:
4-23-09	2-3 p.m.	Easter Oregon Agricultural Research Center 67826-A Hwy. 205 Burns, OR

Hearing Officer: Charles Barlow

Stat. Auth.: ORS 536 & 537

Stats. Implemented: ORS 536.310, 537.249, 537.356 & 537.358

Proposed Adoptions: 690-512-0100, 690-512-0110

Proposed Amendments: 690-512-0040

Last Date for Comment: 4-30-09, 5 p.m.

Summary: On October 6, 2008, the Oregon Water Resources Department (Department) received a request from Harney County for a reservation of 4,550 acre feet of unappropriated water on Home Creek, tributary to the Catlow Valley in the Malheur Lakes Basin, for multipurpose storage for future economic development. On Feb. 25, 2009, the Oregon Water Resources Commission authorized the Department to initiate a formal rulemaking to modify the Malheur Lakes Basin Program (OAR chapter 690, division 512) to authorize the reservation request in administrative rule. The proposed rules contain provisions applicable to reservations in general, reserve 4,550 acre feet of unappropriated water from multipurpose storage for future economic development as requested by Harney County and approved by the Commission, establish a priority date, provide a 20-year period from the time of rule adoption for cancellation of the reservation and require the Department to provide a progress report to certain parties every five years. Additionally, the proposed rules make certain technical corrections to existing rule.

Rules Coordinator: Ruben Ochoa

Address: Water Resources Department, 725 Summer St. NE, Salem, OR 97301

Telephone: (503) 986-0874

ADMINISTRATIVE RULES

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 5-2009

Filed with Sec. of State: 2-27-2009

Certified to be Effective: 3-1-09

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.

(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

Construction Contractors Board Chapter 812

Rule Caption: Amend 812-001-0200 Consumer Protection Notice.

Adm. Order No.: CCB 2-2009(Temp)

Filed with Sec. of State: 2-23-2009

Certified to be Effective: 2-23-09 thru 8-22-09

Notice Publication Date:

Rules Amended: 812-001-0200

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

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

812-001-0200

Consumer Notices Adoption

(1) In order to comply with the requirement to adopt an information notice to owner under ORS 87.093, the Construction Contractors Board

adopts the form entitled "Information Notice to Owner About Construction Liens," as revised December 20, 2007. This form may be obtained from the agency.

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

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

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

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

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

Stat. Auth.: ORS 87.093, 670.310, 701.235, 701.325, 701.330 & 701.530

Stats. Implemented: ORS 87.093, 701.235, 701.325, 701.330 & 701.530

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

Department of Administrative Services, Budget and Management Division Chapter 122

Rule Caption: Repeal of Temporary Rule 122-060-0020 as a result of Legislative Action to reduce state expenditures to match projected General Fund revenues.

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

Filed with Sec. of State: 3-6-2009

Certified to be Effective: 3-6-09 thru 6-8-09

Notice Publication Date:

Rules Suspended: 122-060-0020(T)

Subject: Repeal of Temporary Rule 122-060-0020 as a result of Legislative Action to reduce state expenditures to match projected General Fund revenues.

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

122-060-0020

Allotment Reductions to Balance Budget and Prevent Deficit

(1)(a) The Department of Administrative Services (Department) has determined that probable receipts from taxes and other revenue sources for the 2007–09 General Fund appropriations will be less than anticipated by the Legislative Assembly when it enacted the state's budget for the 2007–09 biennium and made adjustments to that budget in the special session held during the 2008 calendar year. Consequently, the amount of General Fund revenue available for appropriations for the remainder of the 2007–09 biennium will be less than the amounts estimated or allotted therefore. Pursuant to ORS 291.261, acting on this determination and with the Governor's approval, and following notice to the agencies affected, the Department is reducing allotment amounts for the remainder of the 2007–09 biennium to balance the state's budget and prevent state government from incurring a deficit in violation of Article XI, Section 7, of the Oregon Constitution.

(b) The reductions in moneys allotted specified in Section (2) of this rule take effect on the date on which the Department files the rule with the Archives Division, Secretary of State.

(c) If one or more individual allotment reductions made under Section (2) of this rule is for any reason held to be invalid or unlawful, the remaining reductions shall not be affected but shall remain in full force and effect in accordance with the terms of this rule, and to this end the reductions made by this rule are severable.

(2) Moneys allotted for the final two quarters of the 2007–09 biennium from General Fund appropriations to agencies subject to the allotment

ADMINISTRATIVE RULES

system established in ORS Chapter 291 are reduced by the amounts necessary to effectively reduce the General Fund appropriations allotted during the entire 2007–09 biennium by 1.095156 percent.

(3) On a schedule to be established by the Department, each agency for which allotments are reduced under this rule must submit to the Department estimates for the remaining allotment periods of the 2007–09 biennium that are consistent with the reductions.

(4) Notwithstanding section (2) above, the Department shall make no reductions in moneys allotted for payment on debt obligations incurred by the state prior to the effective date of this rule.

Stat. Auth.: ORS 183.335(5), 184.340, 291.232 - 291.261

Stats Implemented: ORS 291.261

Hist.: BMD 1-2008(Temp), f. & cert. ef. 12-11-08 thru 6-8-09; Suspended by BMD 1-2009(Temp), f. & cert ef. 3-6-09 thru 6-8-09

Department of Administrative Services, Oregon Educators Benefit Board Chapter 111

Rule Caption: Amended to include revised definitions for Subject and Provisional non-subject districts.

Adm. Order No.: OEGB 5-2009(Temp)

Filed with Sec. of State: 3-10-2009

Certified to be Effective: 3-10-09 thru 9-4-09

Notice Publication Date:

Rules Amended: 111-010-0015

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

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

111-010-0015

Definitions

Unless the context indicates otherwise, as used in OEGB administrative rules, the following definitions will apply:

(1) “Actuarial value” means the expected financial value for the average member of a particular benefit plan.

(2) “Affidavit of Dependency” means a document that attests that a dependent child meets the criteria in section (11)(b).

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

(4) “Benefit plan” includes, but is not limited to, insurance or other benefits including:

(a) Medical;

(b) Dental;

(c) Vision;

(d) Life, disability and accidental death;

(e) Long term care;

(f) Flexible spending accounts;

(g) Supplemental medical, dental and vision;

(h) Any other remedial care recognized by state law, and related services and supplies; and

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

(5) “Board” means the ten-member board established in the Department of Administrative Services as the Oregon Educators Benefit Board under Chapter 00007, Oregon Laws 2007.

(6) “Comparable cost (Medical, Dental and Vision)” means that the aggregate cost to a district for enrollment in OEGB plans comparable in design to the district’s plan(s) do not exceed the rate in effect or proposed for the benefit plan year.

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

(8) “Comparable plan design (Medical, Dental and Vision)” means that the actuarial values of two plan designs are within 2.5 percent higher or lower of each other.

(9) Comparable plan design (Basic and Supplemental Life Insurance and Accidental Death & Dismemberment Insurance)” means that 90 percent of district employees can obtain a maximum benefit through an OEGB plan design that is within \$2,500 of the maximum benefit obtained through a pre-OEGB plan design in effect the year prior to implementation.

(10) Comparable plan design (Short and Long Term Disability)” means 90 percent of the district employees can obtain the same elimination period, percentage of covered compensation, definition of covered compensation, coverage period duration, and maximum payment per benefit period through an OEGB plan design as through a pre-OEGB plan design in effect the year prior to implementation.

(11) “Dependent child,” unless otherwise defined by a collective bargaining agreement or documented district policy in effect on January 31, 2008, means and includes the following:

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

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

(c) A dependent child must meet the following conditions:

(A) Does not qualify as another person’s dependent child, except for a child of divorced or separated parents meeting conditions under Internal Revenue Code Section 152(e)(A) as amended by the Working Families Tax Relief Act of 2004.

(B) Single and does not have a domestic partner; and

(C) 18 years old or younger; or

(D) Is 19 through 25 years old;

(i) Attending five months of class or on-site training per calendar year at an educational institution defined by IRC Section 170(b)(1)(A)(ii) or state or political subdivision with the following requirements:

(I) The child must be citizen or resident of the United States, Canada or Mexico; and

(II) The child must be recognized as a full time student by the educational institution or state or political subdivision; or

(ii) Living in the home of the eligible employee over six months of the calendar year, and the eligible employee provides over half the yearly support; or

(iii) Incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability.

(E) Is age 26 or older, and incapable of self-sustaining employment, because of a developmental disability, mental illness, or physical disability; and

(i) The disability existed prior to attaining age 26; and

(ii) Pre-OEGB medical insurance coverage was continuous with coverage under OEGB medical insurance.

(12) “Documented district policies” means district policies and practices that apply to an employee group and are submitted to the Oregon Educators Benefit Board during the plan selection process. District policies and practices must be identified and submitted with the applicable employee group plan selections.

(13) “Domestic partner,” unless otherwise defined by a collective bargaining agreement or documented district policy in effect on January 31, 2008, means and includes the following:

(a) An unmarried individual of the same sex who has entered into a “Declaration of Domestic Partnership” with the eligible employee that is recognized under Oregon law; or

(b) An unmarried individual of the same or opposite sex who has entered into a partnership that meets the following criteria:

(A) Both are at least 18 years of age;

(B) Are responsible for each other’s welfare and are each other’s sole domestic partners;

(C) Are not married to anyone and have not had a spouse or another domestic partner within the prior six months. If previously married, the six-month period starts on the final date of divorce;

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

(E) Have jointly shared the same regular and permanent residence for at least six months; and

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

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

(14) “Eligible employee” means and includes:

(a) “Active eligible employee” means an employee of an OEGB participating organization who is employed on a half-time or greater basis or is in a job-sharing position or meets the definition of an eligible employee under a separate OEGB rule or under a collective bargaining agreement or documented district policy in effect on January 31, 2008.

ADMINISTRATIVE RULES

(b) "Retired eligible employee" means a previously active eligible employee, who is:

(A) Receiving a service or disability retirement allowance or pension under the Public Employees Retirement System (PERS) or under any other retirement or disability benefit plan or system offered by an OEBB participating organization for its employees;

(B) Eligible to receive a service retirement allowance under PERS and has reached earliest retirement age under ORS Chapter 238;

(C) Eligible to receive a pension under ORS 238A.100 to 238A.245 and has reached earliest retirement age as described in 238A.165; or

(D) Eligible to receive a service retirement allowance or pension under another retirement benefit plan or system offered by an OEBB participating organization and has reached earliest retirement age under the plan or system.

(15) "Employee Group" means one or more similarly situated employees (i.e., nonrepresented or represented by a specific collective bargaining contract) in a common school district, union high school district, education service district, community college district or charter school.

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

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

(18) "OEBB participating organization" means a Subject District, Non-subject District, or Provisional Non-subject District that participates in benefit plans provided by the Oregon Educators Benefit Board (OEBB).

(19) "Provisional Non-subject District" means a common school district, a union high school district, or an education service district that:

(a) Was self-insured on December 31, 2006;

(b) Had an independent health insurance trust established and functioning on December 31, 2006; or

(c) Can provide comparable plan designs at a comparable costs as defined by sections (6) and (8) of this Rule.

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

(21) "Subject District" means a common school district, a union high school district, or an education service district that:

(a) Did not self-insure on January 1, 2007;

(b) Did not have a health trust in effect on January 1, 2007; or

(c) Does not provide comparable plans designs at a comparable cost as defined by sections (6) and (8) of this Rule.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.860

Hist.: OEBB 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEBB 2-2008, f. & cert. ef. 1-4-08; OEBB 10-2008(Temp), f. & cert. ef. 8-13-08 thru 2-6-09; OEBB 1-2009, f. & cert. ef. 1-30-09; OEBB 5-2009(Temp), f. & cert. ef. 3-10-09 thru 9-4-09

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

Adm. Order No.: OEBB 6-2009(Temp)

Filed with Sec. of State: 3-10-2009

Certified to be Effective: 3-10-09 thru 9-4-09

Notice Publication Date:

Rules Amended: 111-020-0001

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

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

111-020-0001

Initial Employee Group Phase-in

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

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

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

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

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

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

(3) A Provisional Non-subject District wanting to continue providing benefit plans other than those benefit plans provided by the Board must submit an application requesting to be excluded from the requirements of this Section. The application must show that the aggregate district-wide premiums for the benefit plans provided or contracted for by the district are equal or less than the premiums for comparable benefit plans provided by the Board. Applications must be submitted not later than May 31, 2010, and each year that follows.

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

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

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.886

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

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

Rule Caption: Adopts division 30 (Continuation of Insurance), and amends division (Notice) and division 5 (Contracts), rules.

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

Filed with Sec. of State: 2-24-2009

Certified to be Effective: 2-24-09 thru 8-22-09

Notice Publication Date:

Rules Adopted: 101-030-0026

Rules Amended: 101-001-0000, 101-005-0030, 101-005-0040, 101-005-0070, 101-005-0080

Subject: Amends OAR 101-001-0000 to clarify statute requirements and align notice process with current best business practices; amends OAR 101-005-0030 to clarify Definitions; amends OAR 101-005-0040 to clarify procedures used for procurement and renewal of contracts, amends OAR 101-005-0070 to clarify procedures used for amending original contracts; amends OAR 101-005-0080 to clarify the Board's legal authority when considering a change or protest after an established deadline, and adopts OAR 101-030-0026 to implement Employer Designated Protected leaves (for example, unpaid furloughs).

Rules Coordinator: Cherie M. Taylor—(503) 378-5473

ADMINISTRATIVE RULES

101-001-0000

Notice of Proposed Rule Changes

Prior to adoption, amendment, or repeal of any rule, the Public Employees' Benefit Board (PEBB), will give notice of the intended action to the following:

(1) The Secretary of State's Bulletin, referred to in ORS 183.360, at least 21 days prior to the effective date.

(2) To persons on the PEBB mailing list established pursuant to ORS 183.335(8) at least 28 days before the effective date of the rule.

(3) To the Legislative Counsel Committee and Legislators specified in ORS 183.335(15), at least 49 days before rule takes effect.

(4) Employee organizations certified by the Employment Relations Board.

(5) State agency and university personnel and payroll representatives.

(6) Insurance carriers.

Stat. Auth.: ORS 243.061 - 243.302

Stats. Implemented: ORS 183.310 - 183.550, 192.660, 243.061 - 243.302 & 292.05

Hist.: PEBB 1-1999, f. 12-8-99, cert. ef. 1-1-00; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 1-2009(Temp), f. & cert. ef. 2-24-09 thru 8-22-09

101-005-0030

Definitions

For the purposes of OARs 101-005-0010 through 101-006-0020 the following terms have the meanings indicated below.

(1) "Benefit Plan" includes, but is not limited to:

(a) Contracts for insurance or other benefit based on life; supplemental medical, supplemental dental, optical, accidental death or disability insurance; group medical, surgical, hospital, flexible spending account, or any other remedial care recognized by state law; and related services and supplies. "Benefit plan" includes comparable benefits for employees who rely on spiritual means of healing;

(b) Comparable benefits for employees who rely on spiritual means of healing;

(c) Self insurance programs managed by the Board; and

(d) Employee assistance programs.

(2) "Benefits" means those goods and services provided under Benefit Plans.

(3) "Board" means the Public Employees' Benefit Board.

(4) "Consultant" means consultants, brokers or other advisory personnel hired by the Board pursuant to ORS 243.125(5) to assist in acquiring adequate Benefit Plan coverage for eligible state employees; assist in the study of all matters connected with the provision of adequate Benefit Plan coverage for eligible state employees; assist in the development and implementation of decision-making processes; design and implement additional programs to review, monitor and assist in the improvement of Eligible Employees and their dependents' health; and provide other services as required by the Board.

(5) "Contractor" means an individual or firm selected to provide Benefits and other services with whom the Board contracts;

(6) "Eligible Employee" shall have the same definition as is described in ORS 243.105(4).

(7) "Emergency" means an unusual circumstance that creates a substantial risk of interruption of Benefit services which would that requires prompt execution of a contract to remedy the condition.

(8) "Proposal" means a competitive Proposal, binding on the Proposer and submitted in response to a Request for Proposals, where Proposal evaluation and contract award are based on criteria such as Proposer qualifications and experience, product features and characteristics, service quality and efficiency and conformance with the specifications and requirements of the solicitation. Price may be an evaluation criterion for Proposals, but will not necessarily be the predominant basis for contract award.

(9) "Proposer" means a person or entity who submits a Proposal in response to a Request for Proposals.

(10) "Renewal Contractors" and "Renewal Vendors" means those Contractors and Vendors who provided the same or similar employee Benefit Plan or other services under a contract with the Board in the year immediately prior. An employee Benefit Plan or other services contract is similar if it is reasonably related to the scope of work described in the procurement under which such a contract was awarded.

(11) "Request for Proposals" or "RFP" means the written document soliciting competitive written Proposals and setting forth the criteria and method to be used by the Board to determine the Responsible Proposers offering the best Responsive Proposals.

(12) "Responsible Proposer" shall have the meaning described in OAR 101-005-0130.

(13) "Responsive (Non-Responsive) Proposer" shall have the meaning described in OAR 101-005-0120.

(14) "Single Source" means the only vendor of a particular product or service reasonably available. If the Board chooses to procure a particular Benefit or service that is only available from one vendor, documentation must be maintained to support the determination that the product or service is available only from that one seller.

(15) "Formal Selection Procedure" means the process described in OAR 101-005-0040(1).

(16) "Informal Selection Procedure" means the process described in OAR 101-005-0040(2).

(17) "ORPIN" means the Oregon Procurement Information Network, an online service operated by the Department of Administrative Services that displays procurements and contracts issued by the State of Oregon's agencies.

(18) "Selection Committee" means the group of individuals comprised of PEBB staff, Board members, and/or constituents associated with PEBB who review, score, and recommend an Apparent Successful Proposer (ASP selected as a result of a RFP issued by PEBB) to the Board for approval.

(19) "Vendor" means the contractors with which PEBB will secure services that includes but is not limited to, printing and distributing Open Enrollment packets each year, newsletter construction and distribution each month, and online health information accessed by members.

Stat. Auth.: ORS 243.125(1)

Stats. Implemented: ORS 243.105(1), (2), & (4) & 243.125(5)

Hist.: PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 2-2005, f. 7-26-05, cert. ef. 7-29-05; PEBB 1-2009(Temp), f. & cert. ef. 2-24-09 thru 8-22-09

101-005-0040

Procurement and Renewal Processes

(1) Formal Selection Procedure: This procedure will be used for the procurement of Benefits and may be used for the procurement of other services. Exceptions to this procedure are specified in sections (2), (3), (4) and (5).

(a) Announcement: The Board will give notice of intent to contract for Benefits via the Vendor Information Program (VIP) System Oregon Procurement and Information Network (ORPIN), the Office of Minority, Women, and Small Emerging Business (OMWSEB), and in a trade periodical or newspaper of general circulation. The notice shall include a description of the Benefits or services sought, the scope of the services required, and a description of special requirements, if any. The notice will invite qualified prospective contractors to apply. The notice will specify when and where the application may be obtained, to whom it must be returned, and the closing date.

(b) Proposal: The Proposal from the prospective contractors will consist of a statement that describes the prospective contractor's credentials, performance data and other information sufficient to establish contractor's qualifications for providing the Benefits or services sought, as well as any other information requested in the announcement.

(c) Evaluation: The Board or its designees will evaluate the qualifications of all applicants and select prospective contractors as set forth in OAR 101-005-0110.

(d) Award of Contracts: The Board will make final selections based on the evaluation criteria including, but not limited to, applicant capability, experience, approach, compensation requirements, previous litigation and remedy applied, customer service history with PEBB, members, and clients; debarment status; and references, and will place emphasis on employee choice among high quality plans; plan performance and information; a competitive marketplace; employer flexibility in plan design and contracting; quality customer service; creativity and innovation; plan benefits as part of total employee compensation; the improvement of employee health; and applicable vendor services benefiting PEBB.

(2) Informal Selection Procedure: This procedure may be used at the Board's discretion, when the informal selection procedure will not interfere with competition among prospective contractors, reduce the quality of services, is an amount less than \$150,000 in contract costs, or will not increase costs. The Board will contact a minimum of three prospective contractors known to the Board to be qualified to propose the sought-after services. The selection will be made by the Board based upon the factors described in paragraph (1)(d) of this rule. If three quotes are not received, the Board will make a written record of its efforts to obtain quotes.

(a) An Amendment(s) may be issued to the contract, but the cumulative Amendment(s) shall not increase the total Contract cost to sum that is greater than twenty-five percent (25%) of the original Contract cost.

ADMINISTRATIVE RULES

(3) Single Source Procedure: PEBB may negotiate with a single source provider of Benefits if the services are available only from one contractor, or the prospective contractor has special skills uniquely required for the adequate performance of the services.

(a) An Amendment(s) may be issued to the contract, but the cumulative Amendment(s) shall not increase the total Contract cost to greater than twenty-five percent (25%) of the original Contract cost.

(4) Renewal Procedure: If the Board does not issue an RFP or Single Source procurements to solicit formal proposals from qualified potential Contractors or Vendors, the Board may directly negotiate and enter into renewal contracts each Plan Year with Renewal Contractors or Renewal Vendors to provide Benefits and other services without following the procedures set forth in sections (1) and (2) above. The Board may renew contracts with Renewal Contractors or Renewal Vendors for as many years as the Board determines is in the best interest of the state and employees. The Board may invite renewal Proposals from those Contractors or Vendors who provided the same or similar employee Benefit Plan or other services in the year immediately prior. An employee Benefit Plan or other services contract is similar if it is reasonable related to the scope of work described in the procurement under which such a contract was awarded. The Board will negotiate with Renewal Contractors or Renewal Vendors and enter into contracts with them after giving full consideration to the factors listed in paragraph (1)(d) or to such of those factors as the Board determines shall be evaluated for the renewal.

(5) Emergency Appointment Procedure: The Board may select a Benefit Plan or other service Contractor without following any of the above procedures when Emergency conditions require. In such instance, the recommended appointment and a written description of the conditions requiring the use of this appointment procedure shall be submitted to the Board. The Board will determine if an Emergency exists, declare the Emergency and negotiate a contract with the Contractor after giving full consideration to the factors listed in paragraph (1)(d).

Stat. Auth.: ORS 243.061 - 243.302
Stats. Implemented: ORS 243.135
Hist.: PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 2-2005, f. 7-26-05, cert. ef. 7-29-05; PEBB 1-2009(Temp), f. & cert. ef. 2-24-09 thru 8-22-09

101-005-0070

Contract Amendments (Including Supplemental Work)

An amendment for additional services that are reasonably related to the scope of work under the original Benefits Plan or other services' contract, including extra work, or change that increases the original contract price or length of time, may be made with the Contractor without re-entering the formal procurement process provided that the amendment is reasonably related to the scope of work described in the procurement under which such a contract was awarded.

Stat. Auth.: ORS 243.061 - 243.302
Stats. Implemented: ORS 243.135 & 243.125
Hist.: PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 2-2005, f. 7-26-05, cert. ef. 7-29-05; PEBB 1-2009(Temp), f. & cert. ef. 2-24-09 thru 8-22-09

101-005-0080

RFP Protest; Request for Change; Request for Clarification

(1) Protest.

(a) Unless otherwise specified in the RFP, a Proposer must deliver a written protest to the Board not less than 10 (ten) calendar days prior to closing;

(b) Content of Protest. A Proposer's written protest shall include:

(A) A detailed statement of the legal and factual grounds for the protest;

(B) A description of the resulting prejudice to the Proposer; and

(C) A statement of the desired changes to the RFP.

(2) Request for Change.

(a) Unless otherwise specified in the RFP, a Proposer may request in writing a change to the Contract terms and conditions. If the RFP allows for a Proposer to make a request for changes, and unless otherwise specified in the RFP, a Proposer must deliver the written request for change to the Board not less than 10 (ten) calendar days prior to closing;

(b) A Proposer's written request for change shall include a statement of the requested changes to the Contract terms and conditions, including specifications together with the reason for the requested change.

(3) Board Response. The Board shall not consider a Proposer's request for change or protest after the deadline established for submitting such request or protest. The Board shall provide notice to the applicable entity if it entirely rejects a protest. If the Board agrees with the entity's request or protest, in whole or in part, the Board shall either issue an adden-

dum reflecting its determination under OAR 137-047-0430 or cancel the solicitation under OAR 137-047-0660.

(4) Extension of Closing. If the Board receives a written request for change or protest from a Proposer in accordance with this rule, the Board may extend closing if the Board determines an extension is necessary to consider the request or protest and to issue an addendum, if any, to the RFP.

(5) Clarification. Prior to the deadline for submitting a written request for change or protest, a Proposer may request that the Board clarify any provision of the RFP. The Board's clarification to a Proposer, whether orally or in writing, does not change the RFP and is not binding on the Board unless the Board amends the RFP by addendum.

Stat. Auth.: ORS 243.061 - 243.302
Stats. Implemented: ORS 243.135 & 243.125
Hist.: PEBB 1-2003, f. & cert. ef. 12-4-03; PEBB 1-2004, f. & cert. ef. 7-2-04; PEBB 2-2005, f. 7-26-05, cert. ef. 7-29-05; PEBB 1-2009(Temp), f. & cert. ef. 2-24-09 thru 8-22-09

101-030-0026

Employer Designated Protected Leaves

The State of Oregon as the employer may from time to time designate leave without pay as protected leave. Protected leave does not affect an employee's eligibility or current enrollment in medical, dental, and employee basic life insurance. Employee furlough without pay is an example of employer designated protected leave.

Stat. Auth.: ORS 243.061 - 302
Stats. Implemented: ORS 243.061-302 & 292.05
Hist.: PEBB 1-2009(Temp), f. & cert. ef. 2-24-09 thru 8-22-09

Department of Corrections Chapter 291

Rule Caption: Prison Term Modification of Sentences of Inmates.

Adm. Order No.: DOC 2-2009

Filed with Sec. of State: 3-10-2009

Certified to be Effective: 3-10-09

Notice Publication Date: 10-1-2008

Rules Amended: 291-097-0005, 291-097-0010, 291-097-0015, 291-097-0020, 291-097-0025, 291-097-0040, 291-097-0050, 291-097-0060, 291-097-0070, 291-097-0080, 291-097-0100, 291-097-0120
Rules Ren. & Amend: 291-097-0110 to 291-097-0140

Subject: The Department has adopted a counselor caseload initiative that gives counselors additional time to perform new job duties in support of the Department's mission and the Oregon Accountability Model. These amendments are necessary to reflect changes from the counselor caseload initiative that impacts the procedures for calculating, applying, retracting and restoring earned time credits. Certain functions performed by institution counselors have been transferred to the Offender Information and Sentence Computation Unit and Inmate Central Services. Counselors will still be involved with determining an inmate's compliance with his/her Oregon Corrections Plan. These revisions correctly identify which Department staff has responsibility for processing earned time, clarifies how earned time credit is granted, and outlines what an inmate must do to obtain an administrative review.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-097-0005

Authority, Purpose, and Policy

(1) Authority: The authority for this rule is granted to the Director of the Department of Corrections in accordance with ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120, 421.121, 421.122, 423.020, 423.030 and 423.075.

(2) The purpose of this rule is to establish procedures for calculating, applying, retracting, and restoring earned time, statutory good time and extra good time credits, and for recommending modifications of parole release dates to the Board of Parole and Post-Prison Supervision, for inmates sentenced for crimes committed on or after November 1, 1989 (sentencing guidelines), and for inmates sentenced for crimes committed prior to November 1, 1989 (matrix sentences). The changes to the prison term modification rules OAR 291-097-0005 through 291-097-0130 are effective August 4, 2008.

(3) Policy:

(a) It is the policy of the Department of Corrections that inmates serving sentences for crimes committed on or after November 1, 1989 (sentencing guidelines), may be considered for a reduction in their term of incarceration pursuant to ORS 421.121, as set forth in these rules.

ADMINISTRATIVE RULES

(A) Inmates sentenced under sentencing guidelines may be eligible to earn sentence reduction credits (earned time credits) up to a maximum of 20 percent of each sentencing guidelines sentence.

(B) The earned time credits received by the inmate are dependent on compliance with his/her Oregon Corrections Plan and institution conduct.

(C) Earned time credits are designed to provide a minimum amount of time credits necessary to serve as adequate incentive for appropriate institutional behavior and program participation.

(b) It is the policy of the Department of Corrections that inmates serving sentences for crimes committed prior to November 1, 1989 (pre-sentencing guidelines sentences), may be eligible for prison term reduction credits (statutory good time and extra good time credits) pursuant to ORS 421.120, as set forth in these rules.

(c) It is the policy of the Department of Corrections that inmates sentenced for crimes committed prior to November 1, 1989 (pre-sentencing guidelines sentences), may be eligible to receive a recommendation from the Department to the Board of Parole and Post-Prison Supervision that the inmate receive prison term reduction credits for an earlier date, as set forth in these rules.

(d) It is the policy of the Department of Corrections to develop Oregon Corrections plans on all inmates assigned to a Department of Corrections facility.

(e) It is the policy of the Department of Corrections to not calculate earned time for boarders from another state or those inmates serving pre-sentencing guidelines sentences or sentences of death, life without the possibility of parole or life with the possibility of parole.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030, 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030, 423.075

Hist.: CD 14-1990, f. & cert. ef. 7-2-90; CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09

291-097-0010

Definitions

(1) Earned Time Credits: Sentence reduction credits (days), up to 20 percent of the sentence imposed, that can be earned by an inmate sentenced under sentencing guidelines, pursuant to ORS 421.121, and these rules. The inmate earns the reductions by compliance with his/her Oregon Corrections Plan and institution conduct.

(2) Earned Time Release Date: The release date that has been achieved by an inmate, calculated by subtracting the earned time credits accrued from the maximum date.

(3) Extra Good Time Credits: Sentence reduction credits (days) that can be earned by an inmate sentenced for crimes committed prior to November 1, 1989 (pre-sentencing guidelines), for satisfactory work assignment or participation in an educational program, pursuant to ORS 421.120(1)(c), (d) and (e) and 421.122, and these rules. Days earned reduce the statutory good time date. Methods of computation are delineated in OAR 291-097-0070.

(4) Final Review Period: An increment of at least four months prior to an inmate's projected release date.

(5) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of services or coordination of programs.

(6) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, Deputy Director, or an Assistant Director and has responsibility for the delivery of program services or coordination of program operations.

(7) Judgment: Document issued by the court that commits an inmate to the legal and physical custody of the Department of Corrections, and reflects the inmate's term of incarceration, term of post-prison supervision, and court-ordered supervision conditions, if any.

(8) Inmate: Any person under the supervision of the Department of Corrections who is not on parole, post-prison supervision or probation status.

(9) Offender: Any person under the supervision of the Department of Corrections, local supervisory authority or community corrections who is on probation, parole or post-prison supervision status.

(10) Offender Information & Sentence Computation Unit (OISC): The functional unit charged to administrate applicable statutes pertaining to sentencing; develop, implement and revise applicable processes for inmate and offender sentence computation; respond to public information requests with regard to inmates and offenders; certify an inmate's release date; and provide supportive services to Department facilities with regard to inmate sentencing.

(11) Oregon Corrections Plan (OCP): An automated case management tool incorporated into the Corrections Information System that serves as the primary tool for tracking an inmate's progress in working to mitigate the identified risk factors.

(12) Parole Release Date: The date on which an inmate is ordered to be released from an indeterminate prison sentence(s) to parole by the Board of Parole and Post-Prison Supervision. Parole release may be to the community, detainer or to another Department of Corrections sentence.

(13) Pre-Sentence: That period of time a defendant spends in physical custody or incarceration from the point of arrest to the date of delivery to the Department to serve that sentence.

(14) Prison Term:

(a) Sentencing Guidelines Sentences: The length of incarceration time within a Department of Corrections facility as established by the court in the judgment.

(b) Pre-Sentencing Guidelines Sentences: The length of required incarceration time within a Department of Corrections facility as established by the order of the Board of Parole and Post-Prison Supervision setting of a parole release date.

(15) Prison Term Analyst: The staff person from OISC responsible for calculating inmates' sentences, applying sentence reduction credits and establishing release dates pursuant to applicable rules and statutes.

(16) Projected Release Date: The date upon which an inmate is anticipated to complete service of the prison term.

(17) Restoration of Earned Time, Statutory Good Time, Extra Good Time Credits: Where previously retracted earned time, statutory good time, extra good time and previously forfeited statutory good time and extra good time for parole violators are granted and applied back to the inmate's sentence.

(18) Retraction: Where previously granted earned time, statutory good time or extra good time credits are forfeited by an inmate as a result of a significant negative action on the part of the inmate, in accordance with the rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105), or forfeiture of program earned time credits granted following the effective date of this rule for inmates identified for residential alcohol and drug treatment (SCF 25) who fail to satisfactorily complete the prescribed program during their term of incarceration.

(19) Review Period: A six-month increment, beginning with an inmate's admission date, used to determine an inmate's compliance with institution behavior and his/her OCP.

(20) Short-Term Transitional/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 leave is granted in accordance with ORS 421.510 and the Department's rule on Short-Term Transitional Leave, Emergency Leaves, and Supervised Trips (OAR 291-163).

(21) Special Case Factor 25: An inmate identified as both highly criminal and highly involved with drugs or alcohol through intake screening or subsequent assessment who is required to participate and complete a residential alcohol and drug program if available prior to the inmate's release.

(22) Statutory Good Time Credits: Prison term reduction credits (days) applicable to sentences for crimes committed prior to November 1, 1989 (matrix sentences) consisting of a reduction of one day for every two days served, pursuant to ORS 421.120(1)(a) and (b), and these rules. The application of statutory good time days establishes the initial statutory good time date and is re-calculated upon parole revocation based on the length of the remaining sentence.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030, 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 - 421.122, 423.020, 423.030, 423.075

Hist.: CD 14-1990, f. & cert. ef. 7-2-90; CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2000, f. & cert. ef. 6-26-00; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09

291-097-0015

Earned Time Credits

Pursuant to ORS 421.121, inmates sentenced under sentencing guidelines, except inmates subject to the provisions of 137.635, inmates serving presumptive sentences or required incarceration terms under 161.737, inmates serving statutory minimum sentences under ORS 137.700 or 137.707, inmates serving a presumptive sentence under ORS 137.719, inmates subject to 137.750 whose judgments do not state that they may be considered for sentence reductions, inmates serving time as a sanction for violation of conditions of post prison supervision, and any other Oregon

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statutes restricting earned time credits, may earn sentence reduction credits up to 20 percent of the total sentencing guidelines prison term imposed for acceptable participation in OCP requirements and for maintaining appropriate institution conduct.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Hist.: CD 14-1990, f. & cert. ef. 7-2-90; CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 3-1998(Temp), f. & cert. ef. 2-20-98 thru 8-17-98; DOC 19-1998, f. & cert. ef. 8-14-98; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09

291-097-0020

Calculation and Application of Earned Time Credits

(1) The maximum amount of earned time credits is 20 percent of the total sentencing guidelines sentence. In determining whether an inmate will receive earned time credits for the review period under consideration, inmate performance will be evaluated in two areas: 10 percent for compliance with the Oregon Corrections Plan and 10 percent for maintaining appropriate institution conduct. The only possible determination for each area is noncompliance or compliance.

(a) Oregon Corrections Plan compliance is defined as acceptable participation in work and self-improvement programs required within the OCP. The required activities within the OCP are determined by ongoing assessment and evaluation, which begins at the inception of the inmate prison term.

(A) An inmate will be considered to be compliant if he/she was not failed from the required program activity(ies) during the review period under consideration, nor did the inmate refuse to participate in required programming during the review period under consideration. As needed, the counselor will communicate with the treatment or program providers as well as work crew supervisors to evaluate an inmate's compliance with the required program activity(ies). If the inmate's counselor determines the inmate is non-compliant with the OCP, he/she will approve a program failure for documentation in the inmate's computer record.

(B) Inmates identified as needing Residential Alcohol and Drug treatment (SCF 25), and who are not within the timeframes for the program will not be responsible for entering or completing that specific program activity, but will be held responsible for completing all other available required activities identified within the OCP. However, any program earned time previously applied will be retracted during the final review period if it is determined the inmate has refused to enter, or failed to complete a residential alcohol and drug program prior to release.

(b) Institution conduct compliance is defined as maintaining major misconduct-free behavior during the review period. Major misconduct is documented in accordance with the Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105). Any finding of major misconduct violation during the review period will be considered as noncompliance. The date of the adjudication, not of the incident, will be used for the date of the violation.

(2) At the end of the review period, the prison term analyst will review the inmate's computer records for information reflecting the inmate's compliance with the current Oregon Corrections Plan and institution conduct. Based on the information contained in the inmate's computer records, the prison term analyst will apply an effective 0, 10, or 20 percent reduction to the sentencing guidelines sentence proportional for the review period under consideration.

(3) For inmates housed in non-Oregon Department of Corrections facilities, the designated counselor will review the inmate's institution file including any reports received from the housing facility to determine compliance with the current OCP and institution conduct.

(a) OCP compliance will be determined by the inmate's reported compliance with requirements as determined by Department staff or the housing facility staff.

(b) Due process comparable to the Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105) shall be applied. Institution conduct non-compliance will be determined by substituting the rule(s) of prohibited conduct, for the rule(s) violated at the housing facility, with the most equivalent charges as defined in the Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105). The functional unit manager or designee may impose sanctions, in addition to that imposed by the housing facility, related to sentence reductions.

(4) For each review period under consideration for inmates housed in Oregon Department of Corrections facilities, the prison term analyst will list the reasons for applying or not applying earned time credits and record

the corresponding percentage of earned time applied to the inmate's sentence on the Earned Time Computation Form (CD 1154D). For inmates housed in non-Oregon Department of Corrections facilities, the designated counselor will list the reasons for applying or not applying earned time credits and record the corresponding percentage of earned time applied on the Earned Time Computation Form (CD 1154D).

(5) Upon the prison term analyst's or counselor's application of earned time credits toward an inmate's sentence for the review period under consideration, the OISC Unit will recompute the inmate's new earned time release date, file the Earned Time Computation Form (CD 1154D) in the institution file, and provide a copy of the determination to the inmate.

(6) Determination of Earned Time Credits During Presentence Incarceration: For crimes committed on or after November 1, 1989, earned time credits will be computed for the period in which an inmate is in custody in a non-Department of Corrections facility prior to sentencing and admission to the Department of Corrections, based solely on the inmate's conduct in the facility.

(a) Conduct compliance will be assumed, unless the Department receives documentation of adjudicated misconduct from the facility. The inmate will be granted an effective 0 or 20 percent reduction toward the sentencing guidelines sentence proportional for the length of presentence incarceration.

(b) Any verified misconduct during any of the presentence incarceration credits applied to the sentence will result in an effective 0 percent reduction toward the sentencing guidelines sentence proportional for the total length of presentence incarceration. Conduct compliance will result in an effective 20 percent reduction in the sentencing guidelines prison term proportional for the length of presentence incarceration.

(7) If the inmate escapes, the prison term analyst will close out the current earned time review period, changing the current review period to end the day after escape. An inmate that is returned from an escape to a Department of Corrections facility will have the starting date of the new earned time credit cycle begin with the date of return. The escape will constitute a program failure for the period up to the escape.

(8) Alternative Incarceration Program:

(a) If, during any review period, the inmate is assigned to an Alternative Incarceration Program and for sufficient justification as determined by the functional unit manager's committee to be unsuccessful, the inmate will be considered a program failure as provided by the Department's rule on Alternative Incarceration Programs (OAR 291-062).

(b) If the inmate fails to successfully complete the short-term transitional leave (non-prison leave) granted through the Alternative Incarceration Program, the inmate will be considered a program failure and non-compliant with institution conduct from the effective date of the short-term transitional leave until he/she is returned to a Department of Corrections facility.

(9) Determination of earned time credits for inmates on non-AIP transitional leave:

(a) Earned time credits will be computed for the period in which an inmate is serving the remainder of his/her sentencing guidelines term of incarceration on short-term transitional leave (OAR 291-063). Institution conduct and Oregon Corrections Plan compliance will be assumed while an inmate is released on short-term transitional leave. An inmate will be granted an effective 0 or 20 percent reduction toward the sentencing guidelines sentence proportional for the length of the inmate's short-term transitional leave.

(b) A revocation of an inmate's short-term transitional leave is deemed non-compliance with the inmate's Oregon Corrections Plan and non-compliance with institution conduct. Upon revocation of short-term transitional leave, an inmate will receive an effective 0 percent reduction for OCP compliance and 0 percent reduction toward the sentencing guidelines sentence for institutional conduct proportional for the length of the inmate's short-term transitional leave.

(10) If all of an inmate's sentence(s) is vacated, reversed and remanded for new trial, or conviction affirmed and remanded for resentencing, the prison term analyst will close out the current earned time review period to end the day after release to the sentencing court. An inmate that is returned on a resentencing will start a new review period, effective the date of return to a Department of Corrections facility. The new earned time credit cycle date will be reflected on the inmate's facesheet.

(11) Determination of earned time credits for inmates serving the remainder of a sentencing guidelines sentence on conditional release (Second Look):

(a) Earned time credits will be computed for the period in which an inmate is serving the remainder of his/her sentencing guidelines term of

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incarceration in the community on conditional release, based solely on the inmate's compliance with his/her conditional release plan.

(b) Conduct compliance will be assumed, unless the inmate's conditional release is revoked by the sentencing court.

(c) The inmate will be granted an effective 0 or 20 percent reduction in the sentencing guidelines prison term for the length of the remainder of his/her sentence being served in the community on conditional release. The inmate will receive an effective 20 percent reduction in the sentencing guidelines prison term for the length of the remainder of the inmate's sentence being served in the community on conditional release.

(d) Any revocation of an inmate's conditional release prior to the inmate reaching his/her projected earned time date will result in an effective 0 percent reduction in the sentencing guidelines prison term for the length of the inmate's sentence being served in the community on conditional release.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Hist.: CD 14-1990, f. & cert. ef. 7-2-90; CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2000, f. & cert. ef. 6-26-00; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09

291-097-0025

Retraction of Earned Time Credits

Time credits previously earned or applied will be retracted as follows:

(1) The inmate is found guilty of a major rule violation after a formal disciplinary hearing or upon waiver of the inmate's right to a hearing, and the disciplinary order directs that earned time credits earned or applied be forfeited in accordance with the Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291 105). A recommendation for retraction of earned time shall be within the range corresponding to the violation level as set forth in Table 1. A recommendation for retraction of earned time credits may not exceed the amount previously applied.

(2) Inmates identified as needing residential alcohol and drug treatment (SCF 25) who have not completed the prescribed program by their final review period will have all previously applied earned time for program compliance retracted from the first full review period following September 1, 1996. Retraction of program earned time may not exceed the amount previously applied.

(a) If earned time is retracted during or after the final review period in which a final release date is calculated, the release date will be adjusted by the OISC Unit. After such a retraction, the new release date will remain as established by the OISC Unit and that inmate shall be ineligible for any future earned time credit.

(b) The prison term analyst will contact the counselor for confirmation of whether an SCF 25 inmate requires a retraction at the time of the final review. SCF 25 retractions will be documented in writing by the counselor.

(3) Failure to comply with the OCP during the final review period will result in a retraction of the portion of the earned time credits for program compliance advanced at the beginning of the final review period. The prison term analyst will document the retraction on the Earned Time Computation form (CD 1154D).

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

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Hist.: CD 14-1990, f. & cert. ef. 7-2-90; CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09

291-097-0040

Determination of Earned Time Credits During Final Review Period for Sentencing Guideline Sentences

(1) Four months prior to an inmate's projected release date, prison term analysts (or the designated counselor for inmates housed in non-Oregon Department of Corrections facilities) will conduct a final review of inmates' earned time compliance. Final reviews will be conducted only for inmates serving a sentencing guidelines sentence. Prison term analysts will advance and apply earned time credits for the final review period as follows:

(a) Except for residential alcohol and drug treatment (SCF 25) inmates, an inmate's full compliance with the OCP and institutional behavior will be assumed during the final review period. The prison term analyst will apply an effective 20 percent reduction in sentence for the final review

period and the OISC Unit will recompute the inmate's new earned time release date.

(b) For residential alcohol and drug treatment (SCF 25) inmates, only institutional behavior compliance will be assumed during the final review period unless the inmate has successfully complied with his/her Oregon Corrections Plan at the time of the final review.

(A) If the inmate has successfully complied with his/her Oregon Corrections Plan at the time of the final review, the prison term analyst will apply an effective 20 percent reduction in sentence for the final review period and the OISC Unit will recompute the inmate's new earned time release date.

(B) If the inmate has not successfully complied with his/her Oregon Corrections Plan at the time of the final review, the prison term analyst will apply an effective 10 percent reduction in sentence for the final review period and the OISC Unit will recompute the inmate's new earned time release date.

(2) If, after the completion of a final review and advancement of earned time credits for the final review period, the inmate's prison term is extended as a result of a new sentence or an adjustment in presentence time, the prison term analyst will delete the final review and any earned time credits advanced for the final review period. The prison term analyst will complete a new Earned Time Computation form (CD 1154D) to assure that the extended prison term is reviewed in accordance with these rules.

(3) If, after the completion of a final review and advancement of earned time credits for the final review period, the inmate's prison term is reduced, the OISC Unit will adjust the final review period and any earned time credits advanced for the final review period provided the inmate was in full compliance with his/her Oregon Corrections Plan and institutional behavior at the time of the final review. If the inmate was in partial compliance with his/her Oregon Corrections Plan or institutional behavior at the time of the final review, the prison term analyst will delete the final review and any earned time credits advanced for the final review period. The prison term analyst will complete a new Earned Time Computation form (CD 1154D) to assure that the reduced prison term is reviewed in accordance with these rules.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Hist.: CD 14-1990, f. & cert. ef. 7-2-90; CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09

291-097-0050

Administrative Review

(1) An inmate may obtain an independent review of the determination of his/her OCP performance as documented by the prison term analyst or designated counselor (for inmates housed in non-Oregon Department of Corrections facilities) for each review period by writing to the Office of Population Management and requesting an administrative review of the determination.

(a) The review request must be in writing on an Inmate Communication form (CD 214), and must state the reason(s) why the inmate believes the determination is not correct. A copy of the Earned Time Computation form under review must also be submitted.

(b) Requests for administrative review must be received by the Office of Population Management no later than 30 days after final determination as indicated on the Earned Time Computation form.

(2) Residential alcohol and drug treatment candidates (SCF 25) who have not completed the prescribed program and who have their program time retracted may request an administrative review under the same guidelines in section (1) above.

(3) If an inmate submits a proper and timely request for administrative review the Office of Population Management shall review the determination, and either approve or modify the determination, in writing, within 30 days after receipt of the request. A copy of the order shall be provided to the inmate, his/her assigned counselor, and OISC.

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

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Hist.: CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09

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291-097-0060

Statutory Good Time Credits

(1) Pursuant to ORS 421.120(1)(a) and (b), and these rules, each inmate confined in execution of the judgment of sentence upon any conviction for a crime committed prior to November 1, 1989, for any term other than life, who has acceptably participated in the requirements of their Oregon Corrections Plan and has maintained appropriate conduct, shall be entitled to a deduction from the term of sentence.

(2) The deduction shall be computed as follows:

(a) From the term of a sentence of not less than six months nor more than one year, one day shall be deducted for every six days of such sentence actually served in the Department of Corrections facility.

(b) From the term of a sentence of more than one year, one day shall be deducted for every two days of such sentence actually served in the Department of Corrections facility.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Hist.: CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09

291-097-0070

Extra Good Time Credits

(1) Pursuant to ORS 421.120(1)(c), (d), (e), 421.122, and these rules, each inmate confined in execution of the judgment of sentence upon any conviction for a crime committed prior to November 1, 1989, for any term other than life, who has acceptably participated in his/her Oregon Corrections Plan and has maintained appropriate institutional conduct shall be entitled to a deduction from the term of sentence to be computed as follows:

(a) From the term of any sentence:

(A) One day shall be deducted for every 15 days of work actually performed in prison industry, or in meritorious work in connection with prison maintenance and operation, or of enrollment in an educational activity as certified by the educational director of the institution during the first year of prison employment or educational activity; and

(B) One day shall be deducted for every seven days of such work actually performed or educational activity certified after the first year to and including the fifth year of prison employment or educational activity certified; and

(C) One day for every six days of such work actually performed or educational activity certified after the fifth year of prison employment.

(b) From the term of any sentence, one day shall be deducted for every 10 days of work actually performed in agriculture during the first year of prison employment, and one day for every six days of such work actually performed thereafter.

(c) From the term of any sentence one day shall be deducted for every six days of work performed at work camp during the first year of prison employment and one day for every four days thereafter. Once the four-day rate is achieved, it may be applied to subsequent work or release programs while the inmate is serving the same term.

(2) Extra good time credits applied pursuant to ORS 421.120(1)(c), (d), (e), 421.122, and these rules, shall be in addition to statutory good time credits granted pursuant to ORS 421.120(1)(a) and (b), and these rules. For purposes of this rule, "meritorious" is synonymous with satisfactory performance.

(3) For purposes of these rules, "prison employment" includes actual work in Oregon Correctional Enterprises, meritorious work in connection with prison maintenance and operation, actual work in agriculture and actual work at work camp. Performance shall be considered meritorious unless removed from the work assignment for unsatisfactory performance.

(4) No statutory good time or extra good time credits earned or applied prior to acceptance and release on parole shall be granted to an inmate upon return to a Department of Corrections facility for a service of a term of incarceration as a sanction for violation of any condition of parole, except when authorized by the Board of Parole and Post-Prison Supervision upon recommendation of the functional unit manager thereof.

(5) Rate attained for calculation of extra good time credits prior to release on parole shall be voided upon an inmate's return to a Department of Corrections facility for violation of any condition of parole, except when authorized by the Board of Parole and Post-Prison Supervision.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Hist.: CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09

291-097-0080

Retraction of Statutory Good Time and Extra Good Time Credits

Statutory good time and extra good time credits previously earned or applied may be retracted as a result of a disciplinary action as follows:

(1) The inmate is found guilty of a major rule violation after a formal disciplinary hearing or upon waiver of the inmate's right to a hearing, and the disciplinary order directs that time credits earned/granted are forfeited in accordance with the Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105) and **Table 2** attached.

(2) A recommendation for retraction of statutory good time and extra good time credits may not exceed the amount previously earned or applied.

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

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Hist.: CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09

291-097-0100

Inmates With Indeterminate Sentences of More than Thirty-six Months

(1) The functional unit manager may recommend to the Board of Parole and Post-Prison Supervision that an inmate receive prison term reduction credits in those cases where the inmate has received a parole release date set from the Board of Parole and Post-Prison Supervision of 36 months or more, if:

(a) The inmate has applied for a reduction and the period under review falls within the established prison term;

(b) The inmate has completed a three-year period of good conduct; and

(c) The inmate has complied with OCP efforts to address problems associated with the inmate's criminal conduct present at the time of incarceration.

(d) Notwithstanding (b) and (c) above, the functional unit manager may consider significant improvement in inmate behavior and OCP efforts during the last 12 months of the three-year period and recommend that the parole release date be reset.

(2) Three-Year Period of Good Conduct: For purposes of these rules, an inmate shall be considered to have maintained a three-year period of good conduct if:

(a) The inmate has not received any Level I - II rule violations as defined in the Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105) during the three years under review.

(b) The inmate has not received three or more Level III - V rule violations as defined in the Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105).

(c) Notwithstanding (a) and (b) above, upon finding that an inmate has committed a Level IV or V rule violation as defined in the Department's rule on Prohibited Inmate Conduct and Processing Disciplinary Actions (OAR 291-105), after a formal disciplinary hearing or upon waiver of the inmate's right to hearing, the hearings officer may recommend to the functional unit manager that the inmate not be considered for a positive recommendation for prison term reduction within a three-year period from the date of the rule violation.

(3) Demonstrable Achievement in Addressing Problems Associated with the Inmate's Criminal Conduct Present at the Time of Incarceration: For purposes of these rules, an inmate shall be considered to have made demonstrable achievement in addressing problems associated with the inmate's criminal conduct present at the time of incarceration if the inmate has received favorable reports for his/her successful participation in one or more self-improvement programs appropriate to his/her need as determined by departmental assessment captured in the OCP (to the extent these specific programs are available to the inmate). An inmate will be considered to be successfully participating in a self-improvement program if he/she is documented to be registered on a waiting list for the program within 30 days of the development of the OCP.

(4) Inmates serving a term of incarceration in a Department of Corrections facility as a sanction for violation of parole or post-prison supervision are ineligible for consideration for a positive recommendation.

(a) Inmates sentenced for aggravated murder or as dangerous offenders, and those whose parole the Board of Parole and Post-Prison Supervision denied are not subject to personal reviews.

(b) Dangerous offenders may be eligible for personal reviews upon receipt of a positive recommendation from the Department of Corrections,

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if the Board of Parole and Post-Prison Supervision has found their condition absent or in remission and has set a parole release date.

(5) The functional unit manager or designee will review the recommendation of the counselor, approve/deny or otherwise modify the recommendation, and send the determination to the Board of Parole and Post-Prison Supervision on an action sheet and supplemental report for the Board's consideration.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Hist.: CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09

291-097-0120

Inmates With Indeterminate Sentences of Thirty-Six Months or Less

(1) The functional unit manager may recommend to the Board of Parole and Post-Prison Supervision that an inmate's parole release date be reset to an earlier date in those cases where the inmate has received a parole release date set from the Board of Parole and Post-Prison Supervision of 36 months or less, if:

(a) The inmate has been incarcerated in a Department of Corrections facility for at least six months; and

(b) The inmate's performance in two areas, the OCP and institution conduct, as set forth in the criteria for calculation and application of earned time credits in OAR 291-097 0020 warrants a positive recommendation.

(2) Inmates serving a term of incarceration in a Department of Corrections facility as a sanction for violation of parole or post-prison supervision are ineligible for consideration for a positive recommendation.

(3) Inmates sentenced to a minimum term of incarceration pursuant to ORS 144.110 (judicial minimum) or 161.610 (gun minimum), are ineligible for consideration for a positive recommendation, until such minimum incarceration term has been served.

(4) Inmates serving an enhanced sentence pursuant to ORS 161.725 and 161.735 (dangerous offender), or pursuant to ORS 426.725 (sexually dangerous offender), are ineligible for consideration for a positive recommendation.

(5) At the end of the review period, based upon six-months increments beginning with the inmate's admission date, a counselor will evaluate the inmate's eligibility, consistent with OAR 291-097-0020(3), for a positive recommendation based on the criteria set forth above. Based upon the inmate's performance, the counselor will recommend to the functional unit manager or designee that the inmate be considered by the Board of Parole and Post-Prison Supervision for a 0, 10 or 20 percent reduction in the prison term set by the Board, and a corresponding parole release date.

(6) The functional unit manager or designee will review the recommendation of the counselor, approve/deny or otherwise modify the recommendation, and send the determination to the Board of Parole and Post-Prison Supervision on an action sheet for the Board's consideration.

Stat. Auth.: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120-122, 423.020, 423.030 & 423.075

Hist.: CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; DOC 2-2009, f. & cert. ef. 3-10-09

291-097-0140

Administrative Review

(1) An inmate may obtain an independent review of the determination of his/her referral to the Board of Parole and Post-Prison Supervision for a modification of the parole release date set by writing to the Office of Population Management and requesting an administrative review of the determination.

(a) The review request must be in writing on an inmate communication form (CD 214) and must state the reason(s) why the inmate believes the functional unit manager's or designee's decision not to refer the request to the Board of Parole and Post-Prison Supervision is not correct.

(b) Requests for administrative review must be received by the Office of Population Management no later than 30 days after the date of the determination.

(2) If an inmate submits a proper and timely request for administrative review, the Office of Population Management shall review the determination and either approve or modify the determination in writing to the inmate and functional unit manager within 30 days after the receipt of the request for administrative review.

Stat Auth: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 to 421.122, 423.020, 423.030 and 423.075

Stat Impl: ORS 137.635, 144.108, 144.110, 161.610, 179.040, 421.120 to 421.122, 423.020, 423.030 and 423.075

Hist.: CD 17-1993, f. 6-7-93, cert. ef. 6-9-93; CD 11-1996, f. 8-27-96, cert. ef. 9-1-96; DOC 18-2001, f. & cert. ef. 10-12-01; DOC 23-2008(Temp), f. & cert. ef. 9-12-08 thru 3-10-09; Renumbered from 291-097-0110, DOC 2-2009, f. & cert. ef. 3-10-09

Department of Fish and Wildlife Chapter 635

Rule Caption: Establish 2009 Seasons and regulations for Game Mammals.

Adm. Order No.: DFW 13-2009

Filed with Sec. of State: 2-19-2009

Certified to be Effective: 3-1-09

Notice Publication Date: 9-1-2008

Rules Amended: 635-068-0000

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

635-068-0000

Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting western Oregon deer 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 068 by reference.

(3) OAR chapter 635, division 068 incorporates, by reference, the requirements for hunting western Oregon deer 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 deer. The annual Oregon Big Game Regulations are available at authorized 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 39-1988, 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. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 3-2003, f. 1-17-03, cert. ef. 1-20-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 121-2003, f. 12-4-03, cert. ef. 1-19-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 124-2004, f. 12-21-04, cert. ef. 3-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 131-2005, f. 12-1-05, cert. ef. 3-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 125-2006, f. 12-4-06, cert. ef. 3-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 116-2007, f. 10-31-07, cert. ef. 3-1-08; DFW 60-2008, f. & cert. 6-12-08; DFW 13-2009, f. 2-19-09, cert. ef. 3-1-09

Rule Caption: Commercial Directed Sardine Fishery Closed Through June 30, 2009.

Adm. Order No.: DFW 14-2009(Temp)

Filed with Sec. of State: 2-23-2009

Certified to be Effective: 2-23-09 thru 6-30-09

Notice Publication Date:

Rules Amended: 635-004-0016

Rules Suspended: 635-004-0016(T)

Subject: This amended rule adopts management measures for the 2009 commercial directed fishery for Pacific sardines that are consistent with federal regulations approved by the Pacific Fishery Management Council (PFMC). In accordance with PFMC management measures, these rule modifications close the fishery through June 30, 2009.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-004-0016

Harvest Guideline

(1) This rule incorporates, by reference, the sardine management measures for 2009 included in the Pacific Council List of Decisions for the November 2008 **Pacific Fishery Management Council Meeting**, and in

ADMINISTRATIVE RULES

addition to the extent they are consistent with these rules. **Code of Federal Regulations, Title 50 Part 660**, as amended to incorporate the standards recommendations of the Pacific Council. Therefore, persons must consult the Federal Regulations in addition to this rule to determine all applicable sardine fishing requirements. Where regulations refer to the fishery management area, that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone.

(2) Notwithstanding the management measures in section (1) above, effective 12:01 a.m. February 20, 2009, the directed fishery for Pacific sardines is closed through June 30, 2009.

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

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.129

Hist.: DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 69-2008(Temp), f. & cert. ef. 6-24-08 thru 12-20-08; DFW 89-2008(Temp), f. & cert. ef. 8-6-08 thru 12-31-08; DFW 116-2008(Temp), f. & cert. ef. 9-22-08 thru 12-31-08; DFW 155-2008(Temp), f. 12-30-08, cert. ef. 1-1-09 thru 6-29-09; DFW 14-2009(Temp), f. & cert. ef. 2-23-08 thru 6-30-09

Rule Caption: Amended Sport Sturgeon and Chinook Salmon Seasons for Willamette River Downstream of Willamette Falls.

Adm. Order No.: DFW 15-2009

Filed with Sec. of State: 2-25-2009

Certified to be Effective: 2-25-09

Notice Publication Date: 1-1-2009

Rules Amended: 635-017-0090, 635-017-0095

Rules Repealed: 635-017-0090(T), 635-017-0095(T)

Subject: Amended rules relating to sport sturgeon and Spring Chinook salmon fishing in the Willamette River downstream of Willamette Falls (including Multnomah Channel and the lower Clackamas River downstream of Highway 99 Bridge).

Rules Coordinator: Therese Kucera—(503) 947-6033

635-017-0090

Inclusions and Modifications

(1) The **2009 Oregon Sport Fishing Regulations** provide requirements for the Willamette Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2009 Oregon Sport Fishing Regulations**.

(2) Pacific Lamprey Harvest:

(a) Pursuant to OAR 635-044-0130(1)(b), authorization from the Oregon Fish and Wildlife Commission must be in possession by individuals collecting or possessing Pacific lamprey for personal use. Permits are available from ODFW, 17330 SE Evelyn Street, Clackamas, OR 97015;

(b) Open fishing period is June 1 through July 31 from 7:00 A.M. to 6:00 P.M.; personal use harvest is permitted Friday through Monday each week. All harvest is prohibited Tuesday through Thursday;

(c) Open fishing area is the Willamette River at Willamette Falls on the east side of the falls only, excluding Horseshoe Area at the peak of the falls;

(d) Gear is restricted to hand or hand-powered tools only;

(e) Catch must be recorded daily on a harvest record card prior to leaving the open fishing area. Harvest record cards will be provided by ODFW. All harvest record cards must be returned to the ODFW Clackamas office by August 31 to report catch. Permit holders who do not return the harvest record cards by August 31 will be ineligible to receive a permit in the following year.

(f) Harvesters must allow sampling or enumeration of catches by ODFW personnel.

(3) Effective March 1, 2009, regulations for Chinook in the Willamette River downstream of Willamette Falls (including Multnomah Channel and the lower Clackamas River downstream of Highway 99 Bridge) have been modified as follows:

(a) Retention of adipose fin-clipped Chinook allowed seven days per week from Sunday, March 1 through Sunday, March 15, 2009; and three days per week (Thursdays through Saturdays) from March 19 through April 30, 2009. Retention of Chinook is prohibited from May 1 through August 15, 2009.

(b) Daily bag limit will be two adult adipose fin-clipped salmonids per day, only one of which may be a Chinook. All other permanent regulations remain in effect, including open for adipose fin-clipped steelhead entire year.

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

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 3-1994, f. 1-25-94, cert. ef. 1-26-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 86-1994(Temp), f. 10-31-94, cert.

ef. 11-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 32-1995, f. & cert. ef. 4-24-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 22-1996(Temp), f. 5-9-96 & cert. ef. 5-10-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 13-1997, f. 3-5-97, cert. ef. 3-11-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 24-1997(Temp), f. & cert. ef. 4-10-97; FWC 31-1997(Temp), f. 5-14-97, cert. ef. 5-15-97; FWC 39-1997(Temp), f. 6-17-97, cert. ef. 6-18-97; FWC 69-1997, f. & cert. ef. 11-6-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 19-1998, f. & cert. ef. 3-12-98; DFW 28-1998(Temp), f. & cert. ef. 4-9-98 thru 4-24-98; DFW 31-1998(Temp), f. & cert. ef. 4-24-98 thru 7-31-98; DFW 33-1998(Temp), f. & cert. ef. 4-30-98 thru 5-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 35-1998(Temp), f. & cert. ef. 5-10-98 thru 5-15-98; DFW 37-1998(Temp), f. & cert. ef. 5-15-98 thru 7-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 15-1999, f. & cert. ef. 3-9-99; DFW 16-1999(Temp), f. & cert. ef. 3-10-99 thru 3-19-99; DFW 19-1999(Temp), f. & cert. ef. 3-19-99 thru 4-15-99; DFW 27-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 30-1999(Temp), f. & cert. ef. 4-27-99 thru 5-12-99; DFW 35-1999(Temp), f. & cert. ef. 5-13-99 thru 7-31-99; DFW 39-1999(Temp), f. 5-26-99, cert. ef. 5-27-99 thru 7-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 88-1999(Temp), f. 11-5-99, cert. ef. 11-6-99 thru 11-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 22-2000, f. 4-14-00, cert. ef. 4-16-00 thru 7-31-00; DFW 23-2000(Temp), f. 4-19-00, cert. ef. 4-22-00 thru 7-31-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 6-2001, f. & cert. ef. 3-1-01; DFW 23-2001(Temp), f. & cert. ef. 4-23-01 thru 10-19-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 46-2001(Temp), f. 6-8-01, cert. ef. 6-16-01 thru 12-13-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 95-2001(Temp), f. 9-27-01, cert. ef. 10-20-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 42-2002, f. & cert. ef. 5-3-02; DFW 44-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 11-3-02; DFW 70-2002(Temp), f. 7-10-02, cert. ef. 7-12-02 thru 12-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 42-2003, f. & cert. ef. 5-16-03; DFW 53-2003(Temp), f. 6-17-03, cert. ef. 6-18-03 thru 12-14-03; DFW 57-2003(Temp), f. & cert. ef. 7-8-03 thru 12-31-03; DFW 59-2003(Temp), f. & cert. ef. 7-11-03 thru 12-31-03; DFW 70-2003(Temp), f. & cert. ef. 7-23-03 thru 12-31-03; DFW 71-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 12-31-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 33-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 48-2004(Temp), f. 5-26-04, cert. ef. 5-28-04 thru 11-23-04; DFW 69-2004(Temp), f. & cert. ef. 7-12-04 thru 11-23-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 24-2005, f. 4-15-05, cert. ef. 5-1-05; DFW 78-2005(Temp), f. 7-19-05, cert. ef. 7-21-05 thru 7-22-05; Administrative correction 8-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 36-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 121-2006(Temp), f. & cert. ef. 10-20-06 thru 12-31-06; DFW 32-2007, f. 5-14-07, cert. ef. 6-1-07; DFW 65-2007(Temp), f. & cert. ef. 8-6-07 thru 10-31-07; DFW 105-2007(Temp), f. 10-4-07, cert. ef. 10-6-07 thru 11-30-07; Administrative correction 12-20-07; DFW 134-2007, f. 12-26-07, cert. ef. 1-1-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 1-2008(Temp), f. & cert. ef. 1-9-08 thru 7-6-08; DFW 5-2008(Temp), f. 1-25-08, cert. ef. 2-1-08 thru 7-6-08; DFW 15-2008(Temp), f. 2-26-08, cert. ef. 3-1-08 thru 7-29-08; DFW 46-2008(Temp), f. 5-9-08, cert. ef. 5-12-08 thru 7-29-08; DFW 55-2008(Temp), f. 5-30-08, cert. ef. 6-2-08 thru 10-31-08; DFW 82-2008(Temp), f. 7-21-08, cert. ef. 7-29-08 thru 12-31-08; DFW 110-2008(Temp), f. 9-15-08, cert. ef. 9-17-08 thru 12-31-08; DFW 124-2008(Temp), f. 10-1-08, cert. ef. 10-2-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 9-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 8-15-09; DFW 15-2009, f. & cert. ef. 2-25-09

635-017-0095

Sturgeon Season

(1) The **2009 Oregon Sport Fishing Regulations** provide requirements for the Willamette Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2009 Oregon Sport Fishing Regulations**.

(2) The Willamette River downstream of Willamette Falls (including Multnomah Channel) is open to the retention of white sturgeon three days per week, Thursday, Friday, and Saturday during the following periods:

(a) January 1 through July 31; and

(b) October 1 through December 31.

(3) The retention of white sturgeon in the areas identified in section

(2) of this rule is prohibited August 1 through September 30.

(4) Only white sturgeon with a fork length of 38–54 inches may be retained. Retention of green sturgeon is prohibited all year in all areas.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 2-2005(Temp), f. & cert. ef. 1-21-05 thru 7-19-05; DFW 55-2005, f. & cert. ef. 6-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 74-2007(Temp), f. 8-17-07, cert. ef. 8-18-07 thru 12-31-07; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 7-2008, f. & cert. ef. 2-11-08; 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 15-2009, f. & cert. ef. 2-25-09

Rule Caption: Hood River Spring Chinook Sport Fishery.

Adm. Order No.: DFW 16-2009(Temp)

Filed with Sec. of State: 2-25-2009

ADMINISTRATIVE RULES

Certified to be Effective: 4-15-09 thru 6-30-09

Notice Publication Date:

Rules Amended: 635-018-0090

Subject: Amend rule to allow the sport harvest of adipose fin-clipped spring Chinook salmon in the Hood River beginning April 15, 2009.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-018-0090

Inclusions and Modifications

(1) The 2009 Oregon Sport Fishing Regulations provide requirements for the Central 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 Hood River from the mouth to Powerdale Dam is open to angling for adipose fin-clipped Chinook salmon from April 15 through June 30, 2009.

(a) The catch limit for Chinook salmon is two adipose fin-clipped adults and five adipose fin-clipped jacks per day. All salmon that have not been adipose fin-clipped must be released unharmed.

(b) All other catch limits and restrictions remain unchanged from those listed for Hood River in the 2009 Oregon Sport Fishing Regulations.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 20-1994(Temp), f. & cert. ef. 4-11-94; FWC 24-1994(Temp), f. 4-29-94, cert. ef. 4-30-94; FWC 34-1994(Temp), f. 6-14-94, cert. ef. 6-16-94; FWC 54-1994, f. 8-25-94, cert. ef. 9-1-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 67-1994(Temp), f. & cert. ef. 9-26-94; FWC 70-1994, f. 10-4-95, cert. ef. 11-1-94; FWC 18-1995, f. 3-2-95, cert. ef. 4-1-95; FWC 60-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 11-1996(Temp), f. 3-8-96, cert. ef. 4-1-96; FWC 32-1996(Temp), f. 6-7-96, cert. ef. 6-16-96; FWC 38-1996(Temp), f. 6-14-96, cert. ef. 7-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 20-1997, f. & cert. ef. 3-24-97; FWC 21-1997, f. & cert. ef. 4-1-97; FWC 27-1997(Temp) f. 5-2-97, cert. ef. 5-9-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 25-1998(Temp), f. & cert. ef. 3-25-98 thru 8-31-98; DFW 56-1998(Temp), f. 7-24-98, cert. ef. 8-1-98 thru 10-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 12-2000(Temp), f. 3-20-00, cert. ef. 4-15-00 thru 7-31-00; DFW 27-2000(Temp), f. 5-15-00, cert. ef. 8-1-00 thru 10-31-00; DFW 28-2000, f. 5-23-00, cert. ef. 5-24-00 thru 7-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 13-2001(Temp), f. 3-12-01, cert. ef. 4-7-01 thru 7-31-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 44-2001(Temp), f. 5-25-01, cert. ef. 6-1-01 thru 7-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp) f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 23-2002(Temp), f. 3-21-02, cert. ef. 4-6-02 thru 7-31-02; DFW 25-2002(Temp), f. 3-22-02, cert. ef. 4-6-02 thru 7-31-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 62-2002, f. 6-14-02, cert. ef. 7-11-02; DFW 74-2002(Temp), f. 7-18-02, cert. ef. 8-1-02 thru 10-31-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 97-2002(Temp), f. & cert. ef. 8-29-02 thru 10-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 26-2003(Temp), f. 3-28-03, cert. ef. 4-15-03 thru 7-31-03; DFW 66-2003(Temp), f. 7-17-03, cert. ef. 8-1-03 thru 10-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 23-2004(Temp), f. 3-22-04, cert. ef. 4-1-04 thru 7-31-04; DFW 77-2004(Temp), f. 7-28-04, cert. ef. 8-1-04 thru 10-31-04, Administrative correction 11-22-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 19-2005(Temp), f. 3-16-05, cert. ef. 4-15-05 thru 7-31-05; DFW 41-2005(Temp), f. 5-13-05, cert. ef. 5-15-05 thru 7-31-05; DFW 83-2005(Temp), f. 7-29-05, cert. ef. 8-1-05 thru 10-31-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 59-2006(Temp), f. 7-10-06, cert. ef. 8-1-06 thru 10-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 18-2007(Temp), f. 3-22-07, cert. ef. 4-15-07 thru 7-31-07; DFW 55-2007(Temp), f. 7-6-07, cert. ef. 8-1-07 thru 10-31-07; Administrative correction 11-17-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 26-2008(Temp), f. 3-17-08, cert. ef. 4-15-08 thru 7-31-08; DFW 27-2008(Temp), f. 3-24-08, cert. ef. 5-1-08 thru 10-27-08; Administrative correction 11-18-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 16-2009(Temp), f. 2-25-09, cert. ef. 4-15-09 thru 6-30-09

Rule Caption: Change to Limited Entry Fishery Permit Lottery Application Deadline.

Adm. Order No.: DFW 17-2009(Temp)

Filed with Sec. of State: 2-25-2009

Certified to be Effective: 2-26-09 thru 8-24-09

Notice Publication Date:

Rules Amended: 635-006-1085

Subject: Amended rule changes the date by which applications for Limited Entry Fishery Permit Lottery participation must be post-marked or date stamped at the ODFW Salem headquarters office. By permanent rule the established deadline is June 30. Rule modifications set the new deadline as March 31.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-006-1085

Lottery for Certain Limited Entry Fisheries

(1) A lottery process is provided in all limited entry fisheries except ocean Dungeness crab and sardines.

(2) A lottery for issuance of permits shall be conducted as follows:

(a) Gillnet salmon — see ORS 508.792;

(b) Troll salmon — see ORS 508.819;

(c) Shrimp — see ORS 508.904;

(d) Scallop — see ORS 508.861. If the number of permits issued in accordance with ORS 508.849 falls below 25, the Department in the next succeeding calendar year may issue permits by a lottery system. However, the total number of permits issued shall not exceed 25;

(e) Roe-herring — If the number of permits issued in accordance with OAR 635-006-1035 falls below six, the Department in the next succeeding calendar year may issue permits by a lottery system. However, as a result of any such lottery, the total number of permits issued shall not exceed six;

(f) Sea Urchin:

(A) If the total number of permits which have been renewed, and/or for which an appeal is pending, with the Commercial Fishery Permit Board and/or awarded through a prior lottery, is less than 30, a lottery shall be held on the 4th Friday in April;

(B) An individual must be 18 years of age or older and furnish proof of age to be eligible for the lottery;

(C) An individual may not already hold a valid urchin permit, however, an individual whose permit is at issue in a pending Sea Urchin Permit Board proceeding or before a court of law may participate in the lottery;

(D) If a permittee whose permit is at issue either before the Sea Urchin Permit Board or a court of law is awarded another permit through the lottery and thereafter prevails before the Board or in court, the permittee shall immediately surrender one of the permits to any Department office, so that only one valid permit is held;

(E) An individual who qualifies to participate in the lottery shall send a complete lottery application to the Department, date-stamped or post-marked no later than April 15 of the year for which the permit is to be issued. An individual shall not submit more than one application to participate in the lottery. For successful applicants, the application fee shall apply toward the permit fee of \$75;

(F) The names of lottery applicants shall be drawn to obtain the available permits. All other names of lottery applicants shall be drawn and placed on an alternate list in the order in which they were drawn, and shall be issued permits during the next 24 months as they may become available through Permit Board actions or surrender of permits by a permit holder;

(G) An individual whose name is drawn in the lottery shall thereafter apply on the prescribed form, to the Department to obtain a permit. Such application must be received by the Department within 30 days of the date the notification was mailed to the successful applicant following the lottery;

(H) Any individual who fails to apply for the lottery permit within 30 days shall forfeit such permit. The permit shall then be made available to the first name on the alternate list, and shall be applied for in accordance with section (G) of this rule;

(I) If all permits are not issued by renewal or through the lottery, permits thereafter may be issued on a first come first served basis up to the total number of permits allowed. All applications shall be mailed to the Department and priority shall be based on postmark or date-stamped date;

(J) The Commission may suspend the lottery for up to two years based upon its assessment of the condition of the resource and recommendations of the Sea Urchin Permit Review Board.

(g) Black rockfish/blue rockfish/nearshore fishery — see ORS 508.955. If the number of permits issued in accordance with 508.947 falls below 80 for black rockfish and blue rockfish permits or 50 for black rockfish and blue rockfish permits with a nearshore endorsement, the Department in the next succeeding calendar year may issue permits by a lottery system. However, the total number of permits issued shall not exceed 80 for blackrockfish and blue rockfish permits or 50 for black rockfish and blue rockfish permits with a nearshore endorsement.

(h) Brine Shrimp — If the number of permits issued in accordance with OAR 635-006-1035 falls below three, the Department in the next succeeding calendar year may issue permits by a lottery system. However, as a result of any such lottery, the total number of permits issued shall not exceed three;

(i) Bay clam dive fishery — If the number of permits issued in accordance with OAR 635-006-1035 falls below ten for coast-wide permits or five for south-coast permits, the Department may issue permits by a lottery system. However, as a result of any such lottery, the total number of permits issued shall not exceed ten for coast-wide permits or five for south-coast permits;

(3) Each applicant for a permit lottery shall complete the application form prescribed by the Department.

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(4) Application for vessel permits shall only be accepted for vessels, which in the judgment of the Department, are capable of operating the gear necessary to legally participate in the fishery. Vessels of a size or design incapable of harvesting the permitted species are not eligible for the lottery.

(5) Only one application per vessel may be submitted for each permit fishery lottery.

(6) Any application which is not legible, has incomplete information, or is postmarked after the deadline will not be entered in the lottery. Applications for all permits will be accepted at the Salem headquarters office of the Department, and shall be postmarked or date stamped no later than March 31 of the year for which the permit is issued.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; DFW 11-2003(Temp), f. & cert. ef. 2-10-03 thru 6-30-03; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 70-2004(Temp), f. & cert. ef. 7-12-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 149-2008, f. & cert. ef. 12-17-08; DFW 17-2009(Temp), f. 2-25-09, cert. ef. 2-26-09 thru 8-24-09

Rule Caption: Amended Sport Sturgeon and Spring Chinook Salmon Seasons for the Columbia River.

Adm. Order No.: DFW 18-2009

Filed with Sec. of State: 2-26-2009

Certified to be Effective: 2-26-09

Notice Publication Date: 1-1-2009

Rules Amended: 635-023-0095, 635-023-0125

Rules Repealed: 635-023-0095(T), 635-023-0195(T)

Subject: Amended rules relating to sport sturgeon and Spring Chinook salmon seasons in the Columbia River. And, modifications establish a “fork length” measurement method for determining the size of legal sturgeon for retention.

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) Angling for sturgeon is prohibited between 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.

(10) 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

635-023-0125

Spring Sport Fishery

(1) The **2009 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2009 Oregon Sport Fishing Regulations**.

(2) The Columbia River is open:

(a) Seven days per week from Sunday, March 1 through Sunday March 15, 2009 and three days per week (Thursday–Saturday) from March 19 through April 18, 2009 from the mouth at Buoy 10 upstream to the Hayden Island powerlines (west towers);

(b) Seven days per week from Sunday, March 1 through Sunday, March 22, 2009 and four days per week (Wednesday–Saturday) from Wednesday, March 25 through Wednesday, April 22, 2009 from the Hayden Island powerlines (west towers) upstream to Bonneville Dam;

(c) Seven days per week from March 16 through April 30, 2009 from the Tower Island power lines (approximately 6 miles below The Dalles Dam) upstream to McNary Dam plus the Oregon and Washington banks between Bonneville Dam and the Tower Island power lines.

(d) From March 1 through May 15, 2009, the mainstem Columbia River will be open for retention of adipose fin-clipped steelhead and shall only during days and seasons open for retention of adipose fin-clipped spring chinook.

(3) Catch Limits:

(a) Adipose fin-clipped Chinook salmon, adipose fin-clipped steelhead and shall may be retained.

(b) All non-adipose fin-clipped Chinook salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(c) Effective March 1, for the area downstream of Bonneville Dam, catch limits of two adult adipose fin-clipped salmon or two adult adipose fin-clipped steelhead may be retained per day, only one of which may be a Chinook. Catch limits for jacks remain in effect as per the **2009 Oregon Sport Fishing Regulations**.

(d) Effective March 1, the daily bag limit in Oregon’s Select Areas may not include more than one adipose fin-clipped Chinook when the recreational fishery in the mainstem Columbia River below the Hayden Island powerlines (west towers) is open to retention of Chinook.

(4) For the mainstem Columbia River salmon and steelhead fishery upstream of the Rocky Point-Tongue Point line to McNary Dam from February 15 through June 15, 2009, it is *unlawful* when fishing from vessels which are less than 30 feet in length, substantiated by Coast Guard documentation or Marine Board registration, to totally remove from the water any salmon or steelhead required to be released.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04; DFW 36-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 7-31-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 51-2004(Temp), f. 6-9-04, cert. ef. 6-16-04 thru 7-31-04; Administrative correction 8-19-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 35-2005(Temp), f. 5-4-05, cert. ef. 5-5-05 thru 10-16-05; DFW 38-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 44-2005(Temp), f. 5-17-05, cert. ef. 5-22-05 thru 10-16-05; DFW 51-2005(Temp), f. 6-3-05, cert. ef. 6-4-05 thru 7-31-05; Administrative correction 11-18-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 21-2006(Temp), f. 4-13-06, cert. ef. 4-14-06 thru 5-15-06; DFW 27-2006(Temp), f. 5-12-06, cert. ef. 5-13-06 thru 6-15-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 33-2007(Temp), f. 5-

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15-07, cert. ef. 5-16-07 thru 7-30-07; DFW 37-2007(Temp), f. & cert. ef. 5-31-07 thru 7-30-07; DFW 39-2007(Temp), f. 6-5-07, cert. ef. 6-6-07 thru 7-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 13-2008(Temp), f. 2-21-08, cert. ef. 2-25-08 thru 8-22-08; DFW 17-2008(Temp), f. & cert. ef. 2-27-08 thru 8-22-08; DFW 35-2008(Temp), f. 4-17-08, cert. ef. 4-21-08 thru 8-22-08; DFW 49-2008(Temp), f. & cert. ef. 5-13-08 thru 6-15-08; Administrative correction 7-22-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 10-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 6-15-09; DFW 18-2009, f. & cert. ef. 2-26-09

Rule Caption: Amended Rules for Treaty Indian Sturgeon Fisheries Above Bonneville Dam.

Adm. Order No.: DFW 19-2009

Filed with Sec. of State: 2-26-2009

Certified to be Effective: 2-26-09

Notice Publication Date: 1-1-2009

Rules Amended: 635-041-0030, 635-041-0061, 635-041-0063

Subject: Amended rules relating to the method by which white sturgeon are measured to determine if they are of legal length for retention in Treaty Indian fisheries above Bonneville Dam.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0030

Subsistence Fishing Activities

(1) It is *unlawful* to utilize any fish taken by subsistence fishing for other than subsistence purposes as defined in OAR 635-041-0010 with the exception of shad which may be sold commercially, and with the exception of dipnet caught fish from main stem Columbia and Klickitat River subsistence areas taken during open commercial fishing seasons.

(2) Only white sturgeon with a fork length of 43–54 inches taken from between The Dalles and McNary dams and white sturgeon with a fork length of 38–54 inches taken from between the Bonneville Dam and The Dalles Dam may be retained for subsistence purposes.

Stat. Auth.: ORS 183.325 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0030; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 4-1984, f. & ef. 1-31-84; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 12-1997(Temp), f. 2-27-97, cert. ef. 3-1-97; DFW 26-2000(Temp), f. 5-4-00, cert. ef. 5-6-00 thru 5-28-00; DFW(Temp), 37-2000, f. 6-30-00, cert. ef. 7-1-00 thru 7-10-00; DFW 22-2003(Temp), f. & cert. ef. 3-25-03 thru 9-20-03; DFW 3-2005(Temp), f. & cert. ef. 1-20-05 thru 2-28-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 19-2009, f. & cert. ef. 2-26-09

635-041-0061

Sturgeon Size

(1) White sturgeon may be taken for commercial purposes by treaty Indian fishers during commercial fishing seasons in which sales of sturgeon are authorized.

(2) Sales are limited to white sturgeon with a fork length of 43–54 inches taken from between The Dalles and McNary dams and white sturgeon with a fork length of 38–54 inches taken from between the Bonneville Dam and The Dalles Dam.

(3) It is *unlawful* to mutilate or disfigure a sturgeon in any manner which extends or shortens its length to the legal limit, or to possess such sturgeon.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 2-1985, f. & ef. 1-30-85; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 15-1995, f. & cert. ef. 2-15-95; FWC 12-1997(Temp), f. 2-27-97, cert. ef. 3-1-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 19-2009, f. & cert. ef. 2-26-09

635-041-0063

Sturgeon Setline Fishery

(1) White sturgeon may be taken by setline for commercial purposes from 12 Noon January 1 through 12 Noon January 31 in all of Zone 6.

(a) In The Dalles and John Day pools white sturgeon taken must be 43–54 inches in fork length.

(b) In the Bonneville Pool white sturgeon taken must be 38–54 inches in fork length.

(c) White sturgeon taken as described in subsections (1)(a) and (1)(b) of this rule may be sold or kept for subsistence use.

(2) Closed areas are set forth under OAR 635-041-0045.

(3) During the white sturgeon setline season it shall be *unlawful* to:

(a) Operate any fishing gear other than setlines except as provided in OAR 635-041-0060;

(b) Operate any setline having more than 100 hooks;

(c) Use other than single hooks size 9/0 or larger;

(d) Operate any setline on which the buoy or marker does not have the tribal identification number of the individual operating the line clearly marked on it and which is attached in a manner that will not allow it to float visibly on the surface at all times.

(4) Notwithstanding OAR 635-041-0045(6)–(11), it is lawful during the open season to fish for white sturgeon by means of set lines in the Columbia River within areas at and adjacent to the mouths of rivers.

Stat. Auth.: ORS 183.325 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0063; FWC 6-1980, f. & ef. 1-28-80; FWC 12-1980, f. & ef. 2-29-80; FWC 64-1980(Temp), f. & ef. 11-7-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. 1-21-83, ef. 2-1-83; FWC 9-1983(Temp), f. & ef. 3-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 48-1988, f. & cert. ef. 6-21-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 12-1989(Temp), f. & cert. ef. 3-21-89; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 9-1991, f. & cert. ef. 1-31-91; FWC 37-1991(Temp), f. & cert. ef. 4-3-91; FWC 4-1992, f. 1-30-92, cert. ef. 2-1-92; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 41-1992(Temp), f. 6-30-92, cert. ef. 7-1-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 15-1996(Temp), f. & cert. ef. 4-1-96; FWC 25-1996(Temp), f. 5-14-96, cert. ef. 5-15-96; FWC 23-1997(Temp), f. 4-4-97, cert. ef. 4-7-97; FWC 35-1997(Temp), f. & cert. ef. 6-13-97; FWC 40-1997(Temp), f. 6-20-97, cert. ef. 6-23-97; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 50-1998(Temp), f. 6-25-98, cert. ef. 6-26-98 thru 7-24-98; DFW 57-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 22-1999(Temp), f. & cert. ef. 4-1-99 thru 4-23-99; DFW 28-1999(Temp), f. & cert. ef. 4-23-99 thru 7-31-99; DFW 41-1999(Temp), f. & cert. ef. 6-7-99 thru 7-31-99; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 14-2000(Temp), f. 3-17-00, cert. ef. 3-20-00 thru 7-31-00; DFW 31-2000(Temp), f. 6-9-00, cert. ef. 6-10-00 thru 7-31-00; DMV 43-2000(Temp), f. 8-7-00, cert. ef. 8-8-00 thru 8-20-00; DFW 66-2000(Temp), f. 9-29-00, cert. ef. 10-2-00 thru 12-31-00; DFW 43-2001(Temp), f. 5-23-01, cert. ef. 5-24-01 thru 11-20-01; DFW 65-2001(Temp), f. & cert. ef. 7-24-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 114-2001(Temp), f. & cert. ef. 12-13-01 thru 12-31-01; DFW 51-2002(Temp), f. & cert. ef. 5-22-02 thru 9-1-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 121-2002(Temp), f. 10-24-02, cert. ef. 10-27-02 thru 12-31-02; DFW 49-2003(Temp), f. & cert. ef. 6-5-03 thru 9-1-03; DFW 58-2003(Temp), f. & cert. ef. 7-9-03 thru 12-31-03; DFW 67-2003(Temp), f. 7-18-03, cert. ef. 7-21-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 69-2006(Temp), f. 7-28-06, cert. ef. 7-31-06 thru 12-31-06; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 60-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 19-2009, f. & cert. ef. 2-26-09

Rule Caption: Amended Rules Related to Columbia River Commercial Smelt and Sturgeon Fisheries Below Bonneville Dam.

Adm. Order No.: DFW 20-2009

Filed with Sec. of State: 2-26-2009

Certified to be Effective: 2-26-09

Notice Publication Date: 1-1-2009

Rules Amended: 635-042-0130, 635-042-0133

Rules Repealed: 635-042-0130(T)

Subject: Amended rules relating to commercial smelt seasons and white sturgeon “fork length” measurement methods in the Columbia River below Bonneville Dam.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0130

Smelt Season

(1) Smelt may be taken for commercial purposes from the Columbia River in Zones 1 through 5 during the following times:

(a) 24 hours per day from 12:01 a.m. December 1 through 11:59 p.m. December 31;

(b) Mondays and Thursdays from 7:00 a.m. to 2:00 p.m. (7 hrs.) during the period from January 1 through March 31.

(2) It is *unlawful* to use any gear other than those listed below for the taking of smelt in the Columbia River:

(a) Gill nets of a mesh size not more than two inches. Nets may consist of, but are not limited to, monofilament webbing;

(b) Dip nets having a bag frame no greater than 36 inches in diameter;

(c) Trawl nets with:

(A) Head rope not to exceed 25 feet in length;

(B) Foot rope or groundline not to exceed 25 feet in length;

(C) Door size not to exceed three feet by four feet;

(D) Mesh size not to exceed two inches;

(E) Bag length from the center of the head rope to the terminal end of the bunt not to exceed 35 feet;

(F) Breast rope not to exceed five feet;

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(G) Bridle rope from rear of doors to foot rope and head rope not to exceed eight feet.

(3) No more than one trawl net at a time may be fished from any fishing vessel to take smelt.

(4) In the Columbia River upstream from Zone 1, it is *unlawful* to take smelt from a trawl vessel which exceeds 32 feet in overall length.

(5) For the purposes of this rule, Zone 1 is the area downstream of a straight line from a beacon light at Grays Point on the Washington bank to the flashing 4-second red buoy "44" off the easterly tip of Tongue Point on the Oregon Bank.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 2-1985, f. & ef. 1-30-85; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; FWC 15-1995, f. & cert. ef. 2-15-95; DFW 82-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; DFW 95-1999(Temp), f. 12-22-99, cert. ef. 12-26-99 thru 1-21-00; DFW 3-2000, f. & cert. ef. 1-24-00; DFW 8-2000(Temp), f. 2-18-00, cert. ef. 2-20-00 thru 2-29-00; Administrative correction 3-17-00; DFW 80-2000(Temp), f. 12-22-00, cert. ef. 1-1-01 thru 3-31-01; DFW 10-2001(Temp), f. & cert. ef. 3-6-01 thru 3-31-01; Administrative correction 6-21-01; DFW 115-2001(Temp), f. 12-13-01, cert. ef. 1-1-02 thru 3-31-02; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; Administrative correction 8-19-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 8-2005(Temp), f. & cert. ef. 2-24-05 thru 4-1-05; Administrative correction 4-20-05; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; Administrative correction 8-22-06; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; Administrative correction 9-16-07; DFW 125-2007(Temp), f. 11-29-07, cert. ef. 12-1-07 thru 5-28-08; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 10-2008, f. & cert. ef. 2-11-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 20-2009, f. & cert. ef. 2-26-09

635-042-0133

Sturgeon Size

(1) White sturgeon with a fork length of 43–54 inches may be taken for commercial purposes from the Columbia River below Bonneville Dam during commercial salmon and sturgeon fishing seasons with the same fishing gear authorized for the taking of salmon or sturgeon.

(2) Length of a commercially caught sturgeon shall be defined as the shortest distance between the tip of the nose and the fork between the upper and lower lobes of the caudal fin (tail) while the fish lies on its side on a flat surface with its tail in a normal position.

(3) It is *unlawful* to:

(a) Mutilate or disfigure a sturgeon in any manner which extends or shortens its length to the legal limit, or to possess such sturgeon;

(b) Remove the head or tail of any sturgeon taken for commercial purposes prior to being received at the premises of a wholesale fish dealer or canner;

(c) Have in possession any white sturgeon smaller than 43 inches or larger than 54 inches in fork length.

(d) Fail to return to the water immediately and unharmed, any green sturgeon, any white sturgeon not of lawful size, or any white sturgeon taken in excess of any commercial catch or possession limits prescribed by Department rule.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 2-1985, f. & ef. 1-30-85; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 9-1994, f. 2-14-94, cert. ef. 2-15-94; FWC 15-1995, f. & cert. ef. 2-15-95; DFW 82-1998(Temp), f. 10-6-98, cert. ef. 10-7-98 thru 10-23-98; DFW 42-2000, f. & cert. ef. 8-3-00; 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 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 20-2009, f. & cert. ef. 2-26-09

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Rule Caption: Cumulative trip Limits for Greenling Reduced Effective March 1.

Adm. Order No.: DFW 21-2009(Temp)

Filed with Sec. of State: 2-26-2009

Certified to be Effective: 3-1-09 thru 8-27-09

Notice Publication Date:

Rules Amended: 635-004-0033

Rules Suspended: 635-004-0033(T)

Subject: This amended rule reduces the cumulative trip limit for greenling in the commercial fishery for black and blue rockfish with or without a nearshore endorsement from 450 to 250 pounds.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-004-0033

Groundfish Restrictions

(1) The season for most species of ocean food fish is open year-round, until catch quotas are met (where applicable). Regulations for the follow-

ing species or species groups of ocean food fish change throughout the season and the Oregon Administrative Rules and federal regulations should be consulted before fishing:

- (a) Minor Shelf Rockfish;
- (b) Minor Slope Rockfish;
- (c) Black and Yellow Rockfish;
- (d) Brown Rockfish;
- (e) Calico Rockfish;
- (f) China Rockfish;
- (g) Copper Rockfish;
- (h) Gopher Rockfish;
- (i) Grass Rockfish;
- (j) Kelp Rockfish;
- (k) Olive Rockfish;
- (l) Treefish;
- (m) Black Rockfish;
- (n) Blue Rockfish;
- (o) Cabezon;
- (p) Canary Rockfish;
- (q) Greenling;
- (r) Tiger Rockfish;
- (s) Vermilion Rockfish;
- (t) Widow Rockfish;
- (u) Yelloweye Rockfish;
- (v) Yellowtail Rockfish;
- (w) Darkblotched Rockfish;
- (x) Pacific Ocean Perch;
- (y) Longspine Thornyhead;
- (z) Shortspine Thornyhead;
- (aa) Arrowtooth Flounder;
- (bb) Dover Sole;
- (cc) Petrale Sole;
- (dd) Rex Sole;
- (ee) Other Flatfish;
- (ff) Lingcod;
- (gg) Sablefish;
- (hh) Pacific Whiting.

(2) For the purpose of this rule, "Other nearshore rockfish" means: black and yellow (*Sebastes chrysolmelas*); brown (*S. auriculatus*); calico (*S. dalli*); China (*S. nebulosus*); copper (*S. caurinus*); gopher (*S. carnatus*); grass (*S. rastelliger*); kelp (*S. atrovirens*); olive (*S. serranoides*); quillback (*S. maliger*); and treefish (*S. serriceps*).

(3) For the purpose of this rule a "commercial harvest cap" is defined as the total fishery-related mortality for a given species, or species group, that may occur in a single calendar year in Oregon commercial fisheries. For 2009, the commercial harvest cap for black rockfish is 100.6 metric tons.

(4) For the purpose of this rule a "commercial landing cap" is defined as the total landed catch of a given species, or species group, that may be taken in a single calendar year in Oregon commercial fisheries. For 2009, the commercial landing caps are:

- (a) Black rockfish and blue rockfish combined of 104.6 metric tons.
- (b) Other nearshore rockfish, 12.0 metric tons.
- (c) Cabezon, 31.3 metric tons.
- (d) Greenling, 23.4 metric tons.

(5) For the purpose of this rule, the periods to which cumulative trip limits apply are: January through February (period 1); March through April (period 2); May through June (period 3); July through August (period 4); September through October (period 5); and November through December (period 6).

(6) For black and blue rockfish combined, no vessel may land more than:

- (a) 800 pounds in period 1;
- (b) 1000 pounds in period 2;
- (c) 1600 pounds in each of periods 3, 4, and 5; and
- (d) 800 pounds in period 6.

(7) In each period, no vessel may land more than:

- (a) 700 pounds of other nearshore rockfish, combined;
- (b) 2,500 pounds of cabezon; or
- (c) 250 pounds of greenling species.

Stat. Auth.: ORS 506.109 & 506.119

Stats. Implemented: ORS 506.129

Hist.: FWC 73-1982(Temp), f. & ef. 10-27-82; FWC 1-1983 (Temp), f. & ef. 1-6-83; FWC 10-1983, f. & ef. 3-1-83; FWC 23-1983(Temp), f. & ef. 6-14-83; FWC 41-1983(Temp), f. & ef. 9-6-83; FWC 3-1984 f. & ef. 1-26-84; FWC 18-1984 (Temp), f. 5-4-84, ef. 5-6-84; FWC 36-1984(Temp), f. 7-31-84, ef. 8-1-84; FWC 1-1985(Temp), f. & ef. 1-4-85; FWC 5-1985, f. & ef. 2-19-85; FWC 18-1985(Temp), f. 4-26-85, ef. 4-27-85; FWC 52-1985(Temp), f. 8-30-

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85, ef. 9-1-85; FWC 65-1985 (Temp), f. & ef. 10-4-85; FWC 82-1985, f. 12-16-85, ef. 1-1-86; FWC 50-1986(Temp), f. & ef. 8-29-86; FWC 81-1986, f. 12-31-86, ef. 1-1-87; FWC 57-1987(Temp), f. & ef. 7-24-87; FWC 104-1987, f. 12-18-87, ef. 1-1-88; FWC 97-1988(Temp), f. & cert. ef. 1-6-88; FWC 103-1988, f. 12-29-88, cert. ef. 1-1-89; FWC 49-1989(Temp), f. & cert. ef. 7-26-89; FWC 69-1990 (Temp), f. 7-24-90, cert. ef. 7-25-90; FWC 122-1990, f. 11-26-90, cert. ef. 11-29-90; FWC 130-1990, f. 12-31-90, cert. ef. 1-1-91; FWC 48-1991(Temp), f. & cert. ef. 5-3-91; FWC 82-1991(Temp), f. 7-30-91, cert. ef. 7-31-91; FWC 83-1991, f. 8-1-91, cert. ef. 7-31-91; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 9-1992, f. 2-20-92, cert. ef. 2-21-92; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 6-1993, f. 1-28-93, cert. ef. 2-1-93; FWC 10-1993, f. & cert. ef. 2-10-93; FWC 1-1994, f. & cert. ef. 1-14-94; FWC 32-1994, f. & cert. ef. 6-3-94; FWC 44-1994, f. 7-26-94, cert. ef. 8-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 45-1995, f. & cert. ef. 6-1-95; FWC 94-1995(Temp), f. 12-29-95, cert. ef. 1-1-96; FWC 9-1996, f. 3-5-96, cert. ef. 3-8-96; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 119-2002(Temp), f. 10-24-02, cert. ef. 10-25-02 thru 12-31-02; DFW 135-2002, f. 12-23-02, cert. ef. 1-1-03; DFW 14-2003(Temp), f. 2-20-03, cert. ef. 2-21-03 thru 8-19-03; DFW 25-2003, f. & cert. ef. 3-26-03; DFW 60-2003(Temp), f. 7-15-03, cert. ef. 7-16-03 thru 12-31-03; DFW 79-2003(Temp), f. & cert. ef. 8-18-03 thru 12-31-03; DFW 102-2003(Temp), f. 9-30-03, cert. ef. 10-1-03 thru 12-31-03; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 76-2004(Temp), f. 7-23-04, cert. ef. 7-28-04 thru 12-31-04; DFW 100-2004(Temp), f. & cert. ef. 9-28-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 120-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 31-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 82-2005(Temp), f. 7-29-05, cert. ef. 8-1-05 thru 12-31-05; DFW 86-2005(Temp), f. & cert. ef. 8-3-05 thru 12-31-05; DFW 119-2005(Temp), f. 10-10-05, cert. ef. 10-11-05 thru 12-31-05; DFW 135-2005(Temp), f. 11-30-05, cert. ef. 12-1-05 thru 12-31-05; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 50-2006(Temp), f. 6-28-06, cert. ef. 7-1-06 thru 12-27-06; DFW 83-2006(Temp), f. 8-10-06, cert. ef. 8-11-06 thru 2-6-07; DFW 108-2006(Temp), f. 9-29-06, cert. ef. 10-1-06 thru 12-31-06; DFW 133-2006(Temp), f. 12-21-06, cert. ef. 1-1-07 thru 6-29-07; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 83-2007(Temp), f. 8-31-07, cert. ef. 9-1-07 thru 12-31-07; DFW 120-2007(Temp), f. 10-30-07, cert. ef. 11-1-07 thru 12-31-07; DFW 123-2007(Temp), f. 11-26-07, cert. ef. 11-28-07 thru 12-31-07; DFW 128-2007, f. 12-13-07, cert. ef. 1-1-08; Administrative Correction 1-24-08; DFW 70-2008(Temp), f. 6-26-08, cert. ef. 7-1-08 thru 12-27-08; DFW 123-2008(Temp), f. 9-30-08, cert. ef. 10-2-08 thru 12-31-08; DFW 154-2008(Temp), f. 12-29-08, cert. ef. 1-1-09 thru 6-29-09; DFW 21-2009(Temp), f. 2-26-09, cert. ef. 3-1-09 thru 8-27-09

Rule Caption: 2009 Treaty Indian Winter Salmon Season in the Columbia River.

Adm. Order No.: DFW 22-2009(Temp)

Filed with Sec. of State: 3-5-2009

Certified to be Effective: 3-6-09 thru 7-31-09

Notice Publication Date:

Rules Amended: 635-041-0065

Rules Suspended: 635-041-0065(T)

Subject: Amended rule closes the ongoing treaty Indian winter gillnet fishery in The Dalles and John Day pools at 6 p.m. Friday, March 6, 2009. The ongoing platform/hook-and-line fishery continues as previously scheduled, White sturgeon from 38 to 54 inches in fork length in the Bonneville Pool may be kept for subsistence use only. Modifications are consistent with action taken March 4, 2009 by the Columbia River Compact agencies of Oregon and Washington in coordination with the Columbia River Treaty Tribes.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-041-0065

Winter Salmon Season

(1) Steelhead, shad, white sturgeon, walleye, catfish, bass, yellow perch and carp may be taken for commercial purposes from the Columbia River Treaty Indian Fishery, from 6:00 a.m. Monday February 2, 2009 to 6:00 p.m. Friday, March 6, 2009 in all of Zone 6.

(a) Bonneville Pool: Open 6:00 a.m. on Monday through 6:00 p.m. on Friday of each week through February 13, 2009. The winter gillnet fishery in the Bonneville Pool is closed effective 6:00 a.m. Monday February 16, 2009. The platform/hook-and-line fishery in the Bonneville Pool will continue as previously scheduled except that sturgeon landed in the Bonneville Pool may not be sold, but sturgeon 38 to 54 inches in fork length may be retained for subsistence.

(b) John Day and The Dalles pools: Open 6:00 a.m. Monday February 2, 2009 through 6:00 p.m. Friday March 6, 2009. The platform/hook-and-line fishery in the John Day and The Dalles pools will continue as previously scheduled except that sturgeon landed after 6:00 p.m. Friday March 6, 2009 may not be sold, but sturgeon 38 to 54 inches in fork length may be retained for subsistence.

(c) White sturgeon, steelhead, walleye, shad, carp, catfish, bass and yellow perch landed during an open commercial fishing period may be sold at any time. Chinook salmon may not be sold but may be retained for ceremonial and subsistence use.

(d) Live release of all oversize and undersize sturgeon is required.

(2) There are no mesh size restrictions.

(3) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(4) Sale of platform and hook-and-line caught fish caught prior to 6:00 p.m. Saturday, March 21, 2009 is allowed.

(5) Sales of fish caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; Drano Lake/Little White Salmon River; and Big White Salmon River, including the Yakama Nation subsistence fishery on the Washington shore downstream of Bonneville Dam, are allowed, subject to restrictions as specified in sections (1) through (4) above, except that:

(a) Steelhead, walleye, carp, shad, catfish, bass and yellow perch caught from the Washington shore downstream of Bonneville Dam to Beacon Rock may be sold or retained for subsistence;

(b) White sturgeon caught below Bonneville Dam must be released;

(c) Sales may not occur on USACE property.

Stat. Auth.: ORS 183.325 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79; FWC 13-1979(Temp), f. & ef. 3-30-1979. Renumbered from 635-035-0065; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. 1-21-83, ef. 2-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 3-1988(Temp), f. & cert. ef. 1-29-88; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 13-1989(Temp), f. & cert. ef. 3-21-89; FWC 15-1990(Temp), f. 2-8-90, cert. ef. 2-9-90; FWC 20-1990, f. 3-6-90, cert. ef. 3-15-90; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 12-1993(Temp), f. & cert. ef. 2-22-93; FWC 18-1993(Temp), f. & cert. ef. 3-2-93; FWC 7-1994, f. & cert. ef. 2-1-94; FWC 11-1994(Temp), f. & cert. ef. 2-28-94; FWC 9-1995, f. & cert. ef. 2-1-95; FWC 19-1995(Temp), f. & cert. ef. 3-3-95; FWC 5-1996, f. & cert. ef. 2-7-96; FWC 4-1997, f. & cert. ef. 1-30-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 20-1998(Temp), f. & cert. ef. 3-13-98 thru 3-20-98; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 2-1999(Temp), f. & cert. ef. 2-1-99 thru 2-19-99; DFW 9-1999, f. & cert. ef. 2-26-99; DFW 14-1999(Temp), f. 3-5-99, cert. ef. 3-6-99 thru 3-20-99; Administrative correction 11-17-99; DFW 6-2000(Temp), f. & cert. ef. 2-1-00 thru 2-29-00; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 19-2000, f. 3-18-00, cert. ef. 3-18-00 thru 3-21-00; DFW 26-2000(Temp), f. 5-4-00, cert. ef. 5-6-00 thru 5-28-00; Administrative correction 5-22-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 14-2001(Temp), f. 3-12-01, cert. ef. 3-14-01 thru 3-21-01; Administrative correction 6-20-01; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 17-2002(Temp), f. 3-7-02, cert. ef. 3-8-02 thru 9-1-02; DFW 18-2002(Temp), f. 3-13-02, cert. ef. 3-15-02 thru 9-11-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 20-2003(Temp), f. 3-12-03, cert. ef. 3-13-03 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 5-2004(Temp), f. 1-26-04, cert. ef. 2-2-04 thru 4-1-04; DFW 15-2004(Temp), f. 3-8-04, cert. ef. 3-10-04 thru 4-1-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 4-2005(Temp), f. & cert. ef. 1-31-05 thru 4-1-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 3-2006(Temp), f. & cert. ef. 1-27-06 thru 3-31-06; Administrative correction 4-19-06; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 14-2007(Temp), f. & cert. ef. 3-9-07 thru 9-4-07; DFW 15-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; Administrative correction 9-16-07; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 20-2008(Temp), f. 2-28-08, cert. ef. 2-29-08 thru 7-28-08; DFW 21-2008(Temp), f. & cert. ef. 3-5-08 thru 7-28-08; DFW 22-2008(Temp), f. 3-7-08, cert. ef. 3-10-08 thru 7-28-08; Administrative correction 8-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 6-2009(Temp), f. 1-30-09, cert. ef. 2-2-09 thru 8-1-09; DFW 11-2009(Temp), f. 2-13-09, cert. ef. 2-16-09 thru 7-31-09; DFW 22-2009(Temp), f. 3-5-09, cert. ef. 3-6-09 thru 7-31-09

Rule Caption: 2009 Commercial Salmon and Sturgeon Fishery for the Deep River Select Area.

Adm. Order No.: DFW 23-2009(Temp)

Filed with Sec. of State: 3-5-2009

Certified to be Effective: 3-6-09 thru 4-30-09

Notice Publication Date:

Rules Amended: 635-042-0180

Rules Suspended: 635-042-0180(T)

Subject: Amended rule adds three 12-hour fishing periods (Mondays) to the ongoing Chinook salmon season in the Deep River Select Area of the Columbia River. Modifications are consistent with the action taken March 4, 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).

(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).

(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

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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

Rule Caption: Youngs Bay Select Area Commercial Salmon Fishery Boundary Change March 11, 2009.

Adm. Order No.: DFW 24-2009(Temp)

Filed with Sec. of State: 3-10-2009

Certified to be Effective: 3-11-09 thru 7-31-09

Notice Publication Date:

Rules Amended: 635-042-0145

Rules Suspended: 635-042-0145(T)

Subject: Amend rule to expand the fishing area boundaries for the fishing period from March 11 through March 12, 2009 to include the entire Youngs Bay Select Area of the Columbia River. Modifications are consistent with action taken March 10, 2009 by the State of Oregon.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-042-0145

Youngs Bay Salmon Season

(1) Salmon, white sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay.

(2) The open fishing periods are established in three segments categorized as the winter fishery, paragraph:

- (a) The spring fishery, paragraph;
- (b) and summer fishery, paragraph;
- (c) As follows:

(A) Winter Season:

(i) Entire Youngs Bay: Sunday and Wednesday nights from 12:00 noon to 6:00 a.m. (18 hours) beginning Sunday, February 15 through Monday, March 9, 2009 (7 nights) and 6:00 p.m. Wednesday, March 11 to 6:00 a.m. Thursday March 12, 2009 (12 hours).

(ii) Upstream of old Youngs Bay Bridge: 6:00 p.m. Sunday, March 15 to 6:00 a.m. Monday, March 16, 2009 (12 hours); 6:00 p.m. Sunday, March 22 to 6:00 a.m. Monday, March 23, 2009 (12 hours); 9:00 a.m. to 1:00 p.m. Monday, March 30, 2009 (4 hours); and 4:00 a.m. to 8:00 a.m. Monday, April 6 (4 hours).

(iii) Walluski Area: None.

(B) Spring Season: Entire Youngs Bay: 6:00 p.m. Thursday, April 16 to 6:00 a.m. Friday, April 17, 2009 (12 hours); 6:00 p.m. Monday, April 20 to 6:00 a.m. Tuesday, April 21 (12 hours); 6:00 p.m. Thursday, April 23 to 6:00 a.m. Friday, April 24, 2009 (12 hours); 6:00 p.m. Monday, April 27 to 12:00 noon Tuesday, April 28, 2009 (18 hours); and 6:00 p.m. Thursday, April 30 to 12:00 noon Friday, May 1, 2009 (18 hours).

(C) Summer Season: Entire Youngs Bay: 6:00 a.m. Wednesdays to 6:00 a.m. Fridays (48 hours) beginning Wednesday, June 17 through Friday, July 31, 2009 (14 fishing days).

(b) The fishing areas for the winter, spring and summer fisheries are:

(A) From February 15 through March 9 and from April 16 through July 31, the fishing area is identified as the waters of Youngs Bay with the upper boundary markers at the confluence of the Klaskanine and Youngs rivers.

(B) From March 15 through April 6, 2009, the fishing area extends from the old Youngs Bay Bridge upstream to the confluence of the Youngs and Klaskanine rivers.

(3) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(a) It is unlawful to use a gill net having a mesh size that is less than 7-inches during the winter season. It is unlawful to use a gill net having a mesh size that is more than 8-inches during the spring and summer seasons.

(b) The use of additional weights or anchors attached directly to the leadline is allowed upstream of markers located approximately 200 yards upstream of the mouth of the Walluski River during all Youngs Bay commercial fisheries.

(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 fisheries are open. During the fishing periods identified in (1)(a)(A), (1)(a)(B) and (1)(a)(C), the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 32-1979, f. & cert. ef. 8-22-79; FWC 28-1980, f. & cert. ef. 8-23-80; FWC 42-1980(Temp), f. & cert. ef. 8-22-80; FWC 30-1981, f. & cert. ef. 8-14-81; FWC 42-1981(Temp), f. & cert. ef. 11-5-81; FWC 54-1982, f. & cert. ef. 8-17-82; FWC 37-1983, f. & cert. ef. 8-18-83; FWC 61-1983(Temp), f. & cert. ef. 10-19-83; FWC 42-1984, f. & cert. ef. 8-20-84; FWC 39-1985, f. & cert. ef. 8-15-85; FWC 37-1986, f. & cert. ef. 8-11-86; FWC 72-1986(Temp), f. & cert. ef. 10-31-86; FWC 64-1987, f. & cert. ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 9-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f.

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3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09

Rule Caption: Amend rules related to capture of Peregrine Falcons for use in Falconry.

Adm. Order No.: DFW 25-2009(Temp)

Filed with Sec. of State: 3-10-2009

Certified to be Effective: 5-15-09 thru 8-31-09

Notice Publication Date:

Rules Amended: 635-055-0035

Subject: Amend rules to allow for the capture of post-fledge peregrine falcons from the wild for the purpose of falconry.

Rules Coordinator: Therese Kucera—(503) 947-6033

635-055-0035

Capture and Transportation of Raptors

A raptor capture permit is required prior to capturing or attempting to capture any raptor. A non-resident falconer from a state having a federally approved falconry program may obtain a capture permit for a red-tailed hawk, Cooper's hawk, sharp-shinned hawk, prairie falcon, peregrine falcon, great horned owl, golden eagle or American kestrel only. All non-resident applications must include copies of current state and federal falconry permits. All applicants for golden eagle capture must include a copy of the federal authorization to take golden eagles. Only 20 non-resident capture permits will be issued in total each capture season. All non-resident capture permits, except for capture permits for peregrine falcons, will be issued on a first come first served basis.

(1) An application fee of \$10 will be charged for each capture permit allowing the capture of one raptor per permit.

(2) Except for take of nestling (eyas) peregrine falcons, the Department will issue capture permits in the order applications are received. The permit process will begin January 1st of each year, and applicants must hold a valid Oregon falconry license. The category of species shall be listed on the permit (e.g. "golden eagle", "gyrfalcon", "eyas peregrine falcon", or "other raptor") and the falconer is authorized to take only one raptor from the category specified. A falconer may apply for a capture permit in more than one category. The falconer whose name appears on the permit must do the capturing except for peregrine falcon nestlings; the permit is not transferable.

(3) Capture permit applications for nestling peregrine falcons may be submitted to the Department beginning January 1st and received no later than March 1st of each year. The Department will issue peregrine falcon capture permits by way of a lottery draw pursuant to OAR 635-055-0037. Of the number of permits available for issuance annually, the Department will make one such permit available to nonresidents. Each permit will include conditions crafted by the Department on a case by case basis to address the particular proposal to capture peregrine falcons. Such conditions may include, but are not limited to, requirements to protect the safety of falconers and other humans during capture of peregrine falcons, and shall specify where the permittee may capture peregrine falcons. The following general conditions apply to all peregrine falcon capture permits:

(a) Young falcons may be removed from their eyries from May 15th to June 30th daily and when only between 15 and 24 days of age. At least one nestling must be left in each eyrie prior to fledging. A young (post-fledgling) peregrine falcon may be taken through August 31, 2009.

(b) Permittee must be present when the nestling is being removed from the eyrie.

(c) Take of passage peregrine is unlawful.

(d) Each falconer who takes a peregrine falcon from the wild must report the sex and precise capture location to the Department and the U.S. Fish and Wildlife Service within 5 days after. If the falconer later deter-

mines that the sex of any peregrine falcon taken was reported incorrectly, then the falconer must submit a corrected report as soon as possible after discovering the error.

(e) Falconers must band each peregrine falcon taken with a band provided by the Department.

(f) After a captured falcon reaches 30 days of age, the falconer must pluck breast feathers from the falcon and submit them to the U.S. Fish and Wildlife Service, along with a written record of the precise location of where the bird was taken from in the wild. The address for submission is U.S. Fish and Wildlife Service, Division of Migratory Bird Management, 4401 North Fairfax Drive, Mail Stop 4107, Arlington, Virginia 22203-1610.

(4) Upon taking the raptor authorized, the permittee shall immediately validate the permit by recording the date, species, sex, county, and capture method and signing his/her name in the space provided. At the time of capture, the permittee shall affix the permanent plastic band, issued with the permit, to one leg of the bird. Within five business days of capture, the permittee shall take the bird to a Department office to have the permit certified.

(5) Lost, raptors on hack, or captive bred raptors may be retrapped at anytime without a capture permit. All other raptors captured shall be immediately released.

(6) Exportation of wild caught raptors — No raptor taken from the wild in Oregon shall be transferred to another person residing outside the state except those Oregon wild caught raptors held for six months or longer may be transferred to another person residing outside the state.

(7) An Oregon licensed falconer is allowed to retain legally captured raptors in their possession if they move from Oregon.

(8) Falconers are responsible for treatment and rehabilitation costs of raptors taken for falconry and injured during trapping efforts.

Stat. Auth.: ORS 496.012, 496.112, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.112, 496.138, 496.146 & 496.162

Hist.: FWC 170, f. 12-23-77, ef. 1-1-78; FWC 9-1980, f. & ef. 2-27-80; FWC 8-1981, f. & ef. 2-26-81; FWC 14-1982, f. & ef. 2-25-82; FWC 11-1983, f. & ef. 3-24-83; FWC 8-1986, f. & ef. 3-6-86; FWC 19-1990, f. & cert. ef. 2-28-90; FWC 40-1991, f. & cert. ef. 4-24-91; FWC 33-1992(Temp), f. & cert. ef. 5-11-92; FWC 116-1992, f. & cert. ef. 10-28-92; FWC 30-1993, f. & cert. ef. 5-5-93; DFW 33-2002, f. & cert. ef. 4-18-02; DFW 11-2008, f. & cert. ef. 2-21-08; DFW 19-2008, f. & cert. ef. 2-29-08; DFW 152-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 25-2009(Temp), f. 3-10-09, cert. ef. 5-15-09 thru 8-31-09

Rule Caption: Amendments to Rules Regarding Public Use for Sauvie Island Wildlife Area.

Adm. Order No.: DFW 26-2009(Temp)

Filed with Sec. of State: 3-11-2009

Certified to be Effective: 3-11-09 thru 8-10-09

Notice Publication Date:

Rules Amended: 635-008-0147

Subject: This rule 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.

(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 May 1 each year.

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

ADMINISTRATIVE RULES

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(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

Rule Caption: Oregon Ocean Sport Salmon Fishery to Remain Closed.

Adm. Order No.: DFW 27-2009(Temp)

Filed with Sec. of State: 3-11-2009

Certified to be Effective: 3-15-09 thru 9-10-09

Notice Publication Date:

Rules Amended: 635-013-0009

Subject: Amended rule keeps closed all Oregon ocean sport salmon fisheries previously scheduled to open on March 15, 2009. Rule modifications are consistent with action taken by the National Marine Fisheries Service (NMFS), in consultation with the Pacific Fishery Management Council (PFMC).

Rules Coordinator: Therese Kucera—(503) 947-6033

635-013-0009

Tillamook Terminal Area Ocean Fishery

(1) The Pacific Ocean waters inside an area south of Twin Rocks (45°35'54" N. Lat.) and north of Pyramid Rock (45°29'48" N. Lat.) and seaward three nautical miles offshore are closed for Chinook salmon from March 15, 2009 until further notice.

(2) A rectangular area offshore is closed to salmon angling for fin-clipped Chinook salmon from March 15, 2009 until further notice. This rectangular area extends from twin Rocks (45°35'54" N. Lat.) to Pyramid Rock (45°29'48" N. Lat.) inside the 15 fathom depth contour.

(3) During the open season for adipose fin-clipped coho salmon in the ocean, the Terminal Area and the rectangular Control Zone described in sections (2) and (3) of this rule are open to angling for salmon consistent with federal sport salmon management measures for the area from Cape Falcon to Humbug Mountain.

(4) During the period August 1–December 31, in the area described in sections (2) and (3), no more than two adult salmon may be retained per day, no more than four adult Chinook salmon may be retained in any seven consecutive days, and no more than 10 adult chinook salmon may be retained per season. Adult chinook salmon catch limits include, in aggregate, salmon taken in Tillamook, Nehalem, and Nestucca bays and tributaries (see OAR 635-014-0090). For purposes of this rule, adult salmon are chinook having a length greater than 24 inches.

(5) No more than two single-point, single-shank barbless hooks are required in the ocean adipose fin-clipped coho salmon fishery and in the ocean outside the Terminal Area at all times.

Stat. Auth.: ORS 496.138, 496.146, & 506.119
Stats. Implemented: ORS 496.162 & 506.129
Hist.: FWC 45-1983(Temp), f. & ef. 9-16-84; FWC 57-1984(Temp), f. & ef. 9-15-84; FWC 64-1984(Temp), f. & ef. 9-21-84; FWC 59-1985(Temp), f. & ef. 9-13-85; FWC 59-1986(Temp), f. & ef. 9-19-86; FWC 76-1987, f. & ef. 9-15-87; FWC 84-1988, f. & cert. ef. 9-9-88; FWC 83-1989, f. 8-31-89, cert. ef. 9-16-89; FWC 86-1990, f. 8-24-90, cert. ef. 9-1-90; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 19-1997(Temp), f. 3-17-97, cert. ef. 4-15-97; FWC 30-1997, f. & cert. ef. 5-5-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; Administrative correction 1-23-09; DFW 27-2009(Temp), f. 3-11-09, cert. ef. 3-15-09 thru 9-10-09

Rule Caption: Oregon Ocean Commercial Salmon Fishery to Remain Closed.

Adm. Order No.: DFW 28-2009(Temp)

Filed with Sec. of State: 3-12-2009

Certified to be Effective: 3-15-09 thru 9-10-09

Notice Publication Date:

Rules Amended: 635-003-0004

Subject: Amended rule keeps closed the Oregon ocean commercial salmon fishery previously scheduled to open on March 15, 2009. These modifications are consistent with action taken by the National Marine Fisheries Service (NMFS), in consultation with the Pacific Fishery Management Council (PFMC).

Rules Coordinator: Therese Kucera—(503) 947-6033

635-003-0004

Inclusions and Modifications

(1) OAR 635-003-0005 through 635-003-0076 modify or are in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subpart H**.

(2) The **Code of Federal Regulations (CFR), Title 50, Part 660, Subpart H**, provides requirements for commercial salmon 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) This rule contains requirements which modify commercial salmon fishing regulations off the Oregon coast. The following modifications are organized in sections that apply to the ocean commercial salmon fishery in general and within management zones established by the Pacific Fishery Management Council and enacted by **Federal Regulations (CFR, Title 50, Part 660, Subpart H)**.

(4) General Requirements, Definitions, Restrictions or Exceptions: Vessels prevented by unsafe weather conditions or mechanical problems from meeting management area landing restrictions, must notify the U.S. Coast Guard and receive acknowledgement of such notification prior to leaving the area. Notification shall include the vessel name, port where delivery will be made, approximate number of salmon (by species) on board, and estimated time of arrival.

(5) The Oregon ocean commercial salmon fishery is closed until further notice.

(6) Humbug Mountain, Oregon, to Humboldt South Jetty: When the fishery is closed north of the Oregon/California border and open to the south, vessels with fish on board taken in the open area may request authorization to temporarily moor in Brookings, Oregon, prior to landing in California. Such vessels shall first notify the Chetco River Coast Guard Station via VHF Channel 22A between the hours of 0500 and 2200. Proper notification shall include the vessel name, number of fish on board, and estimated time of arrival.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 506.129
Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 83-1994(Temp), f. 10-28-94, cert. ef. 11-1-94; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 40-1995(Temp), f. & cert. ef. 5-18-95; FWC 62-1995(Temp), f. 7-27-95, cert. ef. 7-28-95; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 26-1996(Temp), f. 5-16-96, cert. ef. 5-17-96; FWC 31-1996(Temp), f. & cert. ef. 6-4-96; FWC 19-1997(Temp), f. 3-17-97, cert. ef. 4-15-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 33-1997(Temp), f. & cert. ef. 5-28-97; FWC 44-1997(Temp), f. & cert. ef. 8-13-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 36-1998(Temp), f. 5-12-98, cert. ef. 5-13-98 thru 5-15-98; DFW 38-1998(Temp), f. & cert. ef. 5-15-98 thru 6-15-98; DFW 39-1998(Temp), f. 5-19-98, cert. ef. 5-20-98 thru 5-23-98; DFW 44-1998(Temp), f. 6-1-98, cert. ef. 6-2-98 thru 6-4-98; DFW 64-1998(Temp), f. 8-14-98, cert. ef. 8-15-98 thru 8-21-98; DFW 65-1998(Temp), f. & cert. ef. 8-21-98 thru 8-31-98; DFW 20-1999(Temp), f. 3-29-99, cert. ef. 4-1-99 thru 4-30-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 16-2000(Temp), f. 3-31-00, cert. ef. 4-1-00 thru 4-30-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 45-2000(Temp), f. 8-10-00, cert. ef. 8-11-00 thru 8-31-00; DFW 46-2000(Temp), f. 8-10-00, cert. ef. 8-10-00 thru 9-30-00; DFW 49-2000(Temp), f. 8-17-00, cert. ef. 8-18-00 thru 9-30-00; DFW 56-2000(Temp), f. 8-31-00, cert. ef. 9-1-00 thru 9-30-00; DFW 59-2000(Temp), f. & cert. ef. 9-6-00 thru 9-30-00; DFW 73-2000(Temp), f. 10-26-00, cert. ef. 10-28-00 thru 11-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 48-2001(Temp), f. 6-14-01, cert. ef. 6-15-01 thru 6-30-01; DFW 58-2001(Temp), f. 7-18-01, cert. ef. 7-20-01 thru 9-30-01; DFW 67-2001(Temp), f. 8-2-01, cert. ef. 8-3-01 thru 9-30-01; DFW 69-2001(Temp), f. & cert. ef. 8-8-01 thru 9-30-01; DFW 74-2001(Temp), f. & cert. ef. 8-17-01 thru 9-30-01; DFW 83-2001(Temp), f. 8-30-01, cert. ef. 8-31-01 thru 9-30-01; DFW 22-2002(Temp), f. 3-19-02, cert. ef. 3-20-02 thru 4-30-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 58-2002(Temp), f. 6-6-02, cert. ef. 6-7-02 thru 6-30-02; DFW 65-2002(Temp), 6-27-02, cert. ef. 7-1-02 thru 12-27-02; DFW 72-2002(Temp), f. 7-11-02 cert. ef. 7-12-02 thru 12-31-02; DFW 76-2002(Temp), f. 7-25-02, cert. ef. 7-26-02 thru 12-31-02; DFW 77-2002(Temp), f. & cert. ef. 7-26-02 thru 12-31-02; DFW 84-2002(Temp), f. 8-8-02, cert. ef. 8-9-02 thru 12-31-02; DFW 86-2002(Temp), f. & cert. ef. 8-9-02 thru 12-31-02; DFW 92-2002(Temp), f. & cert. ef. 8-22-02 thru 12-31-02; DFW 101-2002(Temp), f. & cert. ef. 9-9-02 thru 12-31-02; DFW 111-2002(Temp), f. 10-8-02, cert. ef. 10-14-02 thru 12-31-02; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 47-2003(Temp), f. 6-5-03, cert. ef. 6-6-03 thru 6-30-03; Administrative correction, 2-18-05; DFW 10-2005(Temp), f. 3-2-05, cert. ef. 3-15-05 thru 4-30-05; DFW 17-2005(Temp), f. & cert. ef. 3-15-05 thru 4-15-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 13-2006(Temp), f. 3-14-06, cert. ef. 3-15-06 thru 4-30-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; Administrative correction, 11-16-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 78-2007(Temp), f. & cert. ef. 8-20-07 thru 8-31-07; DFW 79-2007(Temp), f. 8-23-07, cert. ef. 8-25-07 thru 9-13-07; DFW 85-2007(Temp), f. 9-5-07, cert. ef. 9-10-07 thru 9-13-07; Administrative correction 9-16-07; DFW 24-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 66-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 10-31-08; Administrative correction 11-18-08; DFW 28-2009(Temp), f. 3-12-09, cert. ef. 3-15-09 thru 9-10-09

ADMINISTRATIVE RULES

**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 4-2009

Filed with Sec. of State: 2-17-2009

Certified to be Effective: 3-19-09

Notice Publication Date: 10-1-2008

Rules Amended: 413-050-0000, 413-050-0005, 413-050-0010, 413-050-0020, 413-050-0030, 413-050-0040, 413-050-0050

Subject: These rules (the Department's Child Welfare Policy I-C.1, Housekeeper Services, OAR 413-050-0000 to 413-050-0050) are being changed to implement a standardized criminal history and child protective services background check for a provider of housekeeping services to the home of a child receiving Child Protective Services; Substitute Care; Family Support Services for families receiving TANF, SSI, or within the 0-79 percent of the state median income; and certain foster children in the care and custody of the Department and living in the care of a foster family. A housekeeper's duties include child care when a parent is incapacitated or temporarily absent from the home.

OAR 413-050-0000 is about the purpose and scope of these rules (OAR 413-050-0000 to 413-050-0050). OAR 413-050-0000 is being amended to restate the purpose and scope of this rule division is to help meet the basic needs of a family to maintain and strengthen the family so that a child can remain in the child's own home whenever possible. The rule contained a mission statement in addition to the purpose and scope statement. OAR 413-050-0000 as amended removes the mission statement and states that the purpose and scope statement applies to OAR 413-050-0000 to 413-050-0050.

OAR 413-050-0005 is about the definitions that apply to these rules (OAR 413-050-0000 to 413-050-0050). OAR 413-050-0005 is being amended to remove terms no longer used and add terms currently used by the Department. The term Children, Adults and Families (CAF) is not otherwise used in these rules (OAR 413-050-0000 to 413-050-0050) and is being removed from this rule. The Department has replaced the term Service Delivery Area (SDA) with the term "district" and defined the new term in OAR 413-050-0005. The term "housekeeping provider" was not previously defined and is being defined for consistent application of the term.

OAR 413-050-0010 describes what is meant by housekeeping services under these rules (OAR 413-050-0000 to 413-050-0050). OAR 413-050-0010 is being amended to restate which housekeeping services are regular services, which are emergency services, and when the services may be provided.

OAR 413-050-0020 is about the requirements for receiving and providing housekeeping services, payment for providing these services, and a provider's hearing rights if denied eligibility under these rules (OAR 413-050-0000 to 413-050-0050). OAR 413-050-0020 is being amended to clarify which families may receive housekeeping services, when the Department will authorize and pay for housekeeping services, and who may provide housekeeping services and receive compensation for doing so. This rule (OAR 413-050-0020) also explains the criteria for becoming a housekeeping provider including the documents which must be provided to the Department, the criminal history and background checks that are performed on a subject individual, the grounds for not being allowed to provide housekeeping services, the reporting requirements for a housekeeping provider, and the meaning and consequences of a determination of failed or denied. OAR 413-050-0020 also outlines the hearing rights for a housekeeping provider denied payment. OAR 413-050-0020 as amended allows the Department to conduct criminal history and Child Protective Services background checks on providers of and subject individuals associated with in-home housekeeping for child welfare clients, requires providers to report information perti-

nent to the safety and well being of the child, and informs providers about determinations and appeal rights for negative determinations.

OAR 413-050-0030 describes how Child Welfare caseworkers coordinate with workers from other programs to avoid duplication of housekeeping services under different programs serving the same child. OAR 413-050-0030 is being amended to describe who is responsible for inter-program coordination of services.

OAR 413-050-0040 is about how the Department authorizes the housekeeping services covered under these rules (OAR 413-050-0000 to 413-050-0050). OAR 413-050-0040 is being amended to clearly state that housekeeping services must be pre-authorized before being provided, as well as the length of time for which each type of service may be authorized. The rule had not distinguished between and clearly stated that both regular and 24-hour emergency housekeeping services must be preauthorized by the Department, and had stated that authorizations may be for up to 90 days for either type of service. OAR 413-050-0040 as amended states that the Department must preauthorize both regular and emergency housekeeping services before either may be provided, states the period of time for which each type of service may be authorized, and the circumstances under which services may be extended for an additional period of time.

OAR 413-050-0050 is about the Department payment rates, calculation of hours paid, conditions for exceptions to the payment rates and responsibility for payment of Social Security taxes for provided housekeeping services covered under these rules (OAR 413-050-0000 to 413-050-0050). OAR 413-050-0050 is being amended to restate which hour and wage guidelines the Department utilizes, the limit on the number of hours paid daily for 24-hour emergency housekeeping services, who may make exceptions to the payment rates, how those exceptions are communicated, and who has responsibility for paying the employer's share of the provider's Social Security taxes.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-050-0000

Purpose

The purpose of these rules (OAR 413-050-0000 to 413-050-0050) is to help meet the basic needs of a family to maintain and strengthen the family so a child can be maintained in the child's own home whenever possible.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 6-2003, f. & cert. ef. 1-7-03; CWP 4-2009, f. 2-17-09, cert. ef. 3-19-09

413-050-0005

Definitions.

The following definitions apply to these rules (OAR 413-050-0000 to 413-050-0050):

(1) "Department" means the Department of Human Services.

(2) "District" means a Department service delivery area; a geographic region of one or more counties served by the Department and managed by a district manager.

(3) "Housekeeping provider" means an individual who carries out tasks in a home, necessary to maintain the functioning of a family.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 6-2003, f. & cert. ef. 1-7-03; CWP 4-2009, f. 2-17-09, cert. ef. 3-19-09

413-050-0010

Service Description

As used in these rules (OAR 413-050-0000 to 413-050-0050):

(1) "Regular housekeeping services" are those tasks carried out within the home that are routine and necessary to maintain the functioning of a family, performed by an individual who is not a member of the household. Those tasks include, but are not limited to:

(a) Routine housecleaning and related chores;

(b) Laundry; and

(c) Food preparation and dish washing.

(2) "24-hour emergency housekeeping services" are services provided when temporary emergency circumstances require live-in housekeeping services along with regular housekeeping services. 24-hour emergency housekeeping services must be deemed necessary to keep the family intact

ADMINISTRATIVE RULES

and include temporarily providing all routine household functions, including child care, during the incapacity or short-term absence (usually not exceeding seven days) of the caregiving individual in the household.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 6-2003, f. & cert. ef. 1-7-03; CWP 4-2009, f. 2-17-09, cert. ef. 3-19-09

413-050-0020

Eligibility

(1) Payment for regular housekeeping services (see OAR 413-050-0010) and 24-hour emergency housekeeping services (see OAR 413-050-0010) rendered for a child welfare client is made only on behalf of a child who is receiving Child Protective Services (CPS), Substitute Care, or Family Support Services; and

(a) A family who currently is receiving SSI, TANF, or is within the 0-79 percent State Median Income range.

(b) A foster child in the care and custody of the Department, and living in the care of a foster family.

(2) Service criteria. Regular housekeeping services or 24-hour emergency housekeeping services may be authorized when the Department determines the services offer an adequate solution to either of the following conditions:

(a) Incapacity or short-term absence (usually not exceeding seven days) of the caregiving individual in the household who is unable to fulfill routine, necessary household duties due to conditions such as chronic or acute illness, severe emotional stress, physical handicap, complication of pregnancy, medically prescribed rest, or childbirth. The need and duration of need related to physical conditions must be confirmed orally or in writing by an attending physician unless the degree of incapacity is obvious (individual is physically immobile).

(b) Certain unusual requirements for care of an ill child or a child with a disability, when the need for care and duration of care is verified by the child's attending physician, that preclude the carrying out of routine, necessary housekeeping duties by the caregiving individual in the household.

(3) Payment for regular housekeeping services and 24-hour emergency housekeeping services rendered may be made only to a housekeeping provider (see OAR 413-050-0005) approved through the Department background check requirements of this rule and Division 407, chapter 007.

(a) The housekeeping provider must submit a completed Department Criminal History Request form (DHS 301 CP). The housekeeping provider and each individual identified under paragraph (3)(f)(A) of this rule is considered a subject individual under OAR 407-007-0210 and must complete and sign an authorization for a records check and, if necessary, an authorization to release information and fingerprint cards. The housekeeping provider must fully disclose all requested information as part of the records check. The Department may approve the housekeeping provider or other subject individual unless the Department determines, based upon the information available (including information considered under OAR 407-007-0300), following a preliminary or final fitness determination (as provided in OAR 407-007-0320) and CPS records check, that the housekeeping provider or other subject individual is not eligible to provide housekeeping services.

(b) The housekeeping provider or other subject individual must not have a history of behavior that indicates a substantial risk to the health or safety of a child in the care of the housekeeping provider. A single incident may be sufficient grounds for ineligibility. This determination is based on a review of Criminal History (CH) and CPS records, an investigation of complaints, if any, and information provided by other agencies.

(c) The Department may conduct a national criminal history check through the Oregon State Police and the Federal Bureau of Investigation as specified in OAR 407-007-0250 and may withhold authorization for payment to a housekeeping provider until the national criminal history check is complete.

(d) If the Department obtains information, with respect to a housekeeping provider or other subject individual, of a potentially disqualifying crime, condition, or child protective services history, as described in OAR 407-007-0280 to 407-007-0300, the Department will conduct a weighing test under 407-007-0200 to 407-007-0370 to determine whether the housekeeping provider or other subject individual may be approved by the Department to participate in regular housekeeping or 24-hour emergency housekeeping services.

(e) If the Department obtains information regarding eligibility under this rule that indicates a substantial risk to the health and safety of a child in the care of the housekeeping provider, the Department may conduct a weighing test (see OAR 407-007-0210) as described in OAR 407-007-0200

to 407-007-0370 to determine whether the housekeeping provider or other subject individual may be approved by the Department to participate in regular housekeeping or 24-hour emergency housekeeping services.

(f) Each housekeeping provider must meet all of the following requirements:

(A) Submit the names of each of the following individuals together with their completed and signed authorizations for records checks through the Oregon State Police CH records system and the Department's CPS records system: The housekeeping provider, each individual the housekeeping provider uses to perform housekeeping services, and each individual who accompanies the housekeeping provider during the performance of housekeeping services.

(B) Report to the Department, with respect to any individual covered by paragraph (A) of this subsection, any arrest and any child protective services history.

(C) Report to the Department any change to the name of any individual covered by paragraph (A) of this subsection within 10 days of the name change.

(D) Report suspected child abuse of any child at a site receiving housekeeping services to CPS or a law enforcement agency.

(E) Provide, in a manner specified by the Department, information required to conduct CH and CPS records checks.

(F) Complete and submit a new Criminal History Request form (DHS 301 CP) every two years for the Department to review eligibility.

(g) Ineligibility for payment may result from any of the following:

(A) A finding of "failed". The Department may determine, based on available information, that a housekeeping provider does not meet the eligibility requirements in this rule. A housekeeping provider with a status of "failed" may reapply at any time by submitting a new application, additional documents, and information to the Department for review. If the additional documents and information show that the housekeeping provider meets the eligibility requirements, the Department may approve the housekeeping provider for payment if there is no other basis for ineligibility.

(B) A finding of "denied". If, after conducting a weighing test as described in this rule, the Department finds substantial risk to the health and safety of a child, the housekeeping provider must be denied approval and is ineligible for payment.

(4) Hearing rights. If the housekeeping provider is denied, the housekeeping provider has hearing rights under OAR 407-007-0330.

(a) A housekeeping provider has a right to a contested case hearing only as provided by these rules (OAR 413-050-0000 to 413-050-0050) to contest a fitness determination resulting in a denial of eligibility for payment for regular housekeeping services or 24-hour emergency housekeeping services. A hearing to contest a fitness determination resulting in a denial under these rules is governed by OAR 407-007-0330.

(b) A housekeeping provider whose application is denied and who fails to request a hearing within 45-days after notice of the denial was mailed to the housekeeping provider is not eligible to reapply for approval until 180 days following the date of the denial notice.

(c) If a housekeeping provider requests a hearing to contest a fitness determination resulting in a denial of eligibility for payment, the housekeeping provider remains ineligible for payment pending the hearing.

Stat. Auth.: ORS 181.534, 418.005
Stats. Implemented: ORS 181.534, 181.537, 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 6-2003, f. & cert. ef. 1-7-03; CWP 4-2009, f. 2-17-09, cert. ef. 3-19-09

413-050-0030

Eligible Children Served Jointly with Other Department Programs

(1) The Department is committed to coordination at either the worker or supervisor level to carry out the joint provision of services. The Child Welfare caseworker must coordinate housekeeper services with workers from self sufficiency programs and Seniors and People with Disabilities Division (SPD) programs to avoid duplication of services, when similar services are authorized through those programs.

(2) The Child Welfare caseworker is responsible for all other case planning and service implementation for the family as needed to assure the safety and well-being of a child.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 6-2003, f. & cert. ef. 1-7-03; CWP 4-2009, f. 2-17-09, cert. ef. 3-19-09

ADMINISTRATIVE RULES

413-050-0040

Authorization of Service

(1) Preauthorization of services. Regular housekeeping services or 24-hour emergency housekeeping services (see OAR 413-050-0010) must be authorized in advance of rendering the services.

(2) Authorization period. Each authorization for regular or 24-hour emergency housekeeping services is for a specific duration based on a reasonable estimate of the need, not to exceed 90 days for regular housekeeping services, six months for regular housekeeping services for a parent with a disability and a child in the household, and seven days for 24-hour emergency housekeeping services. A supervisor may approve an extension of up to three months for regular housekeeping services or seven days for 24-hour emergency housekeeping services.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 6-2003, f. & cert. ef. 1-7-03; CWP 4-2009, f. 2-17-09, cert. ef. 3-19-09

413-050-0050

Policies Governing Payment

(1) Except as provided in this rule, the payment rate is the minimum established by the Oregon Wage and Hour Regulations. Payment may be made for regular housekeeping services (see OAR 413-050-0010) for up to 40 hours per week. Overtime is paid at time and a half for each work hour above 40 hours per week, not to exceed a maximum of 10 hours per week overtime. Overtime is calculated by determining the hours worked for each sequential 7 day period beginning with the first day worked. All hours worked over 40 for the week are overtime hours regardless of hours worked for any one day.

(2) Payment rates per day for 24-hour emergency housekeeping services may not exceed a maximum cash payment equal to 10 hours per day for hours negotiated by the family.

(3) An exception to the payment rates for regular or 24-hour emergency housekeeping services established under this rule may be made by the district manager or designee taking into consideration the local housekeeping budget constraints and the justification of such an exception under either of the following conditions:

(a) When the authorized responsibilities of the housekeeping provider (see OAR 413-050-0005) include use of the housekeeper's personal vehicle for purposes essential to maintaining the family, such as grocery shopping, reimbursement may be made at the standard rate for state employee mileage reimbursement. The Department assumes no liability resulting from use of the housekeeper's personal vehicle.

(b) Where the local rates for housekeeping services are generally higher than the rates established in this rule, and to the extent competent housekeeping providers are not available for Department services, a higher rate may be established by the district manager or designee. The district manager or designee must notify staff in the local area affected and the Department's Family Based Services program manager of the increased rates.

(4) Social Security taxes will be withheld from vendor payments. The Department pays the employer's share of Social Security taxes, except as provided in section (5) of this rule.

(5) When payment for housekeeping services is made to a business or non-profit agency, the business or agency must withhold and pay the applicable Social Security taxes.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 6-2003, f. & cert. ef. 1-7-03; CWP 4-2009, f. 2-17-09, cert. ef. 3-19-09

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

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

Adm. Order No.: SSP 2-2009(Temp)

Filed with Sec. of State: 2-27-2009

Certified to be Effective: 3-1-09 thru 8-28-09

Notice Publication Date:

Rules Amended: 461-155-0250

Subject: 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 reflect 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 yearly standards so that that language will not need to be altered each year when the program standards change.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-155-0250

Income and Payment Standard; OSIP, OSIPM

(1) For an OSIP (except OSIP-EPD) or OSIPM (except OSIPM-EPD) client in long term care or in a waived nonstandard living arrangement (see OAR 461-001-0000), the countable income limit standard is 300 percent of the full SSI standard for a single individual. Other OSIP and OSIPM clients do not have a countable income limit.

(2) The non SSI OSIP and OSIPM (except OSIP-EPD and OSIPM-EPD) adjusted income standard takes into consideration the need for shelter (housing and utilities), food, and other items. The standard is itemized as follows: [Table not included. See ED. NOTE.]

(3) The standard in this section is used as the adjusted income limit for non SSI OSIP (except OSIP-EPD) and OSIPM (except OSIPM-EPD) clients. The OSIP-AB and OSIPM-AB adjusted income standard includes a transportation allowance. See OAR 461-155-0020 for the adjusted number in the household. The total standard is: [Table not included. See ED. NOTE.]

(4) To be eligible for OSIP (except OSIP-EPD or OSIP-IC), a person must be receiving SSI or be eligible for an ongoing special need. The payment standard for SSI/OSIP clients living in the community is the SIP (supplemental income payment) amount. The SIP is a need amount added to any other special or service needs to determine the actual payment. In some cases, the need amount is zero.

(a) For clients whose unearned income minus any SSI or Veterans Nonservice Connected Disability Benefits is less than \$20: [Table not included. See ED. NOTE.]

(b) For clients whose unearned income minus any SSI or Veterans Nonservice Connected Disability Benefits is \$20 or more: [Table not included. See ED. NOTE.]

(c) The SSI OSIP-AB standard includes a transportation allowance. The standard for two assumes one individual is blind and the other is not. If both are blind, \$20 is added to the SIP amount.

(d) For spouses who each receive SSI and receive services in an AFC, ALF or RCF, an amount is added to each person's SIP payment that equals the difference between the individual's income (including SSI and other income) and the OSIP standard for a one person need group.

(e) When one or both spouses receive SSI and are not included in subsection (d) of this section, the two-person need group is used to determine the SIP amount. This amount is used even if one (or both) of the individuals is receiving services and has a need group of one according to OAR 461-110-0630.

(5) In the OSIP and OSIPM programs, individuals in a nursing facility or an ICF-MR are allowed the following amounts for clothing and personal incidentals:

(a) For clients who receive a VA pension based on unreimbursed medical expenses (UME), \$90 is allowed.

(b) For all other clients, \$30 is allowed.

(6) In the OSIP-EPD and OSIPM-EPD programs, the adjusted earned income limit is 250 percent of the federal poverty level for a family of one.

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

Stat. Auth.: ORS 411.060 & 411.070

Stats. Implemented: ORS 411.060 & 411.070

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 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 25-1991, f. 12-30-91, cert. ef. 1-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; 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 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; 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 5-2002, f. & cert. ef. 4-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 10-2003(Temp), f. & cert. ef. 5-1-03 thru 9-30-03; SSP 26-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; 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 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 4-2006, f. & cert. ef. 3-1-06; 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 2-2007(Temp), f. & cert. ef. 3-1-07 thru 3-31-07; Suspended by SSP 3-2007(Temp), f. & cert. ef. 3-9-07 thru 6-30-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; Suspended by SSP 5-2007(Temp), f. 3-30-07, cert. ef. 4-1-07 thru 6-30-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 14-2007, f. 12-31-07, cert.

ADMINISTRATIVE RULES

ef. 1-1-08; SSP 6-2008(Temp), f. 2-29-08, cert. ef. 3-1-08 thru 8-28-08; 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 2-2009(Temp), f. 2-27-09, cert. ef. 3-1-09 thru 8-28-09

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

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

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

Certified to be Effective: 3-3-09 thru 8-30-09

Notice Publication Date:

Rules Adopted: 461-145-0143

Rules Amended: 461-145-0550

Subject: OAR 461-145-0143 about treatment of the \$250 economic recovery payments in Chapter 461 program eligibility determinations is being adopted to state the payments are treated as excluded income in the month of receipt and an excluded resource in the month of receipt and for the following nine months.

OAR 461-145-0550 about the treatment of unemployment compensation benefits in Chapter 461 program eligibility determinations is being amended to state the additional \$25 benefit authorized in the American Recovery and Reinvestment Act of 2009 is excluded from countable income in all programs except for the Employment Related Day Care and Food Stamp programs.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-145-0143

Economic Recovery Payment

A \$250 economic recovery payment authorized by the American Recovery and Reinvestment Act of 2009 is excluded income in the month of receipt and an excluded resource in the month of receipt and for the following nine months.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.049 & 414.042

Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 412.049 & 414.042

Hist.: SSP 3-2009(Temp), f. & cert. ef. 3-3-09 thru 8-30-09

461-145-0550

Unemployment Compensation Benefit

In all programs covered by chapter 461 of the Oregon Administrative Rules, unemployment compensation benefits are treated as follows:

(1) Retroactive payments are counted as periodic or lump-sum income (see OAR 461-140-0110 and 461-140-0120).

(2) Disaster Unemployment Assistance is treated as provided in OAR 461-145-0100.

(3) In all programs except the ERDC and FS programs, the \$25 supplemental payment authorized by the American Recovery and Reinvestment Act of 2009 is excluded from countable (see OAR 461-001-0000) income.

(4) All payments not covered under sections (1) to (3) of this rule are counted as unearned income.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 418.100

Stats. Implemented: ORS 411.060, 411.070, 411.700, 411.816, 414.042, 418.100

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-1991(Temp), f. & cert. ef. 1-2-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 9-1997, f. & cert. ef. 7-1-97; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 3-2009(Temp), f. & cert. ef. 3-3-09 thru 8-30-09

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

Adm. Order No.: SSP 4-2009(Temp)

Filed with Sec. of State: 3-11-2009

Certified to be Effective: 4-1-09 thru 9-28-09

Notice Publication Date:

Rules Amended: 461-120-0110, 461-135-0400, 461-155-0150, 461-160-0040

Subject: OAR 461-120-0110 about the citizenship and alien status requirements for members of benefit groups is being amended to extend the requirements to adults in Employment Related Day Care (ERDC) program benefit groups, and to clarify the language in the rule.

OAR 461-135-0400 about the specific eligibility requirements of the Employment Related Day Care (ERDC) program is being amended to state that income from self-employment income does not meet the ERDC specific requirement for employment income, a self-employed adult in the filing group is considered available to provide

child care making the filing group ineligible, and filing group members who are caretakers, spouses of caretakers, children needing child care, and parents of a child or unborn must meet the citizenship and alien status requirements to be eligible for ERDC program benefits.

OAR 461-155-0150 about child care eligibility standards, payment rates and client copayments in the Employment Related Day Care (ERDC) program is being amended to remove language stating benefit levels for child care for self-employed individuals, as these individuals are no longer eligible for ERDC benefits. This rule is also being amended to remove the \$25 limit on client copayments in the first month.

OAR 461-160-0040 about deductions for and coverage of dependent care costs in the Employment Related Day Care (ERDC), Refugee (REF), and Temporary Assistance for Needy Families (TANF) programs is being amended to state that ERDC program child care benefits are not available to self-employed caretakers.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-120-0110

Citizenship and Alien Status Requirements

(1) To be a member of a *benefit group* (see OAR 461-110-0750) for all programs except the CAWEM, REF, and REFM programs, an individual 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) To be a member of a need group (see OAR 461-110-0630) or benefit group for the REF and REFM programs, an individual 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

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 following members of the filing group must meet the citizenship or alien status requirements of OAR 461-120-0110:

(A) The caretaker;

(B) Any child needing child care;

(C) The parent (see OAR 461-001-0000) of a child or unborn; and

(D) The spouse of the caretaker.

(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

ADMINISTRATIVE RULES

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

461-155-0150

Child Care Eligibility Standard, Payment Rates, and Copayments

The following provisions apply to child care in the ERDC, JOBS, JOBS Plus, and TANF programs:

(1) The following definitions apply to the rules governing child care rates:

- (a) Infant: A child aged newborn to 1 year.
- (b) Toddler: A child aged 1 year to 3 years.
- (c) Preschool: A child aged 3 years to 6 years.
- (d) School: A child aged 6 years or older.
- (e) Special Needs: A child who meets the age requirement of the program (ERDC or TANF) and who requires a level of care over and above the norm for his or her age due to a physical, behavioral or mental disability. The need for a higher level of care must be determined by the provider and the disability must be verified by one of the following:

(A) A physician, nurse practitioner, licensed or certified psychologist or clinical social worker.

(B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.

(C) Eligibility for SSI.

(2) The following definitions apply to the types of care specified in the child care rate charts:

(a) The Standard Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.

(b) The Enhanced Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider meets the training requirements of the Oregon Registry entry level, established by the Oregon Center for Career Development in Childhood Care and Education.

(c) The Registered Family Rate applies to child care provided in the provider's own home when the provider meets criteria established by the Child Care Division.

(d) The Certified Family Rate applies to child care provided in a residential dwelling that is certified by the Child Care Division as a Certified Family Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.

(e) The Standard Center Rate applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Child Care Division Certification rules (see OAR 414-300-0000).

(f) The Enhanced Center Rate applies to child care provided in an exempt center whose staff meet the training requirements of the Oregon Registry entry level established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:

(A) A minimum of one staff member for every 20 children in care must meet the Oregon Registry entry level training requirements noted in paragraph (2)(b) of this rule.

(B) New staff must meet the Oregon Registry entry level training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (A) of this subsection.

(C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.

(g) An exempt center is eligible to receive the enhanced rate for a maximum of six months while in the process of meeting the requirements of subsection (2)(f) of this rule if it files a statement of intent to meet the requirements on a form prescribed by the Department.

(h) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of subsection (2)(b), (f), or (g) of this rule.

(i) The Certified Center Rate applies to child care provided in a center that is certified by the Child Care Division.

(3) Subject to the provisions in section (6) of this rule, the monthly limit for each child's child care payments is the lesser of the amount charged by the provider or providers and the following amounts:

(a) The monthly rate provided in section (6) of this rule.

(b) The product of the hours of care, limited by section (4) of this rule, multiplied by the hourly rate provided in section (6) of this rule.

(4) The number of payable billable hours for a child is limited as follows:

(a) In the ERDC and TANF programs, the total in a month may not exceed:

(A) The number of hours of care necessary for the client to maintain his or her job including, for clients in the JOBS Plus program, the time the client searches for unsubsidized employment and for which the employer pays the client, or to participate in activities included in a case plan (see OAR 461-001-0025); or

(B) 125 percent of the time the client is at work or participating in an approved activity of the JOBS program.

(b) In the ERDC program, for a client who earns less than state minimum wage, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time). The limitation of this subsection is waived for the first three months of the client's employment.

(c) In the TANF program, for a client who earns less than state minimum wage or is self-employed, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time). The limitation of this subsection is waived for the first three months of the client's employment.

(5) The following provisions apply to all programs:

(a) Providers not eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.

(b) Providers eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 136 hours a month unless the provider customarily bills all families at a part-time monthly rate subject to the maximum full-time monthly rate.

(c) At their request, providers eligible for the enhanced or licensed rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month and customarily bill all families at a part-time monthly rate.

(d) Unless required by the circumstances of the client or child, the Department will not pay for care at a monthly rate to more than one provider for the same child for the same month.

(e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.

(f) The Department will pay for up to five days each month the child is absent if:

(A) The child was scheduled to be in care and the provider bills for the amount of time the child was scheduled to be in care;

(B) The absent child's place is not filled by another child; and

(C) It is the provider's policy to bill all families for absent days.

(g) The Department will not pay for more than five consecutive days of scheduled care for which the child is absent.

(6) The limit in any month for child care payments on behalf of a child whose caretaker has special circumstances, defined in section (7) of this rule, is the lesser of the following:

(a) The amount billed by the provider or providers; and

(b) The monthly rate established in section (8) of this rule multiplied by a factor, not more than 1.5, determined by dividing the number of hours billed by 215.

(7) The limit allowed by section (6) of this rule is authorized once the Department has determined the client has special circumstances. For the purposes of this rule, a client has special circumstances when it is necessary, in order for the client to perform the requirements of his or her employment or training, to obtain child care for a child in excess of 215 hours in a month.

(8) The payment available for care of a child who meets the special needs criteria described in subsection (1)(e) of this rule is increased in accordance with OAR 461-155-0151 if:

(a) The child requires significantly more direct supervision by the child care provider than normal for a child of the same age; and

(b) The child is enrolled in a local school district Early Intervention or Early Childhood Special Education program or school-age Special Education Program. The enrollment required by this subsection is waived if determined inappropriate by a physician, nurse practitioner, licensed or certified psychologist, clinical social worker, or school district official.

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(9) The following are the child care rates. The rates are based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (that is, hourly or monthly). [Table not included. See ED. NOTE.]

(10) This section establishes the ERDC eligibility standard and the client's copayment (copay).

(a) The ERDC eligibility standard is met for need groups (see OAR 461-110-0630) of eight or less if monthly countable income (see OAR 461-001-0000) for the need group is less than 185 percent of the federal poverty level, as described in OAR 461-155-0180(5). The eligibility standard for a need group size of eight applies to any need group larger than eight.

(b) The minimum monthly ERDC copay is \$25.

(c) For filing groups (see OAR 461-110-0310) whose countable income is at or below 50 percent of the 2007 federal poverty level (FPL), the copay is \$25 or 1.5 percent of the filing group's monthly countable income, whichever is greater.

(d) For filing groups whose countable income is over 50 percent of the 2007 FPL, the copay amount is determined with the following percentage of monthly income:

(A) Determine filing group's countable income as a percent of FPL (rounding to the nearest whole number percentage), subtract 50, and multiply this difference by 0.12.

(B) Add 1.5 to the amount in paragraph (A) of this subsection. This sum is the percentage of monthly income to determine the copay amount.

(11) The limit in any month for child care payments on behalf of a child whose caretaker is away from the child's home for more than 30 days because the caretaker is a member of a reserve or National Guard unit that is called up for active duty is the lesser of the following:

(a) The amount billed by the provider or providers.

(b) The monthly rate established in this rule for 215 hours of care.

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

Stat. Auth.: ORS 411.060, 411.070, 418.100

Stats. Implemented: ORS 411.060, 411.070, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 14-1992, f. & cert. ef. 6-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 10-1993, f. & cert. ef. 6-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1994, f. 4-29-94, cert. ef. 5-1-94; 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 23-1995, f. 4-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 4-2000(Temp), f. 2-29-00, cert. ef. 3-1-00 thru 8-25-00; 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 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 2-2003(Temp), f. & cert. ef. 2-7-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; 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 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 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 4-2009(Temp), f. 3-11-09, cert. ef. 4-1-09 thru 9-28-09

461-160-0040

Dependent Care Costs; Deduction and Coverage

(1) In the EXT and MAF programs, the cost of child care for a dependent child (see OAR 461-001-0000) may be deducted from the income of a client in accordance with the following:

(a) The dependent child must live with the filing group;

(b) The provider of child care may not be in the filing group;

(c) The provider of child care may not be the parent (see OAR 461-001-0000) of the dependent child; and

(d) The amount of the deduction is determined as follows:

(A) In the EXT program, the amount is limited to the cost necessary for the caretaker relative (see OAR 461-001-0000) to maintain employment, including time required to commute, work, and take a meal break.

(B) In the MAF program, as set out in OAR 461-160-0190.

(2) In the FS program, dependent care is deductible (see OAR 461-160-0430) when all of the following are true:

(a) The dependent is a member of the filing group and is in the care, control, and custody of an individual in the group.

(b) The dependent care provider:

(A) Is not in the filing group; and

(B) Is not the parent of the dependent.

(c) The dependent care is necessary because the client is working, commuting, on a meal break, in training, participating in pre-employment education, or participating in an OFSET case plan (see OAR 461-001-0020).

(3) In the ERDC, REF, and TANF programs, the cost of dependent child care may be paid for by the Department (is covered) only if all of the following requirements are met. Dependent child care is necessary for the working client to maintain employment, including time required to work, commute, or take a meal break. For a client working under a JOBS Plus agreement, child care is covered during the time the client is engaged in work or in job search if the employer pays the client during that time.

(4) In the ERDC, JOBS, REF, and TANF programs, the cost of dependent child care is not covered by the Department when free care is available, such as during school hours for school-age children.

(5) Child care is not covered in the ERDC, REF, and TANF programs if the nature of the work of the caretaker does not make it necessary for a person other than the caretaker (see OAR 461-001-0000) to provide the care. Child care is not covered during a period of time when the caretaker:

(a) Works at home and the nature of the work allows the caretaker to provide the care without significantly affecting the work;

(b) Provides child care in a residence; or

(c) Works for a provider of child care in a residence that is not certified under OAR 414-350-0000 to 414-350-0400.

(6) In the ERDC program, child care is not covered during a period of time when the caretaker is self-employed.

(7) In the JOBS and REF programs, the cost of child care may be covered while the care is necessary to enable the client to participate in a case plan (see OAR 461-190-0211).

(8) In the ERDC, JOBS, JOBS Plus, REF, and TANF programs, the cost of dependent child care may be paid for (is covered) by the Department, only if all the following are true:

(a) The dependent child:

(A) In the ERDC program, is a member of the benefit group (see OAR 461-110-0750) and is in the care, control, and custody of an individual in the group.

(B) In the JOBS, JOBS Plus, REF, and TANF programs, lives with the filing group.

(b) The provider of child care is not in the filing group.

(c) The provider of child care is not the parent of the dependent.

(9) Coverage of the cost of dependent care is subject to the requirements in Chapter 461 of the Oregon Administrative Rules, including OAR 461-120-0510(4), 461-135-0400, 461-155-0150, 461-160-0193, 461-165-0180, and 461-190-0211.

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 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 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 14-1999, f. & cert. ef. 11-1-99; 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 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 10-2007, f. & cert. ef. 10-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; 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

Department of Human Services,

Public Health Division

Chapter 333

Rule Caption: Family Planning Expansion Project.

Adm. Order No.: PH 2-2009

Filed with Sec. of State: 3-2-2009

Certified to be Effective: 3-2-09

Notice Publication Date: 1-1-2009

Rules Amended: 333-004-0010, 333-004-0020, 333-004-0030, 333-004-0040, 333-004-0050, 333-004-0060, 333-004-0070, 333-004-0080, 333-004-0100, 333-004-0110, 333-004-0120, 333-004-0140, 333-004-0150, 333-004-0160

Rules Repealed: 333-004-0090

Subject: The Department of Human Services, Public Health Division is amending and repealing Oregon Administrative Rules related to the Family Planning Expansion Program (FPEP). FPEP is a Medicaid waiver demonstration project approved by the Centers for Medicare and Medicaid Services (CMS). At this time, the program is amending rules to incorporate federal Medicaid regulations on citizenship documentation and other eligibility requirements, and to reflect current program practice.

Rules Coordinator: Sally Peters—(971) 673-0561

ADMINISTRATIVE RULES

333-004-0010

Definitions

(1) "Acquisition cost" means the net amount paid per invoice line item to a pharmaceutical manufacturer, supplier or distributor for a contraceptive supply, plus any shipping and handling that is supported by the invoice.

(2) "Approved medical services agreement" means the completed Family Planning Expansion Project agreement, submitted to and approved by the Office of Family Health.

(3) "Citizenship verification" means confirming a client's claim of U.S. citizenship through documentation of a certified birth record, passport or other document(s) deemed acceptable proof of U.S. citizenship by the federal government.

(4) "CLIA" means the Clinical Laboratory Improvement Amendments of 1988, which establishes quality standards for all laboratory testing to ensure the accuracy, reliability and timeliness of patient test results, and allows for certification of clinical laboratories operating in accordance with these federal amendments.

(5) "Client" means a person of any age or gender who is enrolled in and receives contraceptive management services from the Family Planning Expansion Project.

(6) "Client Visit Record" or "CVR" means the form or set of information that is completed for each client visit, and that is used as a data collection instrument and a billing claim form for the Family Planning Expansion Project.

(7) "CMS" means the Centers for Medicare and Medicaid Services, located within the federal Department of Health and Human Services.

(8) "Contraceptive management" means a limited scope of family planning services as described in OAR 333-004-0040.

(9) "DHS" means the Department of Human Services of the State of Oregon.

(10) "DMAP" means the Division of Medical Assistance Programs, within the Department of Human Services.

(11) "Family Planning Expansion Project" or "FPEP" means the Medicaid waiver program that provides statewide family planning services to eligible clients, that is administered by the Office of Family Health within the Department of Human Services.

(12) "Family planning services" means services provided to clients of childbearing age, including minors who can be considered to be sexually active, who desire such services and that are intended to prevent pregnancy or otherwise limit family size.

(13) "Family planning service provider" or "provider" means a licensed health care provider operating within a scope of practice, who is authorized by the Office of Family Health to bill for contraceptive management services for eligible Family Planning Expansion Project clients.

(14) "FPEP Eligibility Database" means the web-based database designed and managed by the Office of Family Health for the statewide collection, tracking and storage of FPEP client eligibility information.

(15) "FPL" means the federal poverty level guidelines established each year by the Department of Health and Human Services, used to determine eligibility for the Family Planning Expansion Project and other federally funded programs.

(16) "Lawful Permanent Resident" means a person who, notwithstanding other eligibility requirements, is a qualified non-citizen as described in OAR 461-120-0125(4).

(17) "OFH" means the Office of Family Health, the office within the Department of Human Services, Public Health Division that administers the Family Planning Expansion Project.

(18) "Project number" means the administrative number assigned by the Office of Family Health to a family planning agency.

(19) "School-Based Health Center" means a health center certified by the School-Based Health Center Program located within the Office of Family Health.

(20) "Site number" means the administrative number assigned by the Office of Family Health to each clinic within a family planning agency.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.010

Hist.: PH 4-2005, f. & cert. ef. 2-18-05; PH 3-2007(Temp), f. 2-23-07, cert. ef. 4-1-07 thru 9-28-07; PH 5-2007, f. 4-9-07, cert. ef. 4-23-07; PH 2-2009, f. & cert. ef. 3-2-09

333-004-0020

Client Eligibility

(1) A client must meet the following FPEP eligibility criteria:

(a) The client's household income and size place him or her below 185% of the Federal Poverty Level;

(b) The client resides in Oregon;

(c) The client is not sterile, has an unconfirmed sterilization status, or was sterilized less than six months prior to eligibility determination;

(d) Female clients must be less than 60 years of age;

(e) The client provides a valid Social Security Number; and

(f) The client is a citizen of the United States, with acceptable proof of citizenship and identity; or

(g) The client meets the definition of Lawful Permanent Resident as described in OAR 333-004-0010.

(2) A client who would otherwise be eligible but who is in the custody of a law enforcement agency or is an inmate of a public institution, including a juvenile detention facility, is not eligible for services.

(3) A client who receives or who is eligible for the Citizen/Alien-Waived Emergency Medical benefit package under Title XIX is not eligible for FPEP.

(4) A client enrolled in another Medicaid program that provides family planning benefits is not eligible for FPEP.

(5) A client with insurance that provides full coverage for contraceptive management services is not eligible, unless a claim for special confidentiality for personal safety reasons is made. If such a claim is made, the client's request must be documented in the FPEP Eligibility Database, on the FPEP enrollment form, and kept in the client's medical record at the enrolling clinic.

(6) Eligibility for FPEP does not constitute eligibility for any other medical assistance program. Eligibility for family planning services, including contraceptive management, as part of any other medical program is determined by the eligibility requirements for that specific program.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.010

Hist.: PH 4-2005, f. & cert. ef. 2-18-05; PH 5-2007, f. 4-9-07, cert. ef. 4-23-07; PH 2-2009, f. & cert. ef. 3-2-09

333-004-0030

Client Enrollment

(1) A person is considered eligible upon submission of:

(a) A signed, completed, and dated FPEP enrollment form that includes Social Security Number and appropriate residency and income information; applicants under age 20 can be enrolled based on their own income, whether living at home or on their own; and

(b) If the client claims U.S. citizenship, acceptable proof of U.S. citizenship and identity.

(2) All FPEP client eligibility information must be recorded in the FPEP Eligibility Database.

(3) Final determination of eligibility and enrollment into FPEP is made by OFH based on the information recorded in the FPEP Eligibility Database. A current, signed enrollment form and a copy of the citizenship and identity documents must be stored on file at the enrolling clinic. Clients found to have been enrolled in error will be disenrolled.

(4) Eligibility is effective for one year from the date of enrollment. The date of enrollment must be on or before the first date of service.

(5) FPEP enrollment forms may not be backdated. Backdated forms will be construed as fraud.

(6) One-time exception visits, available to applicants who meet all eligibility criteria apart from acceptable proof of U.S. citizenship, do not confer regular FPEP eligibility. Clients who are granted a one-time exception visit may receive services on a single day only and must present documentation of U.S. citizenship before they can be enrolled in FPEP.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.010

Hist.: PH 4-2005, f. & cert. ef. 2-18-05; PH 5-2007, f. 4-9-07, cert. ef. 4-23-07; PH 2-2009, f. & cert. ef. 3-2-09

333-004-0040

Covered Services

(1) FPEP covers contraceptive management services that are a limited scope of family planning services directly related to initiating or obtaining a contraceptive method and maintaining effective use of that method. Family planning clinics will only be reimbursed for visits at which the primary service is contraceptive initiation or management, and not for excluded services described in OAR 333-004-0050.

(2) Contraceptive management services include, but are not limited to:

(a) An annual exam, including a pap smear, payable once each year;

(b) Clinically indicated follow-up visits to evaluate effectiveness of a contraceptive method;

(c) Management of side effects related to method;

(d) Changing method if medically necessary or requested by the client;

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- (e) Family planning counseling and education; and
- (f) Laboratory tests, medical procedures (including vasectomy), and pharmaceutical supplies and devices directly related to contraceptive management as documented in clinic protocol.

(3) Each client may receive up to a one-year supply of contraceptives.
Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.010
Hist.: PH 4-2005, f. & cert. ef. 2-18-05; PH 5-2007, f. 4-9-07, cert. ef. 4-23-07; PH 2-2009, f. & cert. ef. 3-2-09

333-004-0050

Excluded Services

(1) Services and laboratory tests not directly related to contraceptive management are not covered by FPEP for any eligible client. If the client accepts financial responsibility for a non-covered service that is received during a visit, payment arrangements are between the provider and the client.

(2) No payment will be made for any expense incurred for any of the following services or items:

- (a) Sterilizations for female clients;
- (b) Treatment for infections;
- (c) Prenatal care, including pregnancy confirmations;
- (d) Repeat pap smears not associated with contraceptive management services;
- (e) Hysterectomies or abortions;
- (f) Transportation to or from a clinic appointment;
- (g) Procedures performed for medical reasons, whether or not the procedure results in preventing or delaying pregnancy or restoring fertility;
- (h) Any other medical service or laboratory test whose primary purpose is other than contraceptive management; and
- (i) A clinic visit that has the purpose of ensuring or reinforcing the client's effective use of a contraceptive method and where no medical decision-making is required (behavior modification visit).

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.010
Hist.: PH 4-2005, f. & cert. ef. 2-18-05; PH 5-2007, f. 4-9-07, cert. ef. 4-23-07; PH 2-2009, f. & cert. ef. 3-2-09

333-004-0060

Standards of Care for Contraceptive Management Services

Participating FPEP providers must agree to provide contraceptive management services according to the following standards.

(1) Informed Consent. The client's decision to participate in and consent to receive contraceptive management services must be voluntary and without bias or coercion.

(a) The informed consent process, provided verbally and supplemented with written materials, must be presented in a language the client understands.

(b) A signed consent must be obtained from the individual client receiving contraceptive management services.

(c) A separate, signed method-specific consent must be obtained from the client for each prescription contraceptive method received.

(2) Confidentiality. Services must be provided in a manner that respects the privacy and dignity of the individual, as provided for in OAR 333-004-0080(8).

(a) Clients must be assured of the confidentiality of services and of their medical and legal records.

(b) Records cannot be released without written client consent, except as may be required by law, or otherwise permitted by the Health Insurance Portability and Accountability Act (HIPAA).

(3) Availability of Contraceptive Services. A broad range of Federal Drug Administration (FDA)-approved contraceptive methods and their applications, consistent with recognized medical practice standards, as well as fertility awareness methods must be available on-site at the clinic for dispensing to the client at the time of the visit.

(a) If the provider organization's clinical staff lack the specialized skills to provide vasectomies, intra-uterine devices (IUDs) or subdermal contraceptives, or if there is insufficient volume to ensure and maintain high skill level for these procedures, clients must be referred to another qualified provider for these procedures. The provider must have an established referral arrangement, preferably with other FPEP providers, for these procedures. The clinician receiving the referral must not bill the client for FPEP-covered services.

(b) Clients should be able to get their first choice of contraceptive method during their visits unless there are specific contraindications.

(4) Linguistic and Cultural Competence. All services, support and other assistance must be provided in a manner that is responsive to the

beliefs, interpersonal styles, attitudes, language and behaviors of the individuals who are receiving services, and in a manner that has the greatest likelihood of ensuring their maximum participation in the program.

(a) The provider should employ bilingual or bicultural staff, personnel or volunteers skilled or certified in the provision of medical and clinical interpretation during all clinic encounters for clients with limited English proficiency or who otherwise need this level of assistance. All persons providing interpretation services must adhere to confidentiality guidelines.

(b) The provider must assure the competency of language assistance provided to limited English proficiency clients by interpreters and bilingual staff. Family and friends should not be used to provide interpretation services, unless requested by the client.

(c) The provider must make interpretation services available to all clients needing or requesting such assistance at no cost to the client. The provider must notify clients in need of interpretation services of the availability of such services in accordance with the Civil Rights Act of 1964.

(d) The provider should make easily understandable print materials available to clients and post signage in the languages of groups represented or commonly encountered in the service area.

(e) All print, electronic and audiovisual materials should be appropriate in terms of the client's language and literacy level. A client's need for alternate formats must be accommodated.

(5) Access to Care. Services covered by FPEP must be provided without cost to eligible clients. Clients must be informed of the scope of services available through the program.

(a) Appointments for established clients should be available within a reasonable time period, generally less than two weeks. New clients who cannot be seen within this time period should be referred to other qualified providers in the area.

(b) Contraceptive methods, including emergency contraception, must be available at the clinic site and available to the client at the time of service.

(c) Although not covered by FPEP, treatment and supplies for sexually transmitted infections must be available at the site, or by referral.

(d) Clients in need of additional medical or psychosocial services beyond the scope of the provider organization must be provided with information about available local resources, including domestic violence and substance abuse related services. Clients must also be given a brochure listing locations of free or low-cost primary care services in the area.

(e) All services must be provided to eligible clients without regard to age, marital status, race, parity, disability, gender identity, or sexual orientation.

(f) All counseling and referral-to-care options appropriate to a positive or negative pregnancy test result during authorized contraceptive services must be provided in an unbiased manner, allowing the client full freedom of choice between prenatal care, adoption counseling or pregnancy termination services.

(6) Clinical and Preventive Services.

(a) The scope of contraceptive management services offered to women and female-bodied clients at each FPEP site must include:

(A) A comprehensive health history, including health risk behaviors and a complete obstetrical, gynecological, contraceptive, personal and family medical history; and a sexual health history, in conjunction with contraceptive counseling;

(B) An initial physical examination including cervical cancer screening, that follows a national standard of care. Common sources for national standards of care are the American Cancer Society, the American College of Obstetricians and Gynecologists, and the U.S. Preventive Services Task Force ;

(C) Routine laboratory tests related to the decision-making process for contraceptive choices;

(D) Provision of a broad range of FDA-approved contraceptive methods, devices, supplies, and procedures, including emergency contraception;

(E) Follow-up care for maintenance of a client's contraceptive method or for change of method;

(F) Information about providers available for meeting primary care needs and direct referral for needed medical services not covered by FPEP, including management of high-risk conditions and specialty consultation if needed; and

(G) Preventive and control services for communicable diseases, provided within the context of a contraceptive management visit, including:

(i) Testing and diagnosis for sexually transmitted infections (STIs) as indicated; and

(ii) Reporting of STIs, as required, to appropriate public health agencies for contact management, prevention, and control.

ADMINISTRATIVE RULES

(b) The scope of contraceptive management and clinical preventative services offered to men and male-bodied clients must include:

(A) A comprehensive health history, including health risk behaviors and a complete contraceptive, personal and family medical history; and a sexual health history, in conjunction with contraceptive counseling;

(B) An initial physical examination that includes testicular cancer screening, when indicated;

(C) Provision of contraceptive barrier methods and supplies and of emergency contraception;

(D) Vasectomy or referral for vasectomy;

(E) Information about providers available for meeting primary care needs and direct referral for needed medical services not covered by FPEP, including management of high-risk conditions and specialty consultation if needed; and

(F) Preventive and control services for communicable diseases, provided within the context of a contraceptive management visit, including:

(i) Testing and diagnosis for sexually transmitted infections (STIs) as indicated; and

(ii) Reporting of sexually transmitted infections (STI), as required, to appropriate public health agencies for contact management, prevention, and control.

(c) All services must be documented in the client's medical record.

(7) Education and Counseling Services. The following elements comprise the required education and counseling services that must be provided to all contraceptive management clients:

(a) Initial individual assessment, and re-assessment as needed, of the client's contraceptive management educational needs and knowledge about reproductive health, including:

(A) Counseling and education about a broad range of FDA-approved contraceptive methods, devices, supplies, and procedures, including emergency contraception;

(B) A description of services and clinic procedures, including the pelvic exam and instructions for breast or testicular self-exam;

(C) Relevant reproductive anatomy and physiology, method options, and STI and Human Immunodeficiency Virus (HIV) prevention;

(D) Preventive health care, nutrition, preconception health maintenance, and pregnancy plans;

(E) Psychosocial issues, such as partner relationship and communication, risk-taking, and decision-making; and

(F) An explanation of how to locate and access primary care services not covered by FPEP.

(b) Initial and all subsequent education and counseling sessions must be provided in a way that is understandable to the client and conducted in a manner that respects the dignity and privacy of the client and facilitates the client's ability to make informed decisions about reproductive health behaviors and goals, and must include:

(A) An explanation of the results of the physical examination and the laboratory tests;

(B) Information on where to obtain 24-hour emergency care services;

(C) The option of including a client's partner in the education/counseling session, and other services at the client's discretion; and

(D) Effective educational information that takes into account diverse cultural and socioeconomic factors of the client and the psychosocial aspects of reproductive health.

(c) Each client must be provided with adequate information to make an informed choice about contraceptive management methods, including:

(A) A general verbal or written review of all FDA-approved contraceptive methods, including sterilizations and emergency contraception, along with the opportunity for the client to ask questions. Documentation of this method education must be maintained in the client record;

(B) A description of the implications and consequences of sterilization procedures, if provided;

(C) Specific instructions for care, use, and possible danger signs for the selected method. Documentation of method-specific informed consent must be maintained in the client record;

(D) The opportunity for questions concerning procedures or methods; and

(E) Written information about how to obtain services for contraceptive management-related complications or emergencies.

(d) Clinicians and other staff persons providing education and counseling must be knowledgeable about the psychosocial and medical aspects of reproductive health, and trained in client-centered counseling techniques. Staff must make referrals for more intensive counseling as indicated.

(8) Exceptions.

(a) School-based Health Centers are exempt from dispensing contraceptive methods as required (i.e., on-site) in section (3) and subsection (5)(b) of this rule. Because some school boards prohibit dispensing contraceptives on school grounds, School-based Health Center providers may offer contraceptive methods to clients either on-site or by referral. When offered by referral, providers must have an established referral agreement in place, preferably with another FPEP provider. OFH must be notified of the parties involved in order to ensure proper billing and audit practices. When the referral provider participates in FPEP, that provider may submit claims directly to FPEP for reimbursement of the dispensed supplies. When referral providers do not participate in FPEP, payment arrangements must be made between the referring and receiving providers. Dispensing by any provider must not result in a charge to the client.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.010

Hist.: PH 4-2005, f. & cert. ef. 2-18-05; PH 5-2007, f. 4-9-07, cert. ef. 4-23-07; PH 2-2009, f. & cert. ef. 3-2-09

333-004-0070

Provider Enrollment

(1) An individual or organization must meet applicable licensing or regulatory requirements set forth by federal and state statutes, regulations, and rules to be enrolled and to bill as a provider. In addition, all providers of services within the state of Oregon must have a valid Oregon business license if such a license is a requirement of the state, federal, county or city government to operate a business or to provide services.

(2) Signing the medical services agreement constitutes agreement by providers to comply with all applicable rules of OFH and federal and state laws and regulations.

(3) An individual or organization that is currently subject to sanctions by DHS or the federal government is not eligible for enrollment.

(4) An FPEP project number and site number will be issued to an individual or clinic upon:

(a) Completion of the FPEP provider application and submission of the required documents;

(b) The signing of the medical services agreement by the provider or person authorized by the provider to bind the organization or individual to compliance with these rules;

(c) Verification of licensing or certification; and

(d) Approval of the application by OFH and DMAP.

(5) Issuance of a project number and site number establishes enrollment of an individual or organization as a provider for FPEP services.

(6) If a provider changes address, business affiliation, licensure, ownership, certification, billing agents or Federal Tax Identification Number (TIN), OFH must be notified in writing within 30 days of the change. Failure to notify OFH of a change of Federal Tax Identification Number may result in the imposition of a fine. Changes in business affiliation, ownership, and Federal Tax Identification Number may require the submission of a new application. Payments made to providers who have not furnished such notification may be recovered.

(7) Providers of services outside the state of Oregon may be enrolled under the following conditions:

(a) The provider is appropriately licensed or certified and meets standards established within the provider's state for participation in Medicaid; and

(b) The provider lives in a state contiguous to Oregon, and is within 75 miles of the Oregon border.

(8) Provider termination:

(a) The provider may terminate enrollment at any time. The request must be made to the OFH in writing, via certified mail, return receipt requested. The notice shall specify the provider number to be terminated and the effective date of termination. Termination of the provider enrollment does not terminate any obligations of the provider for dates of services during which the enrollment was in effect.

(b) FPEP provider terminations or suspensions by OFH and subsequent recovery of any payments may be for, but are not limited to the following reasons:

(A) Breaches of the medical services agreement;

(B) Failure to comply with the statutes, regulations and policies of DHS, and federal or state regulations that are applicable to the provider;

(C) Loss of the appropriate licensure or certification; or

(D) Disenrollment from another state's Medicaid program.

(c) FPEP provider enrollment may be terminated by OFH due to inactivity. After 12 months of no claims activity, providers will be contacted by OFH regarding termination of program participation.

ADMINISTRATIVE RULES

(9) The provider is entitled to a contested case hearing to determine whether the provider's project and site number will be revoked.

(10) In the event of bankruptcy proceedings, the provider must immediately notify OFH in writing.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.010

Hist.: PH 4-2005, f. & cert. ef. 2-18-05; PH 5-2007, f. 4-9-07, cert. ef. 4-23-07; PH 2-2009, f. & cert. ef. 3-2-09

333-004-0080

Billing and Claims

(1) Only clinics providing family planning services pursuant to an approved medical services agreement, and who have been assigned a project number and site number may submit claims for FPEP services.

(2) All contraceptive management services are billed by submitting CVR data or by submitting the CVR form. A claim is considered valid only if all required data are submitted.

(3) Supplies are billed through the CVR at actual acquisition cost; that is, the amount or unit cost of the contraceptive supply the provider actually pays to the pharmaceutical manufacturer, supplier or distributor for the contraceptive supplies, after applying any discounts, promotions or other reductions. Shipping and handling may be included in the acquisition cost only if supported by an invoice.

(4) A primary diagnosis code is required on all claims. All billings must be coded with the most appropriate International Classification of Diseases, 9th Revision, Clinical Modification, 2006 (ICD-9-CM) diagnosis codes in the V25 Contraceptive Management series to the highest level of specificity. No other primary diagnosis code can be billed.

(5) Laboratory services related to contraceptive management are reimbursed through a fixed rate that includes clinical services and laboratory services. No separate laboratory bills will be reimbursed.

(6) Birth control methods billable to FPEP must be approved by OFH and by the Food and Drug Administration, and may include intrauterine devices, cervical caps, oral contraceptives, subdermal implants, vasectomies, condoms, diaphragms, spermicides, patches, rings, injectibles, and emergency contraception.

(7) As reflected in the medical services agreement, the provider must assure that all laboratory tests done at the clinic site or by an outside clinic are conducted by Clinical Laboratory Improvement Amendments (CLIA) certified laboratories.

(8)(a) A provider enrolled with FPEP must not seek payment from an eligible client, or from a financially responsible relative or representative of that individual, for any services covered by FPEP. The provider accepts OFH reimbursement for any FPEP-covered services, pharmaceuticals, devices, or supplies as payment in full.

(b) A client may be billed for services that are not covered by FPEP. However, the client must be informed in advance of receiving the specific service that it is not covered, the estimated cost of the service, and that the client or client's representative is financially responsible for payment for the specific service. Providers must document in writing that the client was provided this information and that the client knowingly and voluntarily agreed to be responsible for payment. The client or client's representative must sign this documentation.

(9) Upon submission of a claim to OFH for payment, the provider agrees that it has complied with all rules of FPEP.

(a) Except for services performed by a CLIA certified laboratory outside of the clinic, all billings must be for services provided within the provider's licensure or certification.

(b) It is the responsibility of the provider to submit true and accurate information when billing FPEP.

(c) A claim may not be submitted prior to providing services.

(10) No provider shall submit to OFH:

(a) Any false claim for payment;

(b) Any claim altered in such a way as to result in a payment for a service that has already been paid; or

(c) Any claim upon which payment has been made by another source unless the amount paid is clearly entered on the claim form.

(11) The provider is required to correct the billing error or to refund the amount of the overpayment, on any claim where the provider identifies an overpayment made by OFH.

(12) A provider who, after having been previously warned in writing by DHS or the Department of Justice about improper billing practices, is found to have continued such improper billing practices and has had an opportunity for a contested case hearing, shall be liable to OFH for up to triple the amount of the established overpayment received as a result of such violation.

(13) Third Party Resources. As outlined in OAR 333-004-0020, clients with full insurance coverage for contraceptive management services are not eligible for FPEP, unless special confidentiality is requested. The following sections apply only to clients with limited or partial insurance coverage, or to clients who have full coverage but have requested special confidentiality.

(a) Unless a client who has private insurance asks for special confidentiality as provided for in OAR 333-004-0020(5), federal law requires that all reasonable efforts be taken to ensure that FPEP will be the payor of last resort.

(b) Providers must make reasonable efforts to obtain payment first from other resources. For the purposes of this rule "reasonable efforts" include:

(A) Determining the existence of insurance or other resource by asking the client.

(B) When third party coverage is known to the provider, prior to billing FPEP:

(i) The provider must bill the third party resource; and

(ii) Resubmit a denied claim when the service is payable in whole or in part by an insurer.

(c) If the client has private insurance that has been billed for FPEP services and the reimbursement from the insurance does not cover the entire cost of the services, the balance may be billed to FPEP.

(d) If third-party payment is received after FPEP has been billed, providers are required to submit a billing correction showing the amount of the third party payment or to refund the amount received from another source within 30 days of the date the payment is received. Failure to submit a billing correction within 30 days of receipt of the third party payment or to refund the appropriate amount within this time frame is considered concealment of material facts and grounds for recovery or sanction.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.010

Hist.: PH 4-2005, f. & cert. ef. 2-18-05; PH 3-2007(Temp), f. 2-23-07, cert. ef. 4-1-07 thru 9-28-07; PH 5-2007, f. 4-9-07, cert. ef. 4-23-07; PH 2-2009, f. & cert. ef. 3-2-09

333-004-0100

Timely Submission of Claims

(1) FPEP claims are processed once a month, on or near the 15th of the month. To be included in a given month's processing, claims must be received by the monthly cut-off date established by OFH.

(2) FPEP claims are only payable within 12 months of the date of service. Claims processed more than 12 months after the date of service will be rejected.

(3) Errors causing rejection of any claim must be resolved within 12 months of the date of service. Claims older than 12 months will not be paid, except as provided for in section (4) of this rule.

(4) When OFH has made an error that caused the provider not to be able to bill within 12 months of the date of service, then the claim may be submitted to FPEP. The error must be confirmed by OFH.

(5) Client data not related to payment of the claim may be corrected at any time after the date of service.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.010

Hist.: PH 4-2005, f. & cert. ef. 2-18-05; PH 5-2007, f. 4-9-07, cert. ef. 4-23-07; PH 2-2009, f. & cert. ef. 3-2-09

333-004-0110

Payment

(1) OFH will make payment only to the enrolled provider who actually performs the services for eligible clients, except as provided for in OAR 333-004-0060(3)(a).

(2) The reimbursement rate for an FPEP visit is set by OFH. Claims are reimbursed at the rate in effect on the date of service.

(3) Family planning pharmaceuticals, devices and supplies are separately reimbursed at acquisition cost as described in OAR 333-004-0080(3), up to a set maximum amount.

(4) OFH will not make payment on claims that have been assigned, sold, or otherwise transferred, or on which a provider of billing services receives a percentage of the amount billed or payment authorized. This includes, but is not limited to, transfer to a collection agency or individual who advances money to a provider for accounts receivable.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.010

Hist.: PH 4-2005, f. & cert. ef. 2-18-05; PH 3-2007(Temp), f. 2-23-07, cert. ef. 4-1-07 thru 9-28-07; PH 5-2007, f. 4-9-07, cert. ef. 4-23-07; PH 2-2009, f. & cert. ef. 3-2-09

ADMINISTRATIVE RULES

333-004-0120

Requirements for Financial, Clinical and Other Records

(1) OFH is responsible for analyzing and monitoring the operation of FPEP and for auditing and verifying the accuracy and appropriateness of payment, utilization of services, the quality of care, and access to care. The provider shall:

(a) Develop and maintain adequate financial and clinical records and other documentation that supports the services for which payment has been requested. Payment will be made only for services that are adequately documented and for contraceptive supply costs that are supported by invoice.

(b) Document the service provided, primary diagnosis code for the services, the date on which the service was provided, and the individual who provided the services in every medical record. Patient account and financial records must also include documentation of charges, identify other payment resources pursued, indicate the date and amount of all debit or credit billing actions, and support the appropriateness of the amount billed and paid. The records must be accurate and in sufficient detail to substantiate the data reported.

(c) Sufficiently document that the client's diagnosis was primarily for contraceptive management services. The client's record must be annotated each time a service is provided and signed or initialed by the individual who provided the service or must clearly indicate the individual who provided the service. Information contained in the record must meet the standards of care for contraceptive management services, and must be appropriate in quality and quantity to meet the professional standards applicable to the provider or practitioner and any additional standards for documentation found in this rule.

(2) The provider must have policies and procedures to ensure the maintenance of the confidentiality of medical record information. These procedures ensure that the provider may release such information in accordance with federal and state statutes, ORS 179.505 through 179.507, 411.320, 42 CFR part 2, 42 CFR subpart F, 45 CFR 205.50, and including ORS 433.045(3) with respect to HIV test information.

(3) The provider must retain clinical records for seven years and financial and other records described in this rule for at least five years from the date of service. Original enrollment records must be retained for seven years.

(4) Upon written request from OFH, DMAP, DHS, the Oregon Department of Justice Medicaid Fraud Unit, the Oregon Secretary of State or their authorized representatives (Requestor), the provider must furnish requested documentation, without charge, immediately or within the time-frame specified in the written request. Copies of the documents may be furnished unless the originals are requested. At their discretion, representatives of Requestor may review and copy the original documentation in the provider's place of business. Upon the written request of the provider, Requestor may, at their sole discretion, modify or extend the time for provision of such records if, in the opinion of OFH, good cause for such extension is shown. Factors used in determining whether good cause exists include:

(a) Whether the written request was made in advance of the deadline for production;

(b) If the written request is made after the deadline for production, the amount of time elapsed since that deadline;

(c) The efforts already made to comply with the request;

(d) The reasons the deadline cannot be met;

(e) The degree of control that the provider had over its ability to produce the records prior to the deadline; and

(f) Other extenuating factors.

(5) Access to records, inclusive of medical charts and financial records does not require authorization or release from the client if the purpose of such access is:

(a) To perform billing review activities;

(b) To perform utilization review activities;

(c) To review services provided;

(d) To facilitate payment authorization and related services;

(e) To investigate a client's fair hearing request;

(f) To facilitate investigation by DHS; or

(g) Where review of records is necessary to the operation of the program.

(6) Failure to comply with requests for documents and within the specified timeframes means that the records subject to the request may be deemed by DHS not to exist for purposes of verifying appropriateness of payment, medical appropriateness, the quality of care, and the access to care in an audit or overpayment determination, and accordingly subjects the

provider to possible denial or recovery of payments made by DHS, or to sanctions.

(7) The provider, and any officers, employees, agents, and subcontractors of the provider shall comply with the following requirements for the FPEP Eligibility Database:

(a) Implement security measures that reasonably and appropriately provide administrative, physical and technical safeguards that protect the confidentiality, integrity and availability of the FPEP Eligibility Database. The provider's security measures must be documented in writing and be available for review by OFH or DHS upon request. OFH or DHS review of the reasonableness of security measures, as well as the provider's compliance with OFH or DHS assigned access control or security requirements, will take into account the provider's physical, administrative, and technical capabilities related to security measures and the potential risk of unauthorized use or disclosure of the FPEP Eligibility Database by Contractor, its officers, employees, agents or subcontractors;

(b) Prevent any unauthorized access to or disclosure of information from the FPEP Eligibility Database;

(c) Take necessary actions to comply with OFH or DHS determinations of the level of access that may be granted, as well as changes in level of access, or suspension or termination of access as determined by OFH or DHS;

(d) Keep any OFH- or DHS-assigned access control requirements such as identification of authorized user(s) and access-control information in a secure location until access is terminated; monitor and securely maintain access by the provider and its agents or subcontractors in accordance with security requirements or access controls assigned by OFH or DHS; and make available to OFH or DHS upon request all information about the provider's use or application of the FPEP Eligibility Database.

(e) Report to the DHS Information Security Office and to OFH any privacy or security incidents by the provider, its officers, employees, agents or subcontractors that compromise, damage, or cause a loss of protection to the FPEP Eligibility Database. Contractor shall report in the following manner:

(i) Report to the DHS, Information Security Office, and to OFH in writing within five business days of the date on which the provider becomes aware of such incident; and

(ii) Provide the DHS, Information Security Office and OFH the results of the incident assessment findings and resolution strategies.

(8) The provider will comply with OFH or DHS requests for corrective action concerning a privacy or security incident, and with laws requiring mitigation of harm caused by the unauthorized use or disclosure of confidential information, if any.

(9) If OFH or DHS determines that the provider's security measures or actions required under section (8) of this rule are inadequate to address the security requirements of OFH or DHS, OFH or DHS will notify the provider. OFH or DHS and the provider may meet to discuss appropriate security measures or action. If security measures or corrective actions acceptable to OFH and DHS cannot be agreed upon, OFH and DHS reserve the right to take such actions as they determine appropriate under the circumstances. Actions may include, but are not limited to, restricting access, or amending or terminating the provider agreement.

(10) OFH and DHS reserve the right to request additional information from Contractor related to security measures, and to change, suspend or terminate access to or use of the FPEP Eligibility Database by the provider, its officers, employees, agents or subcontractors.

(11) Wrongful use or disclosure of the FPEP Eligibility Database by the provider, officers, its employees, agents or its subcontractors may cause the immediate suspension or revocation of any access granted, in the sole discretion of OFH and DHS. OFH and DHS may also pursue any other legal remedies provided under the law.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.010

Hist.: PH 4-2005, f. & cert. ef. 2-18-05; PH 5-2007, f. 4-9-07, cert. ef. 4-23-07; PH 2-2009, f. & cert. ef. 3-2-09

333-004-0140

Review or Audit of Claims

(1) OFH staff, contractor or auditor may review a claim for assurance that the specific medical service or contraceptive device or supply was provided in accordance with the program's policies and rules and the generally accepted standards of a provider's scope of practice or specialty.

(2) To determine the number of inappropriate claims, and subsequently the overpayment amount, OFH may review a statistically valid random sample of claims with sufficient sample size for a confidence interval of 95 percent.

ADMINISTRATIVE RULES

(3) Payment may be denied or subject to recovery if review or audit determines the service does not meet the program's policies, rules or the Standards of Care for Contraceptive Management Services set forth in OAR 333-004-0060.

(3) The Division of Medical Assistance Programs may be notified of audit activities undertaken by OFH.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.010

Hist.: PH 4-2005, f. & cert. ef. 2-18-05; PH 5-2007, f. 4-9-07, cert. ef. 4-23-07; PH 2-2009, f. & cert. ef. 3-2-09

333-004-0150

Recovery of Overpayments to Providers Resulting from Review or Audit

(1) When OFH determines that an overpayment has been made to a provider, the amount of overpayment is subject to recovery. After OFH determines an overpayment amount by the random sampling method set forth in OAR 333-004-0140(2), the provider may request a 100 percent audit of all billings submitted to FPEP for contraceptive management services provided during the period in question. If a 100 percent audit is requested:

(a) Payment and arrangement for a 100 percent audit is the responsibility of the provider requesting the audit; and

(b) The audit must be conducted by a certified public accountant who is knowledgeable with the Oregon Administrative Rules covering the payments in question, and must be conducted within 120 calendar days of the request to use such audit in lieu of OFH's random sample.

(2) The amount of the review or audit overpayment to be recovered:

(a) Will be the entire amount determined or agreed to by OFH;

(b) Is not limited to amounts determined by criminal or civil proceedings; and

(c) Will include interest to be charged at allowable state rates.

(3) The OFH will deliver to the provider by registered or certified mail or in person a request for repayment of the overpayment and the documentation to support the overpayment amount.

(4) If the provider disagrees with OFH's determination or the amount of overpayment the provider may appeal the decision by requesting a contested case hearing:

(a) A written request for hearing must be submitted to OFH by the provider within 30 calendar days of the date of the decision affecting the provider. The request must specify the areas of disagreement.

(b) Failure to request a hearing or administrative review in a timely manner constitutes acceptance by the provider of the amount of the overpayment.

(5) The overpayment is due and payable 30 calendar days from the date of the decision by OFH:

(a) An additional 30-day grace period may be granted the provider upon request to OFH.

(b) A request for a hearing does not change the date the repayment of the overpayment is due.

(6) OFH may extend the reimbursement period or accept an offer of repayment terms. Any change in reimbursement period or terms must be made in writing by the OFH.

(7) If the provider refuses to reimburse the overpayment or does not adhere to an agreed upon payment schedule, OFH may:

(a) Recoup future provider payments up to the amount of the overpayment; or

(b) Pursue civil action to recover the overpayment.

(8) As the result of a hearing the amount of the overpayment may be reduced in part or in full.

(9) OFH may, at any time, change the amount of the overpayment upon receipt of additional information. Any changes will be verified in writing by OFH. Any monies paid to OFH that exceed an overpayment will be refunded to the provider.

(10) If a provider is terminated or sanctioned for any reason, OFH may pursue civil action to recover any amounts due and payable to FPEP.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 409.010

Hist.: PH 4-2005, f. & cert. ef. 2-18-05; PH 5-2007, f. 4-9-07, cert. ef. 4-23-07; PH 2-2009, f. & cert. ef. 3-2-09

333-004-0160

Provider Sanctions

The following are conditions that may result in the imposition of a sanction on a provider.

(1) Basis for Sanction:

(a) Conviction of a provider of a felony or misdemeanor related to a crime or violation of Title XVIII, XIX, or XX of the Social Security Act or related state laws (or entered a plea of nolo contendere);

(b) Conviction of fraud related to any federal, state, or locally financed health care program or commission of an act that is subject to criminal or civil penalties under Medicaid statutes;

(c) Conviction of interference with the investigation of health care fraud;

(d) Conviction of unlawfully manufacturing, distributing, prescribing, or dispensing a controlled substance;

(e) Failure to comply with the state and federal statutory requirements set forth in OAR 333-004-0130;

(f) By actions of any state licensing authority for reasons relating to the provider's professional competence, professional conduct, or financial integrity, the provider either:

(A) Had a health care license suspended or revoked, or has otherwise lost such license; or

(B) Surrendered the license while a formal disciplinary proceeding was pending before a licensing authority.

(g) Suspension or exclusion from participation in a federal or state health care program for reasons related to professional competence, professional performance, or other reason;

(h) Improper billing practices, including billing for excessive charges or visits, furnishing items or services substantially in excess of the patient's contraceptive management needs, or of a quality that fails to meet professionally recognized standards;

(i) Failure to furnish services as required by law or contract with the OFH;

(j) Failure to supply requested information on subcontractors and suppliers of goods or services;

(k) Failure to supply requested payment information;

(l) Failure to grant access or to furnish as requested, records, or to grant access to facilities upon request of OFH or a designated Requestor;

(m) Receiving payments for services provided to persons who were not eligible;

(n) Establishing multiple claims using procedure codes that overstate or misrepresent the level, amount or type of health care provided;

(o) Failure to develop, maintain, and retain in accordance with relevant rules and standards adequate clinical or other records that document the medical appropriateness, nature, and extent of the health care provided;

(p) Failure to develop, maintain, and retain in accordance with relevant rules and standards adequate financial records that document charges incurred by a client and payments received from any source;

(q) Failure to follow generally accepted accounting principles or accounting standards or cost principles required by federal or state laws, rule, or regulation;

(r) Submission of claims or written orders contrary to generally accepted standards of medical practice;

(s) Submission of claims for services that exceed that requested or agreed to by the client or the responsible relative or guardian or requested by another medical practitioner;

(t) Breach of the terms of the medical services agreement;

(u) Failure to correct deficiencies in operations after receiving written notice of the deficiencies from the OFH;

(v) Submission of any claim for payment for which payment has already been made by OFH;

(w) Provision of or billing for services provided by ineligible or unsupervised staff; or

(x) Alteration of clinical or billing records that have been requested by OFH or a designated Requestor.

(2) A provider who has been suspended or terminated from participation in a federal or state medical program, such as Medicare or Medicaid, or whose license to practice has been suspended or revoked by a state licensing board, shall not submit claims for payment, either personally or through claims submitted by any billing provider or other provider, for any services or supplies provided under FPEP, except those services or supplies provided prior to the date of suspension or termination.

(3) No provider shall submit claims for payment to OFH for any services or supplies provided by a person or provider entity that has been suspended or terminated from participation in a federal or state medical program, such as Medicare or Medicaid, or whose license to practice has been suspended or revoked by a state licensing board, except for those services or supplies provided prior to the date of suspension or termination.

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(4) When the provisions of sections (2) or (3) of this rule are violated, OFH may suspend or terminate the provider who is responsible for the violation.

(5) Provider sanctions will be imposed at the discretion of DHS or the director of the office whose budget includes payment for the services involved.

(6) DMAP will be notified whenever a sanction is imposed on a provider.

Stat. Auth.: ORS 409.050
Stats. Implemented: ORS 409.010
Hist.: PH 4-2005, f. & cert. ef. 2-18-05; PH 5-2007, f. 4-9-07, cert. ef. 4-23-07; PH 2-2009, f. & cert. ef. 3-2-09

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

Rule Caption: Medically Fragile Children Services.

Adm. Order No.: SPD 1-2009

Filed with Sec. of State: 2-24-2009

Certified to be Effective: 3-1-09

Notice Publication Date: 11-1-2008

Rules Adopted: 411-350-0115

Rules Amended: 411-350-0010, 411-350-0020, 411-350-0030, 411-350-0040, 411-350-0050, 411-350-0080, 411-350-0100, 411-350-0110, 411-350-0120

Rules Repealed: 411-350-0070, 411-350-0090

Rules Ren. & Amend: 411-350-0060 to 411-350-0118

Subject: The Department of Human Services, Seniors and People with Disabilities Division (SPD) is permanently updating the medically fragile children services rules in OAR chapter 411, division 350 to address housekeeping issues, reflect current practice, provide clearer definitions and guidelines specifically around grievances and the hearing process, clarify references to service budgets, expand service levels, and update the clinical criteria to include new medical procedures and needs.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-350-0010

Purpose

The rules in OAR chapter 411, division 350 establish the policy of, and prescribe the standards and procedures for, the provision of medically fragile children (MFC) services. These rules are established to ensure that MFC services augment and support independence, empowerment, dignity, and development of medically fragile children through the provision of flexible and efficient services to eligible families. MFC services are exclusively intended to enable a child who is medically fragile to have a permanent and stable familial relationship. MFC services are intended to supplement the natural supports and services provided by the family and provide the support necessary to enable the family to meet the needs of caring for a medically fragile child.

Stat. Auth.: ORS 409.050 & 417.346
Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215
Hist.: MHD 21-1998(Temp), f. 11-25-98, cert. ef. 12-1-98 thru 5-29-99; MHD 3-1999, f. 5-17-99, cert. ef. 5-28-99; MHD 8-2003(Temp) f. & cert. ef. 12-11-03 thru 6-7-04; Renumbered from 309-044-0100, SPD 14-2004, f. & cert. ef. 6-1-04; SPD 1-2009, f. 2-24-09, cert. ef. 3-1-09

411-350-0020

Definitions

(1) "Activities of Daily Living (ADL)" mean activities usually performed in the course of a normal day in a child's life such as eating, dressing and grooming, bathing and personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel, and bladder management), and cognition and behavior (play and social development).

(2) "Aide" means a nonlicensed caregiver who may or may not be a certified nursing assistant.

(3) "Assistant Director" means the Assistant Director of the Department of Human Services, Seniors and People with Disabilities Division, or that individual's designee.

(4) "Billing Provider" means an organization that enrolls and contracts with the Seniors and People with Disabilities Division to provide services through its employees and bills the Seniors and People with Disabilities Division for the provider's services.

(5) "Child" means an individual who is under the age of 18 and eligible for medically fragile children services.

(6) "Clinical Criteria (Form DHS-0519)" means the assessment tool used by the Seniors and People with Disabilities Division to evaluate the intensity of the challenges and care needs of medically fragile children.

(7) "Cost Effective" means that in the opinion of the service coordinator, a specific service meets the child's service needs and costs less than, or is comparable to, other similar service options considered.

(8) "Delegation" means that a registered nurse authorizes an unlicensed individual to perform nursing tasks and confirms that authorization in writing. Delegation may occur only after the registered nurse follows all steps of the delegation process as outlined in OAR chapter 851, division 047. Delegation by physicians is also allowed.

(9) "DHS" means the Department of Human Services.

(10) "Family Home" means the residence of a child that may, for the purpose of these rules, include a certified foster home.

(11) "Grievance" means a process by which an individual may air complaints and seek remedies.

(12) "Hospital Model Waiver" means the waiver program granted by the federal Centers for Medicare and Medicaid Services that allows Title XIX funds to be spent on children living in the family home who otherwise would have to be served in a hospital if the waiver program was not available.

(13) "In-Home Daily Care (IHDC)" means essential supportive daily care delivered by a qualified provider that enables a child to remain, or return to, the family home.

(14) "Medicaid Fair Hearing" means the formal process following an action that would terminate, suspend, reduce, or deny a Medicaid service. This is a formal process required by federal law (42 CFR 431.200-250). A Medicaid Fair Hearing is also known as a contested case hearing.

(15) "Medically Fragile Children (MFC)" means children, who have a health impairment that requires long term, intensive, specialized services on a daily basis and who have been found eligible for medically fragile children services by the Seniors and People with Disabilities Division.

(16) "Medically Fragile Children's Unit (MFCU)" means the program for medically fragile children administered by the Department of Human Services, Seniors and People with Disabilities Division.

(17) "Nurse" means an individual who holds a valid, current license from the Oregon Board of Nursing as a registered nurse (RN) or licensed practical nurse (LPN).

(18) "Nursing Care Plan" means a plan of care developed by a registered nurse that describes the medical, nursing, psychosocial, and other needs of a child, and how those needs shall be met. The nursing care plan includes which tasks shall be taught, assigned, or delegated to the qualified provider or primary caregiver. When a nursing care plan exists, it becomes a part of the plan of care.

(19) "Nursing Tasks or Services" mean the care or services that require the education and training of a licensed professional nurse to perform. Nursing tasks or services may be delegated.

(20) "OHP" means the Oregon Health Plan.

(21) "Parent" means biological parent, adoptive parent, or legal guardian.

(22) "Plan of Care" means a written document developed for each eligible child by the service coordinator and the primary caregiver that describes the individual needs of the child, the needs and resources of the family that impact the child, and how those individual needs shall be met with family and public resources. The plan of care includes the nursing care plan when one exists.

(23) "Primary Caregiver" means the parent or foster provider that provides the direct care of the child at the times that a paid provider is not available.

(24) "Provider or Performing Provider" means an individual who meets the requirements of OAR 411-350-0080 that is qualified to receive payment from the Seniors and People with Disabilities Division for in-home daily care. Providers work directly with medically fragile children. Providers may be employees of billing providers, employees of the parent, or independent contractors.

(25) "Respite" means intermittent services provided on a periodic basis for the relief of, or due to the temporary absence of, the primary caregiver.

(26) "Service Budget" means the monthly dollar amount allotted for the care of the child based on the clinical criteria level of care determination. The service budget consists of in-home care and, if the child is on a waiver, waived services. Service budgets increase or decrease in direct relationship to the increasing or decreasing clinical criteria score.

(27) "Service Coordinator" means an employee of the Seniors and People with Disabilities Division who ensures a child's eligibility for

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medically fragile children services and provides assessment, case planning, service implementation, and evaluation of the effectiveness of the services.

(28) "SPD" means the Department of Human Services, Seniors and People with Disabilities Division.

(29) "Specialized Diet" means specially prepared or particular types of food needed to sustain a child in the family home.

(30) "Supplant" means take the place of.

(31) "These Rules" means the rules in OAR chapter 411, division 350.

(32) "Waivered Services" mean a menu of disability related services and supplies, beyond in-home daily care and the Oregon Health Plan, that are specifically identified by the Title XIX Centers for Medicare and Medicaid Services Waiver.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: MHD 21-1998(Temp), f. 11-25-98, cert. ef. 12-1-98 thru 5-29-99; MHD 3-1999, f. 5-17-99, cert. ef. 5-28-99; MHD 8-2003(Temp) f. & cert. ef. 12-11-03 thru 6-7-04; Renumbered from 309-044-0110, SPD 14-2004, f. & cert. ef. 6-1-04; SPD 1-2009, f. 2-24-09, cert. ef. 3-1-09

411-350-0030

Eligibility

(1) ELIGIBILITY. In order to be eligible for MFC services, the child must:

(a) Be eligible to receive Title XIX (Medicaid) or Title XXI (CHIPS) services;

(b) Be a U.S. citizen;

(c) Be under the age of 18;

(d) Score 50 or greater on the clinical criteria and have a status of medical need that is likely to last for more than two months;

(e) Reside in the family home; and

(f) Be capable of being safely served in the family home. This includes, but is not limited to, the primary caregiver demonstrating the willingness, skills, and ability to provide the direct care, not paid for in the plan of care, as determined by the service coordinator within the limitations of OAR 411-350-0050.

(2) INELIGIBILITY. A child is not eligible for MFC services if the child:

(a) Resides in a hospital, school, sub-acute facility, nursing facility, intermediate care facility for the mentally retarded, residential facility, or other institution;

(b) Does not require waived services or has sufficient family, government, or community resources available to provide for his or her care; or

(c) Is not safely served in the family home as described in section (1)(f) of this rule.

(3) REDETERMINATION. SPD shall redetermine a child's eligibility for MFC services using the clinical criteria at a minimum of every six months, or as the child's status changes.

(4) TRANSITION. A child who meets the following criteria shall begin a transition period to phase out of MFC services within 60 days and at the end of the 60 days transition period, shall no longer be eligible to receive MFC services:

(a) The child has been previously eligible for MFC services;

(b) The needs of the child have decreased; and

(c) The score on the clinical criteria remains at less than 30 during the transition period.

(5) WAIT LIST. SPD may place a child eligible for MFC services on a wait list, based on the date of referral, if the allowable numbers of children on the Hospital Model Waiver are already being served. State plan services are available for a child with Medicaid services in place.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: MHD 21-1998(Temp), f. 11-25-98, cert. ef. 12-1-98 thru 5-29-99; MHD 3-1999, f. 5-17-99, cert. ef. 5-28-99; MHD 8-2003(Temp) f. & cert. ef. 12-11-03 thru 6-7-04; Renumbered from 309-044-0120, SPD 14-2004, f. & cert. ef. 6-1-04; SPD 1-2009, f. 2-24-09, cert. ef. 3-1-09

411-350-0040

Plan of Care

(1) To develop the plan of care, the service coordinator must assess the individual service needs of the child and must interview the parent, other caregivers, or when appropriate, other interested individuals. The assessment must identify:

(a) The services for which the child is currently eligible;

(b) The services currently being provided; and

(c) All available family, community, private health insurance, and government resources that meet any, some, or all of the child's needs.

(2) The service coordinator must prepare, with the input of the parent and any other individual at the parent's request, a written plan of care that identifies:

(a) The service needs of the child and the family;

(b) The most cost effective services for safely meeting the child's service needs;

(c) The methods, resources, and strategies that address some or all of the service needs;

(d) The number of hours of MFC services authorized for the child; and

(e) Additional services authorized by SPD for the child.

(3) The service coordinator must prepare a plan of care that includes:

(a) The maximum hours of authorized provider services;

(b) The annual service budget;

(c) The estimated number of hours that an aide is authorized and the number of hours that a licensed nurse is authorized;

(A) RN hours may not be authorized when an LPN can safely perform the duties.

(B) RN or LPN hours may not be authorized when an aide can safely perform the duties.

(d) The date of the next planned review that, at a minimum, must be completed within 365 calendar days of the last plan of care or more frequently if the child's medical status changes; and

(e) The nursing care plan, when one exists.

(4) The parent must review the plan of care prior to implementation.

(5) The parent and the service coordinator must sign the plan of care and a copy must be provided to the parent.

(6) The service coordinator must reflect significant changes in the needs of the child in the plan of care, as they occur, and provide a copy of the revised plan of care to the parent.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: MHD 21-1998(Temp), f. 11-25-98, cert. ef. 12-1-98 thru 5-29-99; MHD 3-1999, f. 5-17-99, cert. ef. 5-28-99; MHD 8-2003(Temp) f. & cert. ef. 12-11-03 thru 6-7-04; Renumbered from 309-044-0130, SPD 14-2004, f. & cert. ef. 6-1-04; SPD 1-2009, f. 2-24-09, cert. ef. 3-1-09

411-350-0050

Scope and Limitations of MFC Services

(1) MFC services are intended to support, not supplant, the natural supports supplied by the primary caregiver. The primary caregiver is expected to provide a minimum of 40 hours per week of the child's care. MFC services are not available to replace services provided by the primary caregiver or to replace other governmental or community services.

(2) MFC services may include, for a child on the Hospital Model Waiver, a combination of the following services based upon the needs of the child as determined by the service coordinator and as consistent with the child's plan of care:

(a) In-home daily care;

(b) Environmental accessibility adaptations; or

(c) Goods, services, and supplies.

(3) IN-HOME DAILY CARE (IHDC). IHDC services may include a combination of assistance with ADLs, nursing services, or other supportive services provided by qualified providers. The extent of the IHDC services may vary, but the extent of service is limited as described in this rule.

(a) SPD shall only authorize IHDC service hours that support a parent in their primary caregiving role.

(b) IHDC services include:

(A) Basic personal hygiene — Assistance with bathing and grooming;

(B) Toileting, bowel, and bladder care — Assistance in the bathroom, diapering, external cleansing of perineal area, and care of catheters, ostomies, and bags;

(C) Mobility — Ambulation, transfers, comfort, positioning, and assistance with range of motion exercises;

(D) Nutrition — Preparing meals, special diets, gastrostomy feedings, monitoring intake and output, and feeding;

(E) Skin care — Dressing changes and ostomy care;

(F) Respiratory — Monitoring and administering oxygen, applying and adjusting ventilators and other respiratory equipment, providing inhalation therapies, and monitoring and responding to apnea monitors and oximeters;

(G) Cardiovascular — Monitoring of vital signs, and monitoring, replacement, and flushing of vascular access sites;

(H) Neurological — Monitoring of seizures, administering medication, and observing status; and

(I) Other nursing or personal care tasks or services.

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(c) When any of the IHDC services listed in section (3)(b) of this rule are essential to the health and welfare of the child and listed in the job description signed by the parent and paid provider, the provider may provide the following supportive services:

(A) Housekeeping tasks necessary to maintain a healthy and safe environment for the child;

(B) Arranging for necessary medical equipment, supplies, or medications;

(C) Arranging for necessary medical appointments;

(D) Accompanying the child to appointments, outings, or community-based activities; or

(E) Participating in activities with the child to enhance development or learning.

(d) The service coordinator shall base the number of IHDC service hours upon the projected amount of time to perform the specified assistance for the child, for which the child must be physically present. IHDC service hours may be spread throughout the time authorized in the billing form or used in large blocks of time as the parent determines. IHDC service hours may only be used when the child is physically residing in the family home.

(e) IHDC services must:

(A) Be previously authorized by SPD before services begin;

(B) Be based on the assessed service needs of the child consistent with, and documented in, the plan of care as determined by the service coordinator;

(C) Be delivered through the most cost effective method as determined by the service coordinator; and

(D) Include a physician's order when nursing services are to be provided. SPD determines whether payment of nursing services, or the hours of IHDC services as ordered by the physician, shall be authorized for payment according to these rules.

(f) SPD does not authorize IHDC service hours:

(A) That supplant the IHDC services available from family, community, other government or public services, insurance plans, schools, philanthropic organizations, friends, or relatives.

(B) For the purpose of allowing a parent to work or attend school.

(4) ENVIRONMENTAL ACCESSIBILITY ADAPTATIONS.

(a) SPD shall authorize environmental accessibility adaptations when:

(A) Necessary to ensure the health, welfare, and safety of the child in the family home, or to enable the child to function with greater independence in the family home;

(B) Determined to be the most cost effective solution; and

(C) Provided in accordance with applicable state or local building codes by licensed contractors.

(b) Environmental accessibility adaptations exclude:

(A) Adaptations or improvements to the family home that are of general utility and are not of direct medical or remedial benefit to the child; and

(B) Adaptations that add to the total square footage of the family home.

(c) For environmental accessibility adaptations that singly or together exceed \$5,000, SPD may protect its interest for the entire amount of the adaptations through liens or other legally available means.

(d) Environmental accessibility adaptations that are provided in a rental structure must be authorized in writing by the owner of the structure prior to initiation of the work. This does not preclude any reasonable accommodations required under the Americans with Disabilities Act.

(5) GOODS, SERVICES, AND SUPPLIES. Goods, services, and supplies may include any combination of the following:

(a) Specialized medical equipment and supplies. Specialized medical equipment and supplies may include, among others, communication devices, adaptive clothing, adaptive eating equipment, or adaptive sensory or habilitation devices or supplies. Specialized medical equipment and supplies funded by OHP are excluded.

(b) Respite. Respite services are authorized on a limited basis for relief of, or due to the temporary absence of, the primary caregiver. Respite services are not available to allow primary caregivers to attend school or work.

(c) Homemaker. Homemaker services consist of general household activities to allow the primary caregiver time to care for the child. SPD shall not authorize homemaker services if the child receives paid IHDC of 16 hours or more per day regardless of the type of service provider.

(d) Chore. Chore services are services needed to maintain the family home in a clean, sanitary, and safe environment. Chore services include heavy household chores such as window washing or carpet cleaning. Chore services may be provided only in situations where no one else in the fami-

ly home, or any other individual, is capable of performing or providing these services.

(e) Non-medical transportation. Non-medical transportation is provided in order to enable a child to gain access to community services, activities, and resources as specified in the plan of care. Non-medical transportation excludes transportation provided by family members. Non-medical transportation does not replace medical transportation furnished or reimbursed by OHP.

(f) Family training. Funding for family training is included in the monthly service budget as calculated by the service coordinator. Family training services include services that increase the primary caregiver's capacity to care for the child.

(A) Conference or workshop registrations.

(i) SPD shall authorize conference or workshop registrations that:

(I) Directly relate to the child's disability; and

(II) Increase the knowledge and skills of the primary caregiver.

(ii) Travel and lodging expenses are excluded.

(iii) Meals not included in the registration cost are excluded.

(B) Counseling services.

(i) To be authorized by SPD, the counseling services must:

(I) Be provided by licensed mental health providers;

(II) Directly relate to the child's disability, the ability of the primary caregiver to care for the child, and the related impact on the family or couple;

(III) Be short term; and

(IV) Have treatment goals prior approved by the service coordinator.

(ii) Counseling services are excluded for:

(I) Therapy that could be obtained through OHP or other payment mechanisms;

(II) General marriage counseling;

(III) Therapy to address primary caregiver or other family members' psychopathology; or

(IV) Counseling that addresses stressors not directly attributed to the child.

(g) Specialized consultation. Specialized consultation services are services provided by a physical therapist, occupational therapist, speech and language pathologist, or other professional. Specialized consultation services must have exhausted the limits identified under OHP.

(h) Specialized diets. A specialized diet is in addition to meals a primary caregiver would provide and specific to a child's medical condition or diagnosis. Specialized diet services include registered dietician services. A specialized diet must be ordered by a physician and monitored at least annually and as necessary by a dietician. SPD shall not authorize food that constitutes a full nutritional regime.

(i) Other. SPD shall authorize other goods, services, and supplies for payment if:

(A) Directly related to the child's disability;

(B) Included in an approved plan of care;

(C) Needed to maintain the health and safety of the child;

(D) Cost effective;

(E) Not typical for a parent to provide a child of the same age; and

(F) Required to help the primary caregiver to continue to meet the needs of caring for the child.

(j) Goods, services, and supplies paid for by SPD must be documented by receipts or invoices. The receipts or invoices must be maintained by SPD for five years. If no receipt or invoice is available, the primary caregiver must submit to SPD in writing, a statement that the primary caregiver received the goods, services, or supplies, and the date the goods, services, or supplies were received.

(6) SPD may expend its funds through contract, purchase order, use of credit card, payment directly to the vendor, or any other legal payment mechanism.

(7) MFC services for a child not on the Hospital Model Waiver are limited to IHDC services only.

(8) All MFC services authorized by SPD must be included in a written plan of care in order to be eligible for payment.

(9) The plan of care must use the most cost effective services for safely meeting the child's needs as determined by the service coordinator.

(10) SERVICE LEVELS. SPD shall base the average monthly service budget for the MFC services authorized in the plan of care on the child's service level as follows:

(a) Level I.

(A) A child who is eligible for level I services must:

(i) Be ventilator-dependent for 20 or more hours per day;

(ii) Have a score on the clinical criteria of 75 or greater; and

ADMINISTRATIVE RULES

(iii) Require that the provider or primary caregiver be awake for the full 24 hours.

(B) A child must be ventilator-dependent 24 hours per day for the maximum service budget to be allowed.

(b) Level II.

(A) A child who is eligible for level II services must:

(i) Be ventilator-dependent for 14 to 20 hours per day;

(ii) Have a score on the clinical criteria between 70 and 74; and

(iii) Require the provider or primary caregiver to remain awake for the full 24 hours.

(B) A child must be ventilator-dependent 20 hours per day for the maximum service budget to be allowed.

(c) Level III.

(A) A child who is eligible for level III services must:

(i) Be ventilator-dependent for six to 13 hours per day;

(ii) Have a score on the clinical criteria between 65 and 69; and

(iii) Require the provider or primary caregiver to remain awake for the full 24 hours.

(B) A child must be ventilator-dependent 13 hours per day for the maximum service budget to be allowed.

(d) Level IV.

(A) A child who is eligible for level IV services must:

(i) Be ventilator-dependent for up to six hours per day;

(ii) Have a score on the clinical criteria between 60 and 64; and

(iii) Require the provider or primary caregiver to remain awake for the full 24 hours.

(B) A child must be ventilator-dependent six hours per day for the maximum budget to be allowed.

(e) Level V. A child who is eligible for level V services must:

(A) Have a score on the clinical criteria between 50 and 59; and

(B) Require close proximity of the provider or primary caregiver to monitor for the full 24 hours.

(f) Level VI. A child who is eligible for level VI services must:

(A) Have a score on the clinical criteria less than 50;

(B) Meet the other eligibility criteria in OAR 411-350-0030; and

(C) Not have been transitioned out of MFC services.

(11) EXCEPTIONS. Exceptions, not to exceed 60 consecutive days without SPD supervisor review and approval, shall only be authorized by SPD in the following circumstances:

(a) To prevent the child's hospitalization.

(b) To provide initial teaching of new care needs.

(c) A significant medical condition or event occurs that prevents or seriously impedes the primary caregiver from providing services as documented by a physician.

(12) SPD shall only authorize MFC services to enable the primary caregiver to meet the needs of caring for the child. All MFC services funded by SPD must be based on actual and customary costs related to best practice standards of care for children with similar disabilities.

(13) When multiple children in the same family home or setting qualify for MFC services, the same primary caregiver must provide services to all qualified children if services can be safely delivered by a single primary caregiver, as determined by the service coordinator.

(14) SPD shall not pay for MFC services that are:

(a) Abusive, aversive, or demeaning;

(b) Experimental;

(c) Illegal;

(d) Determined unsafe for the general public by recognized child and consumer safety agencies;

(e) Not necessary or cost effective;

(f) Educational services for school-age children, including professional instruction, formal training, and tutoring in communication, socialization, and academic skills;

(g) Services or activities that the legislative or executive branch of Oregon government has prohibited use of public funds;

(h) Medical treatments; or

(i) Services or supplies provided by private health insurance or OHP.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: MHD 21-1998(Temp), f. 11-25-98, cert. ef. 12-1-98 thru 5-29-99; MHD 3-1999, f. 5-17-99, cert. ef. 5-28-99; MHD 8-2003(Temp) f. & cert. ef. 12-11-03 thru 6-7-04; Renumbered from 309-044-0140, SPD 14-2004, f. & cert. ef. 6-1-04; SPD 1-2009, f. 2-24-09, cert. ef. 3-1-09

411-350-0080

Standards for Providers

(1) A provider must:

(a) Be at least 18 years of age;

(b) Maintain a drug-free work place;

(c) Provide evidence satisfactory to SPD that demonstrates by background, education, references, skills, and abilities, the provider is capable of safely and adequately providing the IHDC services authorized;

(d) Consent to and pass a criminal history check by DHS as described in OAR chapter 407, division 007, and be free of convictions or founded allegations of abuse or neglect by the appropriate agency, including but not limited to DHS. DHS shall perform criminal history rechecks biannually, or as needed, if a report of a criminal activity has been received;

(e) Not be a parent, step parent, foster provider, or legal guardian of the child; and

(f) Sign a Medicaid provider agreement and be enrolled as a Medicaid provider prior to delivery of any IHDC services.

(2) A provider who is providing IHDC services as a nurse must have:

(a) A current Oregon nursing license; and

(b) Be in good standing with appropriate professional associations and boards.

(3) A provider is not an employee of DHS or the state of Oregon and is not eligible for state benefits and immunities, including but not limited to, Public Employees' Retirement System or other state benefit programs.

(4) If the provider or billing provider is an independent contractor during the terms of the contract, the provider or billing provider must maintain in force, at the providers own expense, professional liability insurance with a combined single limit of not less than \$1,000,000 for each claim, incident, or occurrence. Professional liability insurance is to cover damages caused by error, omission, or negligent acts related to the professional services.

(a) The provider or billing provider must provide written evidence of insurance coverage to SPD prior to beginning work.

(b) There must be no cancellation of insurance coverage without 30 days written notice to SPD.

(5) If the provider is an employee of the parent, the provider must submit to SPD documentation of immigration status required by federal statute. SPD shall maintain documentation of immigration status required by federal statute, as a service to the parent who is the employer.

(6) A billing provider that wishes to enroll with SPD must maintain and submit evidence upon initial application and upon request by SPD of the following:

(a) Current, valid, non-restricted Oregon nurses' licenses for each employee who is providing services as a nurse;

(b) Current criminal history checks on each employee who provides services in a family home that shows the employee has no disqualifying criminal convictions;

(c) Professional liability insurance that meets the requirements of section (4) of this rule; and

(d) Any licensure required of the agency by the state of Oregon or federal law or regulation.

(7) A provider must immediately notify the parent and SPD of injury, illness, accidents, or any unusual circumstances that may have a serious effect on the health, safety, physical, emotional well being, or level of service required by the child for whom services are being provided.

(8) Providers described in ORS chapter 418 are required to report suspected child abuse to their local DHS office or to the police in the manner described in ORS chapter 418.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: MHD 21-1998(Temp), f. 11-25-98, cert. ef. 12-1-98 thru 5-29-99; MHD 3-1999, f. 5-17-99, cert. ef. 5-28-99; MHD 8-2003(Temp) f. & cert. ef. 12-11-

Hist.: MHD 21-1998(Temp), f. 11-25-98, cert. ef. 12-1-98 thru 5-29-99; MHD 3-1999, f. 5-17-99, cert. ef. 5-28-99; MHD 8-2003(Temp) f. & cert. ef. 12-11-03 thru 6-7-04; Renumbered from 309-044-0170, SPD 14-2004, f. & cert. ef. 6-1-04; SPD 1-2009, f. 2-24-09, cert. ef. 3-1-09

411-350-0100

Documentation Needs for MFC Services

(1) Original, accurate timesheets of MFC services, dated and signed by the provider after the services are provided, must be maintained and submitted to SPD with any request for payment for services.

(2) Requests for payment for MFC services must:

(a) Include an original copy of the billing form indicating prior authorization for the services;

(b) Be signed by the provider or billing provider, acknowledging agreement upon request with the terms and condition of the billing form and attesting that the hours were delivered as billed; and

(c) Be signed by the primary caregiver after the services were delivered, verifying that the services were delivered as billed.

ADMINISTRATIVE RULES

(3) Documentation of provided MFC services must be provided to the service coordinator upon request and maintained in the family home or the place of business of the provider of services. SPD shall not pay for services unrelated to the child's disability as outlined in the plan of care.

(4) A nursing care plan must be developed within seven days of the initiation of MFC services and submitted to SPD for approval when IHDC services are provided by a nurse.

(a) The nursing care plan must be reviewed, updated, and resubmitted to SPD in the following instances:

(A) Every six months;

(B) Within seven working days of a change of the registered nurse who writes the nursing care plan;

(C) With any request for authorization of an increase in hours of service; or

(D) After any significant change of condition. Examples of significant changes of condition include, but are not limited to, hospital admission or change in health status.

(b) The provider must share the nursing care plan with the parent.

(5) IHDC services provided by a nurse must be documented and maintained in a format acceptable to SPD, contain information required by SPD, and submitted to SPD upon request.

(6) Delegation, teaching, and assignment of nursing tasks and performance of nursing care must be in accordance with OAR chapter 851.

(7) SPD must be notified by the provider or primary caregiver within one working day of the hospitalization or death of any eligible child.

(8) SPD shall retain billing forms and timesheets for at least five years from the date of service.

(9) The billing provider must maintain documentation of provided services for at least seven years from the date of service. If a provider is a nurse and does not use a billing provider, the nurse must either maintain documentation of provided services for at least five years or send the documentation to SPD.

(10) Upon written request from DHS, the Oregon Department of Justice Medicaid Fraud Unit, Centers for Medicare and Medicaid Services, or their authorized representatives, providers or billing providers must furnish requested documentation immediately or within the timeframe specified in the written request. Failure to comply with the request may be considered by SPD as reason to deny or recover payments.

(11) Access to records by DHS inclusive of medical, nursing, or financial records, to include individuals providing care and vendors providing goods and services, does not require authorization or release by the primary caregiver.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: MHD 21-1998(Temp), f. 11-25-98, cert. ef. 12-1-98 thru 5-29-99; MHD 3-1999, f. 5-17-99, cert. ef. 5-28-99; MHD 8-2003(Temp) f. & cert. ef. 12-11-03 thru 6-7-04; Renumbered from 309-044-0190, SPD 14-2004, f. & cert. ef. 6-1-04; SPD 1-2009, f. 2-24-09, cert. ef. 3-1-09

411-350-0110

Payment for MFC Services

(1) Services budgets shall be individually negotiated by SPD, based on the individual needs of the child.

(2) Authorization must be obtained prior to the delivery of any MFC services for those services to be eligible for reimbursement.

(3) Providers must request payment authorization for MFC services provided during an unforeseeable emergency on the first business day following the emergency service. The service coordinator shall determine if the service is eligible for payment.

(4) The delivery of authorized MFC services must occur so that any individual employee of the parent does not exceed 40 hours per work week. SPD shall not authorize services that require the payment of overtime, without prior written authorization by the MFCU supervisor.

(5) SPD shall make payment for MFC services, described in OAR 411-350-0050, after services are delivered as authorized and required documentation is received by the service coordinator.

(6) SPD shall make payment to the individual employee of the parent on behalf of the parent. The following shall be ancillary contributions:

(a) SPD shall pay the employer's share of the Federal Insurance Contributions Act tax (FICA) and withhold the employee's share of FICA as a service to the parent as the provider's employer.

(b) SPD shall cover real and actual costs to the Employment Department, in lieu of the parent as the provider's employer.

(7) Holidays are paid at the same rate as non-holidays.

(8) Travel time to reach the job site is not reimbursable.

(9) In order to be eligible for payment, requests for payments must be submitted to SPD within six months of the delivery of MFC services.

(10) Payment by SPD for MFC services is considered full payment for the services rendered under Title XIX or Title XXI. Under no circumstances may the provider or billing provider demand or receive additional payment for these services from the parent or any other source.

(11) Medicaid funds are the payer of last resort. The provider or billing provider must bill all third party resources until all third party resources are exhausted.

(12) SPD reserves the right to make a claim against any third party payer before or after making payment to the provider of MFC services.

(13) SPD may void without cause prior authorizations that have been issued in the event of any of the following:

(a) Change in the status of the child. Examples include, but are not limited to, hospitalization, improvement in health status, or death of the child;

(b) Decision of the parent to change providers;

(c) Inadequate services, inadequate documentation, or failure to perform other expected duties; or

(d) Any situation, as determined by the service coordinator that puts the child's health or safety at risk.

(14) Upon submission of the billing form for payment, the provider must comply with:

(a) All rules in OAR chapter 411;

(b) 45 CFR Part 84 that implements Title V, Section 504 of the Rehabilitation Act of 1973;

(c) Title II and Title III of the Americans with Disabilities Act of 1991; and

(d) Title VI of the Civil Rights Act of 1964.

(15) All billings must be for MFC services provided within the provider's licensure.

(16) The provider must submit true and accurate information on the billing form. Use of a billing provider does not replace the provider's responsibility for the truth and accuracy of submitted information.

(17) No individual shall submit to SPD:

(a) A false billing form for payment;

(b) A billing form for payment that has been or is expected to be paid by another source; or

(c) Any billing form for MFC services that have not been provided.

(18) SPD shall only make payment to the enrolled provider who actually performs the MFC services or the provider's enrolled billing provider. Federal regulations prohibit SPD from making payment to collection agencies.

(19) Payments may be denied if any provisions of these rules are not complied with.

(20) SPD shall recoup all overpayments. The amount to be recovered:

(a) Is the entire amount determined or agreed to by SPD;

(b) Is not limited to the amount determined by criminal or civil proceedings; and

(c) Includes interest to be charged at allowable state rates.

(21) SPD shall deliver to the provider, by registered or certified mail, or in person, a request for repayment of the overpayment or notification of recoupment of future payments.

(22) Payment schedules with the interest may be negotiated at the discretion of SPD.

(23) If recoupment is sought from a parent whose child received MFC services, hearing rights in OAR 411-350-0118 apply.

(24) Payment for services provided to more than one child in the same setting at the same time shall not exceed the maximum hourly rate for one child without prior written authorization by the MFCU supervisor.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: MHD 21-1998(Temp), f. 11-25-98, cert. ef. 12-1-98 thru 5-29-99; MHD 3-1999, f. 5-17-99, cert. ef. 5-28-99; MHD 8-2003(Temp) f. & cert. ef. 12-11-03 thru 6-7-04; Renumbered from 309-044-0200, SPD 14-2004, f. & cert. ef. 6-1-04; SPD 1-2009, f. 2-24-09, cert. ef. 3-1-09

411-350-0115

Complaints and Grievances

(1) COMPLAINTS AND GRIEVANCES. SPD shall address all grievances in accordance with DHS written policies, procedures, and rules. Copies of the procedures for resolving grievances shall be maintained on file at SPD. These policies and procedures, at a minimum, shall address:

(a) Informal resolution. The parent of a child has an opportunity to informally discuss and resolve any complaint or grievance regarding action taken by SPD that is contrary to law, rule, or policy and that does not meet the criteria for an abuse investigation. Choosing an informal resolution does not preclude the parent from pursuing resolution through formal grievance processes.

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(b) Receipt of complaints. SPD shall maintain a log of all complaints regarding the provision of MFC services received via phone calls, e-mails, or writing.

(A) At a minimum, the complaint log shall include:

- (i) The date the complaint was received;
- (ii) The name of the individual taking the complaint;
- (iii) The nature of the complaint;
- (iv) The name of the individual making the complaint, if known; and
- (v) The disposition of the complaint.

(B) Child welfare and law enforcement reports of abuse or neglect shall be maintained separately from the central complaint and grievance log.

(c) Response to complaints. SPD staff response to the complaint must be provided within five working days following receipt of the complaint and must include:

(A) An investigation of the facts supporting or disproving the complaint; and

(B) Any agreement to resolve the complaint must be in writing and must be specifically approved by the grievant. SPD shall provide the grievant with a copy of the agreement.

(d) Review. A manager of SPD must review the complaint if the complaint involves SPD staff or services, or if the complaint is not or cannot be resolved with SPD staff. SPD manager response to the complaint must be made in writing, within 30 days following receipt of the complaint, and include a response to the complaint as described in section (1)(c) of this rule.

(e) Third-party review when complaints are not resolved by the SPD manager. Unless the grievant is a Medicaid recipient who has elected to initiate the hearing process according to OAR 411-350-0118, a complaint involving the provision of service or a service provider may be submitted to SPD for an administrative review.

(A) The grievant must submit to SPD a request for an administrative review within 15 days from the date of the decision by the SPD manager.

(B) Upon receipt of a request for an administrative review, the SPD Assistant Director shall appoint an Administrative Review Committee and name the chairperson. The Administrative Review Committee shall be comprised of two representatives of SPD. Committee representatives must not have any direct involvement in the provision of services to the grievant or have a conflict of interest in the specific case being grieved.

(C) The Administrative Review Committee must review the complaint and the decision by the SPD manager and make a recommendation to the SPD Assistant Director within 45 days of receipt of the complaint unless the grievant and the Administrative Review Committee mutually agree to an extension.

(D) The SPD Assistant Director shall consider the report and recommendations of the Administrative Review Committee and make a final decision. The decision must be in writing and issued within 10 days of receipt of the recommendation by the Administrative Review Committee. The written decision must contain the rationale for the decision.

(E) The decision of the SPD Assistant Director is final. Any further review is pursuant to the provision of ORS 183.484 for judicial review.

(f) Documentation of complaint. Documentation of each complaint and its resolution must be filed or noted in the grievant's record.

(2) NOTIFICATION. Upon enrollment and annually thereafter, SPD must inform each child's parent orally and in writing, using language, format, and methods of communication appropriate to the parent's needs and abilities, of the following:

(a) SPD grievance policy and procedures, including the right to an administrative review and the method to obtain an administrative review; and

(b) The right of a Medicaid recipient to a hearing pursuant to OAR 411-350-0118 and the procedure to request a hearing.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: SPD 1-2009, f. 2-24-09, cert. ef. 3-1-09

411-350-0118

Denial, Termination, Suspension, Reduction, or Eligibility of Services for Individual Medicaid Recipients

(1) Each time SPD takes an action to deny, terminate, suspend, or reduce a child's access to services covered under Medicaid, SPD shall notify the child's parent of the right to a hearing and the method to request a hearing. SPD shall mail the notice by certified mail, or personally serve it to the child's parent 10 days or more prior to the effective date of an action.

(a) SPD shall use, Notice of Hearing Rights, or a comparable SPD-approved form for such notification. This notification requirement does not

apply if an action is part of, or fully consistent with, the plan of care, or the child's parent has agreed with the action by signature to the plan of care. The notice shall be given directly to the parent when the plan of care is signed.

(b) The parent may appeal a denial of a request for additional or different services only if the request has been made in writing and submitted to the address on the notice to expedite the process.

(c) A notice required by section (1) of this rule must include:

(A) The action SPD intends to take;

(B) The reasons for the intended action;

(C) The specific Oregon Administrative Rules that supports, or the change in federal or state law that requires, the action;

(D) The appealing party's right to request a hearing in accordance with OAR chapter 137, Oregon Attorney General's Model Rules, ORS chapter 183, and 42 CFR Part 431, Subpart E;

(E) A statement that SPD files on the subject of the hearing automatically becoming part of the hearing record upon default for the purpose of making a prima facie case;

(F) A statement that the actions specified in the notice shall take effect by default if the DHS representative does not receive a request for hearing from the party within 45 days from the date that SPD mails the notice of action;

(G) In cases of an action based upon a change in law, the circumstances under which a hearing shall be granted; and

(H) An explanation of the circumstances under which MICP services shall be continued if a hearing is requested.

(d) If the parent disagrees with the decision or proposed action of SPD to deny, terminate, suspend, or reduce a child's access to services covered under Medicaid, the parent may request a hearing as provided in ORS chapter 183. The request for a hearing must be in writing on Form DHS 443 and signed by the parent. The signed form (DHS 443) must be received by DHS within 45 days from the date of SPD notice of denial.

(e) The parent may request an expedited hearing if the parent feels that there is immediate, serious threat to the child's life or health should the normal timing of the hearing process be followed.

(f) If the parent requests a hearing before the effective date of the proposed actions and requests that the existing services be continued, DHS shall continue the services.

(A) DHS must continue the services until whichever of the following occurs first:

(i) The current authorization expires;

(ii) The administrative law judge issues a proposed order and DHS issues a final order; or

(iii) The child is no longer eligible for Medicaid benefits.

(B) DHS must notify the child's parent that DHS is continuing the service. The notice must inform the parent that, if the hearing is resolved against the child, DHS may recover the cost of any services continued after the effective date of the continuation notice.

(g) DHS may reinstate services if:

(A) DHS takes an action without providing the required notice and the parent requests a hearing;

(B) DHS fails to provide the notice in the time required in this rule and the parent requests a hearing within 10 days of the mailing of the notice of action; or

(C) The post office returns mail directed to the parent, but the location of the parent becomes known during the time that the child is still eligible for services.

(h) DHS must promptly correct the action taken up to the limit of the original authorization, retroactive to the date the action was taken, if the hearing decision is favorable to the child, or DHS decides in the child's favor before the hearing.

(i) The DHS representative and the parent may have an informal conference, without the presence of the administrative law judge, to discuss any of the matters listed in OAR 137-003-0575. The informal conference may also be used to:

(A) Provide an opportunity for DHS and the parent to settle the matter;

(B) Ensure the child's parent understands the reason for the action that is the subject of the hearing request;

(C) Give the parent an opportunity to review the information that is the basis for that action;

(D) Inform the parent of the rules that serve as the basis for the contested action;

(E) Give the parent and DHS the chance to correct any misunderstanding of the facts;

ADMINISTRATIVE RULES

(F) Determine if the parent wishes to have any witness subpoenas issued; and

(G) Give DHS an opportunity to review its action.

(j) The child's parent may, at any time prior to the hearing date, request an additional conference with the DHS representative. At the DHS representative's discretion, the DHS representative may grant an additional conference if it facilitates the hearing process.

(k) DHS may provide the parent the relief sought at any time before the final order is issued.

(l) A parent may withdraw a hearing request at any time prior to the issuance of a final order. The withdrawal shall be effective on the date DHS or the Office of Administrative Hearings receives it. DHS must issue a final order confirming the withdrawal to the last known address of the child's parent. The child's parent may cancel the withdrawal up to 10 working days following the date the final order is issued.

(2) PROPOSED AND FINAL ORDERS.

(a) In a contested case, the administrative law judge must serve a proposed order on the child and DHS.

(b) If the administrative law judge issues a proposed order that is adverse to the child, the child's parent may file exceptions to the proposed order to be considered by DHS. The exceptions must be in writing and must be received by DHS no later than 10 days after service of the proposed order. The child's parent may not submit additional evidence after this period unless DHS grants prior approval.

(c) After receiving the exceptions, if any, DHS may adopt the proposed order as the final order or may prepare a new order. Prior to issuing the final order, DHS may issue an amended proposed order.

(3) The performing or billing provider must submit relevant documentation to DHS within five working days at the request of DHS when a hearing has been requested.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: MHD 21-1998(Temp), f. 11-25-98, cert. ef. 12-1-98 thru 5-29-99; MHD 3-1999, f. 5-17-99, cert. ef. 5-28-99; MHD 8-2003(Temp) f. & cert. ef. 12-11-03 thru 6-7-04; Renumbered from 309-044-0150, SPD 14-2004, f. & cert. ef. 6-1-04; Renumbered from 411-350-0060, SPD 1-2009, f. 2-24-09, cert. ef. 3-1-09

411-350-0120

Sanctions for MFC Providers

(1) Sanctions may be imposed on a provider when any of the following conditions is determined by SPD to have occurred:

(a) The provider has been convicted of any crime that would have resulted in an unacceptable criminal history check upon hiring or issuance of a provider number;

(b) The provider has been convicted of unlawfully manufacturing, distributing, prescribing, or dispensing a controlled substance;

(c) The provider's license has been suspended, revoked, otherwise limited, or surrendered;

(d) The provider has failed to safely provide the MFC services authorized as determined by the parent or the service coordinator;

(e) The provider has had an allegation of abuse or neglect substantiated against them;

(f) The provider has failed to cooperate with any investigation or grant access to or furnish, as requested, records or documentation;

(g) The provider has billed excessive or fraudulent charges or has been convicted of fraud;

(h) The provider has made a false statement concerning conviction of crime or substantiation of abuse;

(i) The provider has falsified required documentation;

(j) The provider has been suspended or terminated as a provider by another division within DHS; or

(k) The provider has not adhered to the provisions of these rules.

(2) SPD may impose the following sanctions on a provider:

(a) Termination from providing MFC services;

(b) Suspension from providing MFC services for a specified length of time or until specified conditions for reinstatement are met and approved by SPD; or

(c) Payments to the provider may be withheld.

(3) If SPD makes a decision to sanction a provider, the provider must be notified by mail of the intent to sanction.

(a) The provider may appeal a sanction by requesting an administrative review by the SPD Assistant Director.

(b) For an appeal to be valid, written notice of the appeal must be received by SPD within 45 days of the date the sanction notice was mailed to the provider.

(c) The provider must appeal a sanction separately from any appeal of audit findings and overpayments.

(4) At the discretion of SPD, providers who have previously been terminated or suspended by any division within DHS may not be re-enrolled as providers of Medicaid services.

Stat. Auth.: ORS 409.050 & 417.346

Stats. Implemented: ORS 417.340 - 417.355, 427.005, 427.007 & 430.215

Hist.: MHD 21-1998(Temp), f. 11-25-98, cert. ef. 12-1-98 thru 5-29-99; MHD 3-1999, f. 5-17-99, cert. ef. 5-28-99; MHD 8-2003(Temp) f. & cert. ef. 12-11-03 thru 6-7-04; Renumbered from 309-044-0210, SPD 14-2004, f. & cert. ef. 6-1-04; SPD 1-2009, f. 2-24-09, cert. ef. 3-1-09

Rule Caption: Inactive and Provisional Licenses for Residential Care and Assisted Living Facilities.

Adm. Order No.: SPD 2-2009

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Rules Adopted: 411-054-0125

Rules Repealed: 411-054-0125(T)

Subject: The Department of Human Services, Seniors and People with Disabilities Division (SPD) is permanently adopting OAR 411-054-0125 relating to inactive and provisional licenses for residential care and assisted living facilities. OAR 411-054-0125 was temporarily adopted on September 18, 2008.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-054-0125

Inactive and Provisional Licenses

(1) Notwithstanding any other rule regarding the licensure of residential care or assisted living facilities, SPD may inactivate a license in accordance with this rule and under any of the following circumstances or where the occurrence of any such circumstance is imminent:

(a) Abandonment of facility operation;

(b) The licensee is no longer in physical possession of the premises;

(c) The licensee no longer has operational control of the facility;

(d) Appointment of a receiver, trustee, or other fiduciary by court order; or

(e) Mutual consent and agreement of the licensee and SPD to inactivate.

(2) SPD shall notify the licensee of the change in license status through personal communication with the licensee or representative of the licensee when possible, and by written notice sent by registered or certified mail to the registered agent, if any, or to the last known address of the licensee on file with SPD.

(3) The inactive license shall be effective immediately upon issuance, or at a later date, or upon the occurrence of any subsequent event as set forth in the order.

(4) The inactive licensee may appeal SPD's decision to change the license to inactive status for any of the reasons set forth in sections (1)(a) through (1)(e) of this rule by requesting an administrative review. The request for an administrative review must be made in writing to the Assistant Director of SPD, or the Assistant Director's designee, and must be made within 14 calendar days from the date of the inactivation of the license. The inactive licensee must include, along with the request for an administrative review, any information the inactive licensee wants to have considered in the administrative review.

(5) Within 10 working days from the date of SPD's receipt of a timely request, the Assistant Director of SPD, or the Assistant Director's designee shall review the file and issue a decision. The timeline to issue a decision may be extended with the consent of the inactive licensee. If a provisional license for the operation of the facility has been issued by SPD pursuant to this rule, the provisional licensee, as defined in section (10) of this rule, shall be a party to the administrative review and any contested case hearing.

(6) If the inactive licensee is dissatisfied with the decision following an administrative review, the inactive licensee may request a contested case hearing. A request for a contested case hearing must be made in writing within 14 calendar days from the date of the decision. The inactive licensee may request a contested case hearing without first seeking administrative review. The request for a contested case hearing must be made in writing within 14 calendar days from the date the license was inactivated. The inactive licensee must state in the request for a contested case hearing that the inactive licensee is waiving the right to an administrative review. A contested case hearing shall be scheduled as soon as practicable. The contested case hearing shall be in accordance with ORS chapter 183. The license remains inactivated pending the decision of the contested case hearing.

ADMINISTRATIVE RULES

(7) The inactive status of the license shall continue for the duration of the original license. However, if the circumstances for which SPD inactivated the license are abated prior to the expiration of the license, the inactive licensee may request that SPD reactivate the license. The inactive licensee must provide any provisional licensee a copy of the request to reactivate the license. The inactive licensee must include with the request sufficient supporting documents or other proof of the abatement of the circumstances and justify the request to reactivate the license by demonstrating the licensee's present ability to operate the facility in compliance with the rules in OAR chapter 411, division 054.

(8) If the term of the inactive license expires before the circumstances requiring inactivation have been abated, the inactive licensee may submit an application for renewal of the license pursuant to OAR 411-054-0013. A decision to renew the license shall be in accordance with 411-054-0130. The licensee is entitled to a contested case hearing under ORS Chapter 183 if SPD denies renewal.

(9) For purposes of any Medicaid provider contract for the provision of residential care or assisted living facility services, an inactive license shall not be considered a valid license or certificate that is required for the contractor to perform work under the contract and as such, is a basis for termination of the Medicaid contract pursuant to the terms of the contract. SPD's written notice to the licensee of inactive license status shall constitute SPD's notice of termination of the Medicaid contract effective as of the date of the inactive license.

(10) Notwithstanding any other rule regarding the licensure of residential care or assisted living facilities, if SPD takes action to inactivate or suspend a facility license, SPD may issue a provisional license to a "provisional licensee", for the protection of the health, safety, or welfare of the residents. For purposes of this rule, a "provisional licensee" means any person or entity:

- (a) Having good character or reputation;
- (b) Meeting the criminal history check requirements in OAR chapter 407, division 007;
- (c) Eligible for receipt of federal Medicaid payments;
- (d) Authorized to conduct business in the state of Oregon;
- (e) Familiar with, that agrees to abide by, Oregon laws and administrative rules governing the operation of residential care or assisted living facilities, as applicable;

(f) Demonstrating prior experience acceptable to SPD evidencing the necessary skills and ability to manage and safely operate a licensed residential care or assisted living facility for the welfare and protection of the residents. SPD shall consider evidence including, but not limited to, prior licensing of the applicant, in good standing, in Oregon or any other state for the operation of comparable residential care or assisted living facilities; and

- (g) Demonstrating financial ability to operate a facility.

(11) Applicants for a provisional license must submit the information required in OAR 411-054-0013 and a licensing fee of \$60.

(12) SPD may grant a provisional license for a period of time up to the remaining term of the original license for the subject facility. However, if there are less than 60 calendar days remaining on the term of the original license, SPD may grant a provisional license for up to 60 calendar days beyond the date of expiration of the original license.

(a) At least 60 calendar days prior to the expiration of the provisional license, the provisional licensee must notify SPD of the facility's plan for continued operation, sale, or closure. If the provisional licensee intends to continue its operation of the facility, or the facility is to be sold, the provisional licensee or the proposed buyer must submit an application for initial licensure pursuant to OAR 411-054-0013.

(b) If the provisional licensee intends to surrender the provisional license prior to its expiration, the provisional licensee must notify SPD at least 60 calendar days prior to the date of surrender.

(c) If at any time during the period of an inactive license or provisional license for the facility, the inactive license holder of the facility requests reactivation of the license or submits an application for renewal of a license for the facility, SPD shall hold in abeyance any other application for licensure of the subject facility until final action is taken on the inactive licensee's application. Both the inactive and provisional license shall continue until SPD takes final action on the inactive licensee's application.

(d) If the inactive license is reactivated, any provisional license for the facility shall terminate upon reactivation.

(13) The issuance of a provisional license shall be at the sole discretion of SPD. If the application for a provisional license is denied, the applicant may request an administrative review. The request for an administrative review must be made in writing to the Assistant Director of SPD, or the Assistant Director's designee, within 14 calendar days from the date of the

notice denying a provisional license. The applicant must include along with the request, any information the applicant wants to have considered in the administrative review. Within 10 working days from the date of SPD's receipt of a timely request, the Assistant Director of SPD, or the Assistant Director's designee shall review the file and issue a decision. The timeline to issue a decision may be extended with the consent of the applicant.

(14) If the applicant is dissatisfied with the decision following an administrative review, the applicant may request a contested case hearing. A request for a contested case hearing must be made in writing within 14 calendar days from the date of the decision. The applicant may request a contested case hearing without first seeking an administrative review. The request must be made in writing within 14 calendar days from the date of the order denying the provisional license. The applicant must state in the request for a contested case hearing that the applicant is waiving the right to an administrative review. A contested case hearing shall be scheduled as soon as practicable. The contested case hearing shall be in accordance with ORS chapter 183.

(15) At the request of either an inactive license holder of the subject facility during the period of an inactive license, or a suspended licensee, a copy of the provisional license application or any other license application, subject to any applicable laws of confidentiality, affecting the subject facility, shall be provided to the inactive or suspended licensee.

(16) Nothing in this rule is intended to preclude SPD from taking other regulatory action on either an inactive licensee or provisional licensee for a violation of the licensing regulations in OAR chapter 411, division 054.

Stat. Auth.: ORS 410.070 & 443.450
Stats. Implemented: ORS 443.400 - 443.455 & 443.991
Hist.: SPD 12-2008(Temp), f. & cert. ef. 9-18-08 thru 3-17-09; SPD 2-2009, f. 2-26-09, cert. ef. 3-3-09

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Rule Caption: Administrative Rulemaking.

Adm. Order No.: SPD 3-2009

Filed with Sec. of State: 3-2-2009

Certified to be Effective: 3-3-09

Notice Publication Date: 2-1-2009

Rules Repealed: 411-001-0010

Subject: The Department of Human services (DHS), Seniors and People with Disabilities Division (SPD) is permanently repealing OAR 411-001-0010 related to administrative rulemaking. To maintain consistency through DHS, SPD will adhere to the DHS procedural rules related to administrative rulemaking in OAR chapter 407, division 001.

Rules Coordinator: Christina Hartman—(503) 945-6398

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Department of Justice Chapter 137

Rule Caption: Exempt technology transfer agreements from legal sufficiency approval and from legal review under ORS 190.

Adm. Order No.: DOJ 2-2009(Temp)

Filed with Sec. of State: 2-26-2009

Certified to be Effective: 2-26-09 thru 8-25-09

Notice Publication Date:

Rules Amended: 137-045-0050

Subject: OAR 137-045-0050, as amended, exempts technology transfer contracts and related agreements with the Oregon University System from the legal sufficiency requirement and exempts those contracts from the legal review otherwise required by ORS 190.430 and 190.490.

Rules Coordinator: Carol Riches—(503) 947-4700

137-045-0050

Exemptions from Legal Sufficiency Approval Based on Risk Assessment

The Attorney General has determined that the degree of risk assumed by Agencies is not materially reduced by legal review and approval of individual Public Contracts within the types of Public Contracts listed below. The Attorney General exempts from the legal sufficiency approval requirement under the Act the Public Contracts falling within the types of Public Contracts listed below:

(1) **Adoption Assistance Agreements.** A document of understanding between the Department of Human Services and adoptive parents of a

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special needs child as defined under title IV-E at section 473(c) of the Social Security Act.

(2) **Amendments to Contracts Other than Public Improvement and Loan Contracts.** A written amendment to a Public Contract that is not a Public Improvement or loan Contract, if all of the following apply:

(a) The Public Contract being amended was approved for legal sufficiency.

(b) The amendment modifies only one or both of the following and related payment obligations as necessary:

(A) The Statement of Work to require the contractor to provide additional or fewer goods, services or other work within the general scope of the Last Reviewed Contract.

(B) The expiration date of the Public Contract; Technical Specifications; time, place, quantity or form of delivery, or price.

(c) The aggregate increase in payments scheduled to be made by the Agency, or the aggregate decrease in payments scheduled to be received by the Agency, under the amendment, and all prior amendments exempted from the legal sufficiency approval requirement under this section subsequent to the Last Reviewed Contract, does not exceed the greater of:

(A) \$100,000; or

(B) Any particular amounts specified in writing at the time of approval by the Assistant Attorney General who provided legal sufficiency approval of the Last Reviewed Contract.

(3) **Amendments to Public Improvement Contracts.**

(a) A written change order to a Public Improvement Contract, other than as provided in subsections (b) and (c) of this section, if all of the following apply:

(A) The original Public Improvement Contract was approved for legal sufficiency.

(B) The change order is within the general scope of the Public Improvement Contract.

(C) The change order is implemented in accordance with the change order provisions of the Public Improvement Contract.

(D) Any increase in Agency payments under the change order does not exceed ten percent (10%) of the total amount of Agency payments scheduled to be made under the Last Reviewed Contract, and the aggregate increase in Agency payments scheduled to be made under that change order and all prior change orders subsequent to the Last Reviewed Contract do not exceed thirty-three percent (33%) of that total amount.

(b) The amendment (whether in the form of a change order or amendment) is modifying the guaranteed maximum price (GMP) in a Construction Manager/General Contractor (CM/GC) contract (as defined in OAR 137-040-0510) if all of the following apply:

(A) The original contract and any amendment that established the original GMP were approved for legal sufficiency.

(B) The amendment is made under the terms of the Last Reviewed Contract.

(C) The amendment does not increase the GMP by more than \$500,000 or five percent (5%) of the GMP established under the Last Reviewed Contract (whichever is less).

(D) The amendment and all prior amendments subsequent to the Last Reviewed Contract in the aggregate do not increase the GMP established under the Last Reviewed Contract by more than ten percent (10%).

(c) The amendment (whether in the form of a change order or amendment) is modifying the GMP in a Design-Build contract (as defined in OAR 137-040-0510) or in the construction phase of an energy savings performance contract (as defined in ORS 279A.010(1)(g)) if all of the following apply:

(A) The original contract and any amendment that established the original GMP were approved for legal sufficiency.

(B) The amendment is made under the terms of the Last Reviewed Contract.

(C) The amendment does not increase the GMP by more than \$500,000 or five percent (5%) of the GMP established under the Last Reviewed Contract (whichever is less).

(D) The amendment and all prior amendments subsequent to the Last Reviewed Contract in the aggregate do not increase the GMP established under the Last Reviewed Contract by more than ten percent (10%) or \$500,000 (whichever is less).

(4) **Bonds and Confirmation Statements.**

(a) A Public Contract entered into, issued or established in connection with the issuance of a bond or other borrowing of the State of Oregon, including an interest rate exchange agreement and any associated confirmation statement, if the Oregon State Treasurer has issued or authorized the bond or other borrowing obligation to which the Public contract relates and

if bond counsel appointed in accordance with applicable law has issued an approving opinion for the benefit or use of purchasers of the bond or other borrowing with respect to the enforceability of the bond or other borrowing upon closing of the transaction.

(b) A confirmation statement associated with an Agency's investment-related interest rate or currency swap agreement or other investment transaction, if the agreement under which the confirmation statement arises has been approved for legal sufficiency or is exempt from legal sufficiency approval.

(5) **Employment Agreements.** Employment agreements; collective bargaining agreements negotiated under applicable federal or state laws, including collective bargaining agreements entered into pursuant to ORS 410.612; or notices of appointment provided in accordance with OAR chapter 580, division 021. Agreements with third-party providers of temporary services are not exempt.

(6) **Federal Contracts.** A contract with a federal agency consisting substantially of provisions prescribed in Federal Acquisition Regulations or federal agency supplemental acquisition clauses (48 CFR), except a contract allowed under Section 211 of the federal E-Government Act of 2002.

(7) **Federal Cooperative Agreements.** A Federal Cooperative Agreement.

(8) **Federal Grants.** A grant from a federal agency under which an Agency is the grantee, provided that the Agency has a grants coordinator.

(9) **Federal Pass-Through Grants.** A grant under which an Agency passes through to another recipient all or a portion of the money or property received by the Agency under a grant from a federal agency, provided that:

(a) The Agency does not add to or modify the federal grant except as necessary to provide for proper administration; and

(b) The grant contains a clause substantially in the following form: "The recipient of grant funds, pursuant to this agreement with the State of Oregon, shall assume sole liability for recipient's breach of the conditions of the grant, and shall, upon recipient's breach of grant conditions that causes or requires the State of Oregon to return funds to the grantor, hold harmless and indemnify the State of Oregon for an amount equal to the funds which the State of Oregon is required to pay to grantor."

(10) **Foster Care Agreements.** An agreement between the Department of Human Services or the Oregon Youth Authority and a foster parent for the provision of foster care to an individual under the age of 21, or a youth placed with the Department of Human Services or Oregon Youth Authority pursuant to ORS 419C.478.

(11) **Home Care Services Agreements.** An agreement for the provision of and payment for home care services as defined in ORS 410.600(6).

(12) **Membership Agreements.** A Public Contract that calls for the payment of dues or fees in consideration of membership of individual officers, employees or agents of the State of Oregon in a club, institution, or association in which the State of Oregon acquires no ownership interest.

(13) **Non-Negotiable Public Contracts.** A Non-Negotiable Public Contract.

(14) **Prescribed Contracts.** A Public Contract that is in the form prescribed in Procurement Documents and any conditions on authorization for release under OAR 137-045-0035. Prescribed Contracts do not vary from the form prescribed in Procurement Documents other than to fill in blanks in the form, as is commonly done with invitations to bid for goods and services other than personal services.

(15) **Purchase Order Contracts.** A Public Contract formed by a purchase order or a similar ordering instrument for the purchase of goods or services under a Price Agreement, provided that the Price Agreement was approved by an Assistant Attorney General and the purchase order or similar instrument complies with any conditions of the approval.

(16) **Reinstated Public Contracts.** A Public Contract entered into solely for the purpose of reinstating an expired Public Contract in accordance with OAR 125-246-0570 or 125-248-0310 if, when required under the Act, the expired Public Contract and all amendments to the expired Public Contract were approved for legal sufficiency.

(17) **Settlement Agreements.** Agreements settling disputed claims, provided that they do not have the effect of amending Public Contracts that are subject to the legal sufficiency approval requirement.

(18) **Amendments to Loan Contracts.** A written amendment to a Public Contract solely for an Agency loan of money to another party that requires repayment to the Agency, if all of the following apply:

(a) The Public Contract being amended was approved for legal sufficiency.

(b) The amendment modifies only:

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(A) The description of the project being financed, but only to the extent that the modified project remains eligible for financing by the same source of funds as the project before modification; or

(B) Business terms in the Public Contract which:

(i) Except as provided in subsection (18)(c), do not increase or decrease the total principal repayment obligations under the Public Contract;

(ii) Change the interest rate or payment due dates, except for the final maturity date; or

(iii) Describe the non-financial terms and conditions of performance, such as performance start or completion dates for the project being financed or job creation or retention requirements.

(c) The aggregate increase in the loan amount under the amendment or the aggregate decrease in principal payments scheduled to be received by the Agency, and all prior amendments exempted from the legal sufficiency approval requirement subsequent to the Last Reviewed contract, does not exceed the greater of:

(A) \$100,000; or

(B) Any particular amounts specified in writing at the time of approval by the Assistant Attorney General who provided legal sufficiency approval of the Last Reviewed Contract.

(19) **Personal Services Contracts, Information Technology Contracts and Architectural and Engineering Services Contracts** not calling for or providing for payment in excess of \$100,000.

(20) **Technology Transfer and Related Agreements.** Agreements that govern the transfer of tangible research materials between OUS and another organization, agreements with a predominant purpose to grant a license to OUS intellectual property and related agreements. Related agreements are agreements to manage interests in OUS intellectual property, agreements to combine management of interests in OUS intellectual property with management of interests in intellectual property from other parties, agreements that transfer ownership of intellectual property between OUS and other parties, agreements governing revenue sharing from licensing, and confidentiality agreements regarding intellectual property. Technology transfer agreements and related agreements are also exempt from the Attorney General review requirements under ORS 190.430 and 190.490.

Stat. Auth.: ORS 291.047(4), 190.430 & 190.490

Stats. Implemented: ORS 291.047, 190.430 & 190.490

Hist.: JD 4-1997(Temp), f. & cert. ef. 10-3-97; JD 5-1997(Temp), f. & cert. ef. 10-17-97; 137-045-0050(Temp) repealed by DOJ 3-1998, f. & cert. ef. 4-1-98; DOJ 3-1998, f. & cert. ef. 4-1-98; DOJ 2-2001, f. & cert. ef. 1-18-01; DOJ 17-2003, f. & cert. ef. 12-9-03; DOJ 19-2005, f. 12-27-05, cert. ef. 1-1-06; DOJ 18-2007, f. 12-28-07, cert. ef. 1-1-08; DOJ 2-2009(Temp), f. & cert. ef. 2-26-09 thru 8-25-09

Department of State Lands Chapter 141

Rule Caption: Removal-Fill Authorizations within Oregon Waters.

Adm. Order No.: DSL 4-2009

Filed with Sec. of State: 3-5-2009

Certified to be Effective: 3-5-09

Notice Publication Date: 11-1-2008

Rules Repealed: 141-085-0141

Subject: The division 85 rules have been redrafted into plain language to the extent practicable in accordance with ORS 183.750. The agency edited the division 85 rules into a more succinct and user-friendly format that more closely integrates with actual program operation. The agency is proposing to repeal, in their entirety, the Estuarine Mitigation rules. Mitigation for removal-fill impacts in estuarine areas will be regulated under the general criteria for compensatory wetland and non-wetland mitigation remaining in the rule. The agency made major substantive revisions to the sections dealing with definitions, jurisdiction, exemptions, agency determinations and considerations for evaluating individual permit applications and in the sections concerning compensatory non-wetland and compensatory wetland mitigation. This rule was to be repealed in that rule-making effort but was inadvertently left off of the certificate and Order of Filing Permanent Administrative Rules submitted February 13, 2009 to be effective March 1, 2009.

Rules Coordinator: Elizabeth Martino—(503) 986-5239

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

Rule Caption: Requirements for the Display of Vehicle Registration Stickers.

Adm. Order No.: DMV 2-2009

Filed with Sec. of State: 2-20-2009

Certified to be Effective: 2-20-09

Notice Publication Date: 11-1-2008

Rules Adopted: 735-032-0036

Subject: DMV has adopted OAR 735-032-0036 to set forth the requirements for the display of registration stickers. ORS 803.560 specifies that a person commits the offense of improper display of validating registration stickers if the person owns or drives a vehicle that doesn't display stickers in a manner required by the Department of Transportation. Display requirements are provided with new registration plates and with registration stickers at the time of initial registration (with new license plates), at registration renewal and when replacement stickers are issued. DMV is clarifying these requirements in rule.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-032-0036

Display of Registration Stickers

(1) Purpose and Authority. This rule establishes the requirements for the display of registration stickers on vehicle registration plates as authorized under ORS 803.560.

(2) Definitions. Terms used in ORS 803.560 and this rule are defined as follows:

(a) "Combined month-year sticker" means a single registration sticker issued with:

(A) A month number as described in subsection (b) of this section; and

(B) A year number as described in subsection (d) of this section.

(b) "Month sticker" means a registration sticker issued with a single month number from 1 to 12 that designates the calendar month, in which registration expires. The number "1" represents an expiration date in January; the number "2" represents an expiration date in February and so on.

(c) "Registration sticker" means a numbered adhesive-backed sticker, issued by DMV or a designated agent as evidence of vehicle registration for a specific length of time.

(d) "Year sticker" means a registration sticker issued with a two-digit year number that designates the year registration expires. For example, the two-digit number for registration that expires 2012 is "12." The number "16" designates an expiration year of 2016.

(3) Display of Stickers. Registration stickers must be displayed on the front side of each registration plate, and attached to the designated area as follows:

(a) The combined month-year sticker is attached at the bottom center of the registration plate;

(b) The month sticker is attached at the bottom left of the registration plate; and

(c) The year sticker is attached at the bottom right of the registration plate.

(4) An example of the correct placement of registration stickers — described under subsection (3) of this rule — is contained in Appendix A, which is incorporated into this rule by reference.

[ED. NOTE: The Appendix referenced is available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.560

Stats. Implemented: ORS 803.560

Hist.: DMV 2-2009, f. & cert. ef. 2-20-09

Rule Caption: Clarifying when DMV Will Waive a Knowledge or Drive Test for a Motorcycle Endorsement.

Adm. Order No.: DMV 3-2009

Filed with Sec. of State: 2-20-2009

Certified to be Effective: 2-20-09

Notice Publication Date: 1-1-2009

Rules Adopted: 735-062-0078

Rules Amended: 735-062-0040, 735-062-0080, 735-062-0140

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Subject: ORS 807.072(1) allows DMV to waive a knowledge test required under ORS 807.070(2), by rule, if the department receives proof that the examination is given in conjunction with a motorcycle rider education course established under ORS 802.320. DMV adopted OAR 735-062-0078 to specify when DMV may waive the knowledge test required for a motorcycle endorsement if the applicant presents a course completion card from a motorcycle rider education course established under ORS 802.320.

DMV amended OAR 735-062-0040 to clarify that a knowledge test may also be required for an endorsement, such as a motorcycle endorsement. DMV amended OAR 735-062-0080 to specify that DMV may waive the motorcycle skills test only for an applicant 21 years of age or older if the applicant has a motorcycle endorsement issued by another jurisdiction. This clarification is needed as ORS 807.175 requires a person under 21 years of age to successfully complete a motorcycle rider education course established by the department under ORS 802.320. Other changes are made for clarity.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-062-0040

Knowledge Test

(1) Applicants for an original driver permit, driver license or endorsement must pass the knowledge test(s) required under ORS 807.070(2) and, if applicable, ORS 807.065(1)(b).

(2) The knowledge test(s) will be specific to the class of license or endorsement sought. The test(s) will examine the applicant's knowledge and understanding of traffic laws, safe driving practices and factors that cause accidents.

(3) All knowledge tests are closed book. During a test an applicant is not allowed to use any study guides, manuals, notes, electronic devices or any other items to assist the applicant in obtaining answers to the test questions. During a test an applicant may not obtain an answer to any test question from another person.

(4) The first knowledge test for a driver license, permit or endorsement may be conducted the day the applicant becomes eligible for the test. If the applicant fails the first knowledge test, additional tests shall be conducted, as needed, with the following frequency:

(a) A second test may be conducted on any day after the day of the first test;

(b) A third test may be conducted on any day after the day of the second test;

(c) A fourth test may be conducted on any day after the third test;

(d) A fifth test may be conducted no sooner than 28 days after the fourth test; and

(e) Any subsequent test may be conducted no sooner than 28 calendar days after the previous test.

(5) If a compelling reason is shown the DMV may waive the waiting period for a knowledge test required by section (4) of this rule. Reasons for waiving the waiting period include, but are not limited to:

(a) The person can demonstrate he or she failed the test due to a cognitive or functional impairment. A statement from the person's doctor describing how the impairment affects the person's ability to pass a knowledge test is required;

(b) The person can demonstrate that failure to pass the test will result in loss of his or her job or a job opportunity;

(c) The person was not given an oral test when an oral test was requested; or

(d) The person requested but was not given the test in his/her native language and the test is available in the language requested.

(6) The waiting period between knowledge test failures is determined by the number of times an applicant fails a specific type of test. For example, the failure of a Class C driver license knowledge test and a Class A commercial driver license knowledge test the same day is considered as one test failure for each knowledge test, not two failures.

(7) An applicant is cheating on a knowledge test if during the test a DMV employee observes behaviors such as, but not limited to, the following:

(a) The applicant clearly using notes, a study guide, a copy of the test, or any other kind of written material that may provide the answer to a test question.

(b) The applicant clearly using an electronic device with the capability for sound, email, text messages, web access including, but not limited to, a cellular phone, personal digital assistant or wireless handheld device.

(c) The applicant clearly obtaining answers to test questions from another person, either verbally or through the use of any type of physical gesture or signal.

(8) DMV will determine that the applicant is cheating if a DMV office manager, office team leader, or designee confirms the observation of the DMV employee as described in section (7) of this rule. If DMV determines that an applicant is cheating DMV will stop the test and record a failing score.

(9) Except as otherwise provided in this section, if DMV stops a test because of cheating, the applicant must wait 90 days before he or she may take a subsequent knowledge test. DMV may waive the 90-day waiting period required under this section if the person provides proof the waiting period creates an extreme hardship. The person must provide evidence of the hardship such as, but not limited to:

(a) A statement from an employer that the person's inability to obtain driving privileges or an endorsement will result in the loss of a job or of a job opportunity because the job requires driving a motor vehicle; or

(b) A statement from a physician that the person or a member of the person's immediate family is in need of regular medical treatment and that there is no alternative transportation.

(10) When DMV determines an applicant cheated on a knowledge test as described in section (8) of this rule, the applicant may request an administrative review. The following apply to an administrative review request:

(a) DMV will notify the applicant of the right to request an administrative review at the time the test is stopped.

(b) The applicant must request an administrative review within 60 days from the date of notice. The 90-day waiting period will remain in effect and will not be rescinded or stayed by DMV pending the outcome of the administrative review.

(c) A request for an administrative review must be in writing and must include:

(A) The person's full name;

(B) The person's complete mailing address;

(C) The person's Oregon driver license number, identification card number or customer number, if available; and

(D) A brief statement of the facts and any evidence the person wants to present showing he or she should not be subject to the 90-day waiting period or proof of extreme hardship if the person is requesting a waiver of the 90-day period as described in section (9) of this rule.

(d) A request for an administrative review should also include the person's date of birth.

(e) To be received by DMV, the request for an administrative review must be:

(A) Personally delivered to DMV Headquarters, 1905 Lana Avenue NE, Salem, OR;

(B) Delivered by mail to DMV Headquarters, 1905 Lana Avenue NE, Salem OR 97314; or

(C) Received by facsimile machine at FAX number (503) 945-5497.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.200, 802.540, 807.070

Stats. Implemented: ORS 807.070, 807.530, 809.310

Hist.: MV 14-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0023; MV 8-1988, f. & cert. ef. 3-2-88; MV 16-1989, f. 8-25-89, cert. ef. 4-2-90; MV 7-1991, f. & cert. ef. 7-16-91; DMV 3-2002, f. & cert. ef. 3-14-02; DMV 6-2007, f. 5-24-07, cert. ef. 9-1-07; DMV 6-2007, f. 5-24-07, cert. ef. 9-1-07; DMV 3-2009, f. & cert. ef. 2-20-09

735-062-0078

Waiving Knowledge Test for Motorcycle Endorsement

Pursuant to ORS 807.072, DMV will waive the knowledge test for a motorcycle endorsement required by ORS 807.070(2) and OAR 735-062-0040 if the applicant presents a course completion card from a motorcycle rider education course established under ORS 802.320 if DMV has determined that the knowledge test given as part of the course is, at least, equivalent to the test given by DMV.

Stat. Auth.: ORS 184.616, 184.619, 802.010 and 807.072

Stats. Implemented: ORS 807.072

Hist.: DMV 3-2009, f. & cert. ef. 2-20-09

735-062-0080

Waiving Drive Test Portion of Driver License Examination

(1) DMV will waive the actual demonstration of a person's ability to drive a Class C vehicle required by ORS 807.070(3) if all of the following apply:

(a) The person surrenders to DMV a driver license issued to the person by another state, the District of Columbia, a United States Territory or a Canadian Province that has not been expired for more than one year, or if the person's driver license issued by another jurisdiction, has been lost or

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stolen, the person submits a letter of clearance, as required in OAR 735-062-0007;

(b) The surrendered, lost or stolen license authorizes the driving of a vehicle other than a moped or motorcycle;

(c) The surrendered, lost or stolen license includes no restrictions other than a single restriction or a combination of restrictions comparable to restrictions imposed on an Oregon driver license;

(d) The person has no physical disabilities or impairments which may necessitate any restrictions other than:

(A) "With corrective lenses";

(B) "Outside or side-view mirror(s)"; or

(C) The restriction(s) imposed on the person's surrendered, lost or stolen driver license issued by another jurisdiction.

(e) The person has no physical or mental condition that provides DMV with reason to question the person's ability to drive a motor vehicle without endangering the safety of persons or property.

(2) DMV will waive the actual demonstration of a person's ability to drive a Class A, B, or C commercial motor vehicle or any endorsement related to a commercial driver license if the person surrenders to DMV a commercial driver license and satisfies the requirements in subsection (a) or (b) of this section:

(a) The person must meet the qualifications set forth in subsections (1)(a) through (e) of this rule and possess an out-of-state commercial driver license approved by the Federal Motor Carrier Safety Administration that authorizes the driving of a commercial motor vehicle included in the Oregon classification for which the application is made; or

(b) The person submits to DMV a Certificate of Competency, Form 6771, in accordance with OAR 735-060-0130.

(3) DMV will waive the actual demonstration of a person's ability to drive a motorcycle if the person is 21 years of age or older, meets the qualifications and is eligible for a Class C license and:

(a) Surrenders to DMV a motorcycle-endorsed driver license issued to the person by another state, the District of Columbia, a United States Territory or a Canadian Province, or submits a clearance letter as provided for in subsection (1)(a) of this rule; or

(b) Presents a course completion card from a motorcycle rider education course established under ORS 802.320 if DMV has determined that the motorcycle skills required to pass the motorcycle rider education course meet or exceed the motorcycle skills required to pass the motorcycle skills test administered by DMV.

(4) DMV will waive the actual demonstration of a person's ability to drive a motorcycle if the person is under 21 years of age, meets the qualifications and is eligible for a Class C license and:

(a) Presents a course completion card from a motorcycle rider education course established under ORS 802.320; and

(b) The course completed meets the requirements to waive the knowledge test under OAR 735-062-0078 and meets the requirements to waive the skills test as provided in subsection (3)(b) of this rule.

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

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

Stats. Implemented: ORS 807.070, 807.080 & 807.170

Hist.: MV 61, f. 10-14-75, ef. 11-11-75; MV 15-1986, f. 9-16-86, ef. 10-1-86; MV 15-1987, f. 9-21-87, ef. 9-27-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0045; MV 26-1988, f. & cert. ef. 11-1-88; MV 6-1990, f. & cert. ef. 4-2-90; MV 14-1990, f. & cert. ef. 8-16-90; MV 1-1991, f. & cert. ef. 3-18-91; MV 16-1991, f. 9-18-91, cert. ef. 9-29-91; MV 6-1992(Temp), f. 5-29-92, cert. ef. 6-1-92; MV 10-1992, f. 8-21-92, cert. ef. 9-1-92; MV 12-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 4-1995, f. & cert. ef. 3-9-95; DMV 31-2005, f. & cert. ef. 12-14-05; DMV 11-2006(Temp), f. & cert. ef. 8-25-06 thru 2-20-07; DMV 18-2006, f. & cert. ef. 12-13-06; DMV 3-2009, f. & cert. ef. 2-20-09

735-062-0140

Proof of Completion of a Motorcycle Education Course

(1) For purposes of issuing a motorcycle endorsement DMV will only accept a course completion card from a motorcycle rider education course established under ORS 802.320. The course completion card must be issued within two years of application.

(2) As proof of completion of a motorcycle education course, DMV will accept a course completion card, which minimally includes:

(a) The applicant's name;

(b) The name of the course completed;

(c) The date of the course;

(d) Where the course was taken;

(e) The signature of the instructor; and

(f) The instructor's certification number.

Stat. Auth.: ORS 184.616, 184.619 & 807.175

Stats. Implemented: ORS 807.170 & 807.175

Hist.: MV 27-1989, f. & cert. ef. 10-3-89; MV 12-1993, f. 10-22-93, cert. ef. 11-4-93; DMV 7-1998, f. & cert. ef. 6-19-98; DMV 11-2006(Temp), f. & cert. ef. 8-25-06 thru 2-20-07; DMV 18-2006, f. & cert. ef. 12-13-06; DMV 3-2009, f. & cert. ef. 2-20-09

Rule Caption: Medical Standards for Drivers of Commercial Motor Vehicles.

Adm. Order No.: DMV 4-2009

Filed with Sec. of State: 2-20-2009

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Rules Adopted: 735-063-0000

Rules Amended: 735-063-0050, 735-063-0060, 735-063-0065, 735-063-0070, 735-063-0075

Rules Repealed: 735-063-0055

Subject: There are federal standards for issuing a commercial driver license (CDL), including medical standards, that a person must meet to qualify for a CDL. ODOT may issue a waiver of physical disqualification to a driver who does not meet all federal physical qualification standards required for a driver of a commercial motor vehicle (CMV). The waiver allows the driver to operate a CMV in Oregon for intrastate commerce. These rules establish the medical standards for a driver of a CMV, the medical certificate that is acceptable in Oregon, and the procedures for acceptance of a medical certificate. The rules also establish when DMV will issue, deny or revoke a waiver of physical disqualification to a person who does not meet all the physical requirements to drive a CMV.

OAR 735-063-0000 provides definitions to make these rules easier to read and understand. The amendments to 735-063-0055 and 735-063-0065 incorporate the new definitions. Other changes are made to clarify language. DMV amended 735-063-0070 and 735-063-0075 regarding the Oregon Waiver of Physical Disqualification to more clearly outline the application and issuance process, the conditions and restrictions of holding a waiver, and when a waiver may be denied or revoked. DMV is also deleting language concerning financial sanctions that are no longer applicable. OAR 735-063-0050 is repealed because it simply repeats the statutory requirements of ORS 807.100.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-063-0000

Definitions

As used in this division the following definitions apply:

(1) "Accident/conviction records" are records used to establish when a Waiver of Physical Disqualification issued by DMV may be denied or suspended. Accident records include, but are not limited to DMV records, police reports, crash reports or other reports from motor carriers. A conviction record is an official record showing a determination of guilt by a court of law upon a plea, verdict, finding, or unvacated bail forfeiture.

(2) "CDL" means commercial driver license.

(3) "CMV" means commercial motor vehicle.

(4) "Disqualifying condition" is a medical condition(s) not meeting FMCSA physical qualification standards as set forth in FMCSR 49 CFR, § 391.49(b).

(5) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

(6) "FMCSA" means the Federal Motor Carrier Safety Administration of the United States Department of Transportation.

(7) "FMCSR" means the Federal Motor Carrier Safety Regulations of the U.S. Department of Transportation, 49 CFR sections 300 to 399.

(8) "Intrastate commerce" is defined in FMCSR § 390.5 and includes any trade, traffic or transportation exclusively within Oregon.

(9) "Medical Determination Officer" is a physician, nurse practitioner or physician assistant, licensed to provide health care services by the State of Oregon, and employed or designated by DMV to make medical determinations of a driver's medical eligibility for driving privileges.

(10) "Medical Specialist" is a person who is licensed as a doctor of medicine, a doctor of osteopathy, an optometrist or an audiologist.

(11) "Physician" is defined in ORS 807.710.

(12) "SPE certificate" is a Skill Performance Evaluation certificate issued by the FMCSA pursuant to FMCSR § 391.49 to a person who demonstrates the ability to safely operate a CMV in spite of limb impairment or loss.

(13) "Waiver of Physical Disqualification" or "waiver" means a waiver issued by the Oregon Department of Transportation to a driver who does not meet the physical qualifications required for drivers of commercial motor vehicles as set forth in FMCSR § 391.41(b). A Waiver of Physical

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Disqualification only authorizes the holder to operate a commercial motor vehicle in intrastate commerce.

Stat. Auth.: ORS 184.616, 184.619, 802.010
Stats. Implemented: ORS 807.040 & 807.100
Hist.: DMV 4-2009, f. & cert. ef. 2-20-09

735-063-0050

Medical Standards for Drivers of Commercial Motor Vehicles

(1) DMV adopts FMCSR sections 391.41 through 391.49 in effect on October 1, 2007 pertaining to physical qualifications and medical examination of drivers of commercial motor vehicles. Except as provided in section (2) of this rule, to qualify for a Class A, B, or C CDL or commercial driver permit a person must obtain an approved medical certificate meeting the requirements of these federal regulations.

(2) DMV may issue a Class A, B, or C CDL or commercial driver permit to a person who does not meet all physical qualifications set forth in FMCSR §391.41(b) if the person is issued:

(a) A Waiver of Physical Disqualification for the disqualifying condition, under OAR 735-063-0070;

(b) An exemption for the disqualifying condition by the FMCSA pursuant to 49 USC sections 31136 and 31135, and 49 CFR sections 381.300 to 381.330; or

(c) An SPE certificate for the disqualifying condition issued by the FMCSA pursuant to 49 CFR §391.49.

(3) DMV will issue a restricted Class A, B or C CDL or commercial driver permit if the waiver, exemption or SPE certificate described in section (2) of this rule indicate any applicable restrictions, conditions or limitations for issuance of a commercial license.

(4) DMV will suspend a Class A, B or C CDL or commercial driver permit if a Waiver of Physical Disqualification is denied, not renewed or is revoked for any reason or for any length of time.

(5) DMV will suspend a Class A, B or C CDL or commercial driver permit if notified that FMCSA has revoked or not renewed the SPE certificate issued to the driver under the provisions of 49 CFR §391.49.

(6) DMV will suspend a Class A, B or C CDL or commercial driver permit if notified that FMCSA has revoked or not renewed an exemption to physical qualifications issued to a driver under the provisions of 49 U.S.C. sections 31135 and 31136(e) and FMCSR sections 381.300 to 381.330.

(7) DMV will suspend a Class A, B, or C CDL or commercial driver permit if notified by the Medical Determination Officer that the driver no longer meets the physical qualifications outlined in FMCSR § 391.41(b).

(8) A person suspended under section (4), (5), or (6) of this rule may reinstate commercial driving privileges if the person obtains a medical certificate as described in section (1) of this rule or is reissued a waiver by DMV or an exemption or SPE certificate by FMCSA as described in section (2) of this rule.

(9) A person suspended under section (7) of this rule may reinstate commercial driving privileges if the person is determined by the Medical Determination Officer to meet the physical qualifications for a Class A, B or C CDL or commercial driver permit.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.040 & 809.419
Stats. Implemented: ORS 807.040, 807.100 & 809.419
Hist.: MV 11-1986, f. 6-27-86, ef. 7-1-86; Administrative Renumbering 3-1988, Renumbered from 735-031-0730; MV 24-1988, f. & cert. ef. 7-1-88; MV 6-1990, f. & cert. ef. 4-2-90; MV 11-1992, f. & cert. ef. 9-28-92; DMV 16-2003, f. & cert. ef. 11-18-03, Renumbered from 735-060-0140; DMV 2-2005, f. 1-20-05, cert. ef. 1-31-05; DMV 9-2007(Temp), f. & cert. ef. 9-17-07 thru 3-14-08; Renumbered from 735-074-0260, DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 4-2009, f. & cert. ef. 2-20-09

735-063-0060

Approved Medical Certificates

(1) DMV approves the following as medical certificates for use when driving a Class A, B, or C CMV within Oregon:

(a) Any medical certificate that complies with FMCSR sections 391.41 through 391.49. The medical certificate must state that in accordance with these federal regulations the person is qualified; or

(b) An Oregon School Bus Driver's Certificate or Oregon School Bus Driver's Permit, issued by the Oregon Department of Education, as provided in OAR 581-053-0006.

(2) If indicated on the certificate, the medical certificate described in section (1) of this rule must also be accompanied by a current:

- (a) Waiver of Physical Disqualification issued by DMV;
- (b) SPE certificate issued by the FMCSA; or
- (c) Exemption issued by the FMCSA.

(3) The medical certificate must not be expired.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.040
Stats. Implemented: ORS 807.040, 807.100
Hist.: MV 11-1986, f. 6-27-86, ef. 7-1-86; MV 4-1987, f. & ef. 5-18-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0750; MV 24-1988, f. & cert. ef. 7-1-88;

MV 24-1989, f. & cert. ef. 10-3-89; MV 6-1990, f. & cert. ef. 4-2-90; MV 16-1991, f. 9-18-91, cert. ef. 9-29-91; DMV 16-2003, f. & cert. ef. 11-18-03; DMV 16-2003, f. & cert. ef. 11-18-03, Renumbered from 735-060-0160; DMV 9-2007(Temp), f. & cert. ef. 9-17-07 thru 3-14-08; Renumbered from 735-074-0280, DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 4-2009, f. & cert. ef. 2-20-09

735-063-0065

Medical Certificate Procedures

(1) DMV will issue a Class A, B, or C CDL or commercial driver permit only to applicants who present an approved medical certificate as described in OAR 735-063-0060 and, if required, a Waiver of Physical Disqualification, an exemption or SPE certificate when applying for an original or renewal of a Class A, B, or C CDL or commercial driver permit.

(2) An applicant for a Class A, B, or C CDL or commercial driver permit used in interstate commerce must also certify on the application or renewal form that he or she meets all of the driver qualification requirements as required by FMCSR §383.71(a) and §383.71(c)(1).

(3) DMV may issue a Class C or Class C restricted driver license to a person who applies for the renewal of a Class A, B, or C CDL if the person does not present an approved medical certificate as required or fails to certify he or she meets the driver qualification requirements as required in subsections (1) and (2) of this rule. The lower class of license issued will be the class requested by the applicant.

(4) A driver who needs to replace a medical certificate because it is lost, mutilated, or destroyed may obtain a duplicate from the same source from which they obtained the original medical certificate.

(5) DMV is not responsible for any expenses an applicant may incur from the acquisition of an approved medical certificate or duplicate medical certificate.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.040
Stats. Implemented: ORS 807.040, 807.100 & 807.150
Hist.: MV 11-1986, f. 6-27-86, ef. 7-1-86; Administrative Renumbering 3-1988, Renumbered from 735-031-0760; MV 4-1987, f. & ef. 5-18-87; MV 6-1990, f. & cert. ef. 4-2-90; DMV 11-1998, f. & cert. ef. 9-14-98; DMV 16-2003, f. & cert. ef. 11-18-03, Renumbered from 735-060-0170; DMV 9-2007(Temp), f. & cert. ef. 9-17-07 thru 3-14-08; Renumbered from 735-074-0290, DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 4-2009, f. & cert. ef. 2-20-09

735-063-0070

Oregon Waiver of Physical Disqualification

(1) Possession of a Waiver of Physical Disqualification issued by DMV to the holder of a CDL or commercial driver permit who only operates a CMV in intrastate commerce is subject to the procedures, conditions and requirements set forth in this rule.

(2) A driver of a CMV who is engaged only in intrastate commerce and who does not meet all physical qualification standards as outlined in FMCSR § 391.41(b) may make application to DMV for a Waiver of Physical Disqualification.

(a) An application for waiver must be accompanied by a completed waiver application form and:

(A) A current FMCSA medical examination report completed by a licensed physician, chiropractic physician, physician assistant or nurse practitioner. The report must show that notwithstanding the disqualifying condition, the applicant meets all other physical qualification standards as set forth in FMCSR § 391.41(b);

(B) Current medical information regarding the disqualifying condition from a treating medical specialist specializing in the assessment and treatment of the type of disqualifying condition for which the applicant is requesting a waiver; and

(C) If requested by DMV, a copy of the applicant's out-of-state driver record(s) if the applicant has held a driver license in another jurisdiction during the three year period preceding the date of application.

(b) DMV may require the applicant to provide additional information showing that the disqualifying condition does not impair the person's ability to safely operate a CMV in intrastate commerce.

(c) Failure to provide information as required by DMV will result in denial of the waiver as set forth in OAR 735-063-0075(3).

(3) An application for an original waiver or for renewal must be reviewed by the Medical Determination Officer who will make a recommendation to DMV whether to approve or deny the waiver.

(a) Reviews will be conducted using medical waiver guidelines. These are criteria maintained by the Medical Determination Officer and available from DMV.

(b) The Medical Determination Officer may request additional information from DMV or the applicant before making a recommendation.

(4) Records relating to an applicant or the holder of a current waiver may be reviewed at any time by DMV to determine if the person is or remains qualified to hold the waiver and is complying with the restrictions and conditions of the waiver. The review may include a recommendation

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from the Medical Determination Officer. DMV may use the information from these records or a recommendation from the Medical Determination Officer as a basis for denial of a waiver or for revocation of an existing waiver as specified in OAR 735-063-0075(4). Records include but are not limited to:

- (a) Driving record;
- (b) Accident/conviction record; and
- (c) Medical records.

(5) If DMV has reason to believe the holder of a Waiver of Physical Disqualification is no longer qualified for the waiver, DMV:

(a) May immediately revoke the waiver as specified in OAR 735-063-0075;

(b) May request in writing that the holder submit any information requested by DMV in order for DMV to determine if the holder remains eligible for the waiver. The holder must submit any requested information to DMV within 60 days of the date the written request is mailed. Failure to submit the requested information will result in revocation of the waiver as set forth in OAR 735-063-0075(3). DMV may grant an additional 30 days if:

(A) The person is seriously ill or injured and a physician requests an extension in writing;

(B) The person is temporarily out of state and a written request is received from the person; or

(C) The person can show that the information was requested from another party within the 60 day time period and the delay in submitting the information was caused by the other party.

(6) To be eligible for a Waiver of Physical Disqualification, a driver must:

(a) Submit a completed waiver application and other information as may be required by DMV;

(b) Qualify for commercial driving privileges or have a valid Oregon CDL or commercial driver permit;

(c) Not have driving privileges suspended, revoked, cancelled or withdrawn in Oregon or any other jurisdiction;

(d) Receive a recommendation for waiver approval from the Medical Determination Officer;

(e) Not have a Waiver of Physical Disqualification that is currently denied or revoked as specified in OAR 735-063-0075(1) or 735-063-0075(4).

(7) Any driver issued a waiver must comply with the following conditions:

(a) Notify DMV within 10 days of any change in the driver's physical condition pertaining to the need for a waiver or any other condition which may require a waiver or waiver modification;

(b) Notify DMV of all crashes, arrests or convictions involving the use of a motor vehicle within 30 days of the crash or within 10 days of the arrest or conviction;

(c) Notify DMV within 10 days of any suspension, cancellation, revocation or withdrawal of driving privileges in a jurisdiction other than Oregon;

(d) Notify DMV within 10 days of changing employers and provide the employer with a copy of the waiver;

(e) Carry a copy of the medical waiver and any listed waiver conditions at all times while operating a CMV and make the waiver and waiver conditions available to enforcement personnel upon request;

(f) Only operate a CMV in Oregon intrastate commerce; and

(g) Comply with all waiver conditions related to the disqualifying condition as noted on the Waiver of Physical Disqualification.

(8) The Oregon CDL or commercial driver permit of a waiver holder must have a "K" restriction limiting the driver to operating a CMV in intrastate commerce.

(a) DMV will notify waiver holders in writing of the requirement to have a CDL or commercial driver permit with a "K" restriction.

(b) Failure of the driver to add the "K" restriction within 60 days of the date of written notification will result in cancellation of the commercial driver license in accordance with ORS 807.010(1) and ORS 809.310(1). DMV is not responsible for any expenses a waiver holder may incur from the acquisition of a replacement license with the "K" restriction.

(9) The waiver is valid for a period not to exceed the expiration date of the driver's medical certificate.

(10) Incomplete waiver applications are invalid after 180 days and DMV will take no action to deny or approve the application. After this period, the person must reapply for a waiver in accordance with all of the requirements of this rule.

Stat. Auth.: ORS 184.616, 184.619 & 802.010

Stats. Implemented: ORS 807.040 & 807.150

Hist.: MCTB 4-2000, f. & cert. ef. 6-12-00; Renumbered from 740-100-0140, DMV 9-2007(Temp), f. & cert. ef. 9-17-07 thru 3-14-08; Renumbered from 740-100-0140, DMV 9-2008, f. & cert. ef. 3-21-08; DMV 4-2009, f. & cert. ef. 2-20-09

735-063-0075

Suspension, Denial or Revocation of an Oregon Waiver of Physical Disqualification

(1) A holder of a Waiver of Physical Disqualification who violates any of the requirements set forth in OAR 735-063-0070(7), in addition to any other actions authorized by law, will be subject to revocation of the waiver for up to 180 days upon DMV's determination of the driver's second violation of waiver conditions within the preceding 12 months.

(2) DMV will deny or revoke a Waiver of Physical Disqualification if DMV determines that the applicant or waiver holder does not qualify for the waiver under the requirements set for in OAR 735-063-0070(6).

(3) DMV will deny or revoke a Waiver of Physical Disqualification if the waiver holder fails to provide information requested under OAR 735-063-0070 within the required 60 day time period.

(4) DMV will deny or revoke a Waiver of Physical Disqualification if, as a result of a review conducted under OAR 735-063-0070(4), DMV determines the person no longer qualifies for the waiver.

Stat. Auth.: ORS 184.616, 184.619, 802.010

Stats. Implemented: ORS 807.040, 807.150

Hist.: MCTB 4-2000, f. & cert. ef. 6-12-00; MCTB 4-2001, f. & cert. ef. 11-9-01; Renumbered from 740-300-0140, DMV 9-2007(Temp), f. & cert. ef. 9-17-07 thru 3-14-08; Renumbered from 740-300-0140, DMV 9-2008, f. & cert. ef. 3-21-08; DMV 4-2009, f. & cert. ef. 2-20-09

Rule Caption: Commercial Driver Training Operator and Instructor Qualifications, Application, Issuance of Certificates, Sanctions.

Adm. Order No.: DMV 5-2009

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Rules Amended: 735-160-0010, 735-160-0011, 735-160-0075, 735-160-0080, 735-160-0125

Rules Repealed: 735-160-0012, 735-160-0013, 735-160-0085, 735-160-0093

Subject: Chapter 735, Division 160 rules establish the requirements, qualifications and application procedures for both commercial drive school operations and instructors. There were separate rules for the issuance, renewal and denial of both the operator and instructor certificate (six total rules). To simplify matters, DMV combined information into just two rules – one for the Operator Certificate and one for the Instructor Certificate. Both rules will establish the requirements to apply for an original certificate or renew a certificate already issued and both rules will establish when DMV will deny issuance of the specific certificate. Because of this restructuring, DMV repealed 735-160-0012, 735-160-0013, 735-160-0085 and 735-160-0093 and amended OAR 735-160-0011 and 735-160-0080.

DMV also amended 735-160-0011 and 735-160-0080 to allow criminal history checks by other than Oregon State Police, and to clarify that criminal records may be used in a contested case hearing or appeal.

DMV amended 735-160-0075 to distinguish the requirements between an instructor who is only conducting classroom training and one who conducts behind the wheel training. An instructor who only provides classroom training will not be required to hold an Oregon driver license, meet eyesight standards or pass a special drive test. This change will allow a commercial drive school to have a broader pool of possible instructors and will alleviate the costs in time and money of having to provide a report from a licensed vision specialist and having to take a special drive test.

DMV amended 735-160-0075 to change a commercial drive school instructor requirement so that an applicant or an instructor does not have a suspension under the Driver Improvement Program within the past three years, rather than the past five years. The five-year restriction was overly restrictive.

Rules Coordinator: Lauri Kunze—(503) 986-3171

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735-160-0010

Commercial Driver Training School Operator Qualifications

(1) An Operator of the school must be at least 21 years of age and meet the qualification requirements of sections (2) through (7) of this rule.

(2) An Operator must not have a conviction for any of the following crimes:

(a) A traffic crime as defined by ORS 801.545 and OAR 735-160-0005(20). This subsection does not apply if the conviction occurred more than five years preceding the date an application for a School Certificate or Corrected School Certificate is submitted to DMV;

(b) Kidnapping or custodial interference as defined in ORS 163.225 through 163.257;

(c) Any sexual offense, with or without force, any offense related to child pornography or any offense compelling or promoting prostitution;

(d) Any crime involving injury or threat of injury to another person;

(e) Any crime involving theft, forgery, fraud, falsifying or tampering with records, or racketeering; or

(f) Any crime relating to the unlawful possession, use, sale, manufacture or distribution of controlled substances or alcoholic beverages.

(3) An applicant who has been convicted of one of the crimes listed in section (2) of this rule may include an explanation or evidence of intervening circumstances since the conviction. DMV will determine if the intervening circumstances of the conviction are such that the conviction does not affect the person's fitness to operate a Commercial Driver Training School.

(4) An Operator must not engage in conduct that is substantially related to the person's fitness to be an Operator or that demonstrates unfitness and inability to perform the responsibilities of an Operator. DMV will determine from the facts of the conduct, and the intervening circumstances known to DMV, if the person is fit to perform the responsibilities of an Operator or poses a risk to the safety of others while performing those responsibilities.

(5) An Operator may not be the operator of any school in Oregon if a School Certificate issued to the operator is currently revoked for an offense described in OAR 735-160-0010(2). An Operator may not be the operator of any school in Oregon if a School Certificate issued to the Operator is currently suspended, revoked, canceled, or withdrawn unless the School Certificate is reinstated or is eligible and the Operator meets all eligibility requirements of OAR 735-160-0010.

(6) An Operator must not have been the operator of any school in another jurisdiction that has been suspended, revoked, canceled, or withdrawn for the same or a similar offense as described in OAR 735-160-0010(2) within five years preceding the date of application for a School Certificate or Corrected School Certificate. DMV will review the results of an operator's criminal history to determine whether the offense is applicable.

(7) The criteria described in this rule apply to a current School Certificate and may provide grounds for suspension, revocation, or cancellation as described in OAR 735-160-0115 if an Operator fails to remain qualified as prescribed under this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.500, 822.515 & 822.530

Stats. Implemented: ORS 822.500 & 822.515

Hist.: MV 43, f. & ef. 12-8-69; MV 6-1981, f. & ef. 7-1-81; Administrative Renumbering 3-1988, Renumbered from 735-051-0010; MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 5-2009, f. & cert. ef. 2-20-09

735-160-0011

Issuance of Commercial Driver Training School Certificate

(1) An Operator must apply for an original or renewal School Certificate pursuant to ORS 822.515 and must:

(a) Submit a completed application on a form or in a format provided or established by DMV;

(b) Meet the qualifications listed in OAR 735-160-0010;

(c) Submit a release authorizing DMV to obtain the Operator's criminal history report. Criminal history records will only be used to determine Operator qualifications and may be used as evidence in any contested case hearing or appeal as described in section (6) of this rule. Such records will otherwise be kept confidential and not released to any person unless DMV determines a record, or any portion thereof, must be released pursuant to the Public Records Law, ORS 192.410 to 192.505, or the Attorney General or a court orders disclosure in accordance with the Public Records law.

(d) Submit a School bond that complies with the requirements of ORS 822.505, on a form prescribed by DMV, and certify that a bond will remain in effect as long as the School Certificate is valid;

(e) Submit proof of insurance that complies with the requirements of ORS 822.510, on a form provided or established by DMV. The Operator shall certify that insurance will remain in effect as long as the School Certificate is valid;

(f) Submit the fee required under ORS 822.700; and

(g) Register the business name with the Secretary of State, Corporation Division and provide the registry number.

(2) The business location of the School must comply with the requirements of OAR 735-160-0020.

(3) Once issued, a School Certificate is not transferable to any other commercial driver training school.

(4) An Operator must submit to DMV a renewal application, supporting documents and payment for a School Certificate no later than the expiration date stated in ORS 822.515(4)(a). DMV will provide a grace period of 45 days for the application to be processed during which time the existing school certificate will remain valid. A renewal application that is received after the expiration date of the existing School Certificate will be treated as an application for an original School Certificate.

(5) DMV will not issue or renew a School Certificate if:

(a) The qualifications or requirements set forth in Chapter ORS 822 and OAR chapter 735 division 160 rules are not met; or

(b) DMV determines information contained in the application is false.

(6) If DMV refuses to issue or renew a School Certificate, DMV will notify the Operator in writing. The Operator may request a contested case hearing. The hearing shall be conducted in accordance with the applicable provisions of the Administrative Procedures Act, ORS 183.310 to 183.540 and is subject to the following:

(a) A request for hearing must be submitted in writing to and received by DMV within 20 days of the date the refusal notification is mailed to the Operator. DMV will not issue a School Certificate pending the outcome of the contested case hearing. If DMV refuses to renew a School Certificate, the expired School Certificate shall remain valid pending the outcome of the contested case hearing, unless the basis for the refusal is failure to provide or maintain a School bond or provide proof of insurance, as required, or DMV determines continued operation of the School would constitute a serious danger to the public health or safety.

(b) Failure to timely request a hearing constitutes waiver of the right to a hearing and no School Certificate will be issued or renewed until the requirements of ORS 822.500 to 822.515 and the OAR chapter 735, division 160 rules are satisfied.

(7) Failure to maintain any of the requirements as prescribed under this rule may result in a sanction as described in OAR 735-160-0115 of a School Certificate issued or renewed in accordance with this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.505, 822.510 & 822.515

Stats. Implemented: ORS 822.500, 822.510 & 822.515

Hist.: DMV 15-2005, f. & cert. ef. 5-19-05; DMV 5-2009, f. & cert. ef. 2-20-09

735-160-0075

Commercial Driver Training School Instructor Qualifications

(1) No person will teach, conduct classes, give demonstrations to, or supervise the practice of student drivers for compensation unless he or she is issued an Instructor Certificate by DMV.

(2) To be eligible for an Instructor Certificate, or to renew or maintain an Instructor Certificate, a person must:

(a) Be at least 21 years of age to conduct behind-the-wheel training and age 19 to conduct classroom training;

(b) Be an employee of a School that holds a valid and current School Certificate issued by DMV;

(c) Have valid Oregon driving privileges, or valid driving privileges from another jurisdiction if the instructor only conducts classroom training, and have had valid driving privileges for at least three years preceding the date an application is submitted to DMV for an Instructor Certificate. To be valid, driving privileges must not be suspended, revoked, canceled, or otherwise withdrawn for a violation of a traffic crime described in OAR 735-160-0005(20) and ORS 801.545. For purposes of these OAR 735 division 160 rules, a hardship or probationary permit does not constitute valid driving privileges. An Instructor who has not held Oregon driving privileges for the three year period may be required to submit a certified driving record from any jurisdiction or foreign government that issued driving privileges during that period;

(d) Not have a conviction for any of the following crimes:

(A) A traffic crime as defined by ORS 801.545 and OAR 735-160-0005(20). This subsection does not apply if the conviction occurred more than five years preceding the date an application for an Instructor Certificate is submitted to DMV;

(B) Kidnapping or custodial interference as defined in ORS 163.225 through 163.257;

(C) Any sexual offense, with or without force, any offense related to child pornography, or compelling or promoting prostitution;

(D) Any crime involving injury or threat of injury to another person;

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(E) Any crime involving theft, forgery, fraud, falsifying or tampering with records, or racketeering; or

(F) Any crime relating to the unlawful possession, use, sale, manufacture, or distribution of controlled substances or alcoholic beverages;

(e) Not engage in conduct that is substantially related to the person's fitness to be an Instructor or that demonstrates unfitness and inability to perform the responsibilities of an instructor. DMV will determine from the facts of the conduct, and the intervening circumstances known to DMV, if the person is fit to perform the responsibilities of an instructor or poses a risk to the safety of others while performing those responsibilities; and

(f) Have received a passing score on both the written knowledge test and drive test described in OAR 735-160-0100. If the instructor only conducts classroom training the drive test is not required.

(3) A person is not eligible for an Instructor Certificate, and will not be allowed to renew or maintain an Instructor Certificate if:

(a) The person has a physical or mental condition or impairment affecting the person's ability to teach, give demonstrations, or supervise the practice of student drivers in a motor vehicle;

(b) The person's vision in both eyes, with or without corrective lenses, does not meet a minimum acuity of 20/40. Corrective lenses do not include bioptic telescopic lenses; If the instructor only conducts classroom training there is no vision requirement that must be met.

(c) The person's driving privileges are revoked as a habitual offender under ORS 809.600 or any equivalent action in another jurisdiction. This section shall apply if the instructor's driving privileges were revoked as a habitual offender and have not been restored under ORS 809.660 or its equivalent in another jurisdiction at least five years prior to the date an application for an Instructor Certificate or Corrected Instructor Certificate is submitted to DMV;

(d) The person is enrolled or participating in a DUII diversion program including an equivalent diversion program in another jurisdiction. This section will apply if the person was enrolled or participated in a diversion program anytime within the five years preceding the date an application for an Instructor Certificate is submitted to DMV;

(e) The person has had a suspension of driving privileges under a driver improvement program, including an equivalent driver improvement program in another jurisdiction. This section will apply if the suspension occurred within the last three years preceding the date an application for an Instructor Certificate is submitted;

(f) The person refuses to take a breath or blood test in accordance with ORS 813.100 or any equivalent violation in another jurisdiction. This section will apply if the person refused a breath test anytime within five years preceding the date an application for an Instructor Certificate is submitted to DMV;

(g) The person fails to pass a breath or blood test in accordance with ORS 813.100 or any equivalent violation in another jurisdiction. This section will apply if the person fails a breath test anytime within five years preceding the date an application for an Instructor Certificate is submitted to DMV;

(h) An Instructor must not be an instructor at any school in Oregon whose School Certificate is currently revoked, canceled, or withdrawn unless the Operator has completed the terms of their sanction according to OAR 735-160-0125 and meets all eligibility requirements of 735-160-0075; or

(i) An Instructor must not have an Instructor Certificate that is suspended, revoked, canceled, or withdrawn or a similar sanction in another jurisdiction on the date the application for an Instructor Certificate is submitted to DMV.

(4) An applicant who has been convicted of one of the crimes listed in section (2) of this rule may include an explanation or evidence of intervening circumstances since the conviction. DMV will determine if the intervening circumstances of the conviction are such that the conviction does not affect the person's fitness to be an Instructor.

(5) An applicant who has been suspended as described in section (3)(e) of this rule may include an explanation or evidence of intervening circumstances since the suspension. DMV will determine if the intervening circumstances of the suspension are such that the suspension does not affect the person's fitness to be an Instructor.

(6) DMV may request additional information from an applicant who has been convicted of one of the crimes listed in section (2) of this rule. Additional information may include, but is not limited to, documentation regarding the intervening circumstances of the conviction. DMV will determine if the intervening circumstances of the conviction are such that the conviction does not affect the person's fitness to be an Instructor.

(7) The criteria described in this rule apply to a current Instructor Certificate and may provide grounds for suspension, revocation, or cancellation as described in OAR 735-160-0115 if an Instructor fails to remain qualified as prescribed under this rule.

Stat. Auth.: ORS 184.616, 814.619, 802.010 & 822.530

Stats. Implemented: ORS 822.530

Hist.: DMV 15-2005, f. & cert. ef. 5-19-05; DMV 5-2009, f. & cert. ef. 2-20-09

735-160-0080

Issuance of Commercial Driver Training School Instructor Certificate

(1) An applicant must apply for an original or renewal Instructor Certificate pursuant to ORS 822.530 and must:

(a) Submit a completed application on a form or in a format provided or established by DMV;

(b) Meet the Instructor qualifications listed in OAR 735-160-0075;

(c) Pass the knowledge and drive test requirement in accordance with OAR 735-160-0100; If the instructor only conducts classroom training the drive test is not required.

(d) Submit a release authorizing DMV to obtain the applicant's criminal history report. Criminal history records will only be used to determine instructor qualification and may be used as evidence in any contested case hearing or appeal as described in section (6) of this rule. Such records will otherwise be kept confidential and not released to any person unless DMV determines a record, or any portion thereof, must be released pursuant to the Public Records Law, ORS 192.410 to 192.505, or the Attorney General or a court orders disclosure in accordance with the Public Records Law.

(e) Submit the fee required under ORS 822.700; and

(f) Possess and maintain a current and valid Oregon driver license, or valid driving privileges from another jurisdiction if the instructor only conducts classroom training

(2) An Instructor must submit to DMV a renewal application, supporting documents and payment for an Instructor Certificate no later than the expiration date stated in ORS 822.530(4)(a). DMV may provide a grace period of 45 days for the application to be processed during which time the existing school certificate will remain valid. A renewal application that is received after the expiration date of the existing Instructor Certificate will be treated as an application for an original Instructor Certificate.

(3) DMV will not issue or renew an Instructor Certificate if:

(a) The qualification or requirement set forth in Chapter ORS 822 and OAR chapter 735, division 160 rules are not met; or

(b) DMV determines information contained in the application is false.

(4) If DMV refuses to issue or renew an Instructor Certificate, DMV will notify the Instructor in writing. The Instructor may request a contested case hearing. The hearing shall be conducted in accordance with the applicable provisions of the Administrative Procedures Act, ORS 183.310 to 183.540 and is subject to the following:

(a) A request for hearing must be submitted in writing and received by DMV within 20 days of the date the refusal notification is mailed to the Instructor. DMV will not issue an Instructor Certificate pending the outcome of the contested case hearing. If DMV refuses to renew an Instructor Certificate, the expired Instructor Certificate shall remain valid pending the outcome of the contested case hearing; and

(b) Failure to timely request a hearing constitutes waiver of the right to a hearing and no Instructor Certificate will be issued or renewed until the requirements of ORS 822.500 to 822.515 and OAR chapter 735, division 160 rules are satisfied.

(5) Failure to maintain any of the requirements as prescribed under this rule may result in a sanction as described in OAR 735-160-0115 of an Instructor Certificate issued or renewed in accordance with this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 822.530

Stats. Implemented: ORS 822.530

Hist.: MV 43, f. & ef. 12-8-69; MV 7-1981, f. & ef. 7-1-81; Administrative Renumbering 3-1988, Renumbered from 735-051-0005; MV 2-1993, f. & cert. ef. 2-16-93; DMV 15-2005, f. & cert. ef. 5-19-05; DMV 5-2009, f. & cert. ef. 2-20-09

735-160-0125

Sanctions

DMV adopts the following matrix of sanctions for School Operator and Instructor violations. As used in this rule, an offense will be considered a second or subsequent offense if it occurred within three years from the date the operator or instructor was notified in writing of the occurrence of the same or a substantially similar offense in another jurisdiction. DMV will not sanction as a second or third/subsequent offense if more than three years have passed from the date of the previous violation for the same or similar offense.. [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 184.616, 814.619, 802.010, 822.515 & 822.530

Stat. Imp.: ORS 822.515 - 822.530

Hist.: DMV 15-2005, f. & cert. ef. 5-19-05; DMV 5-2009, f. & cert. ef. 2-20-09

ADMINISTRATIVE RULES

Department of Transportation, Highway Division Chapter 734

Rule Caption: Update of outdoor advertising sign program rules.

Adm. Order No.: HWD 1-2009

Filed with Sec. of State: 2-20-2009

Certified to be Effective: 2-20-09

Notice Publication Date: 11-1-2008

Rules Amended: 734-059-0015, 734-060-0010, 734-060-0105, 734-060-0175, 734-060-0185

Subject: The amendment to 734-059-0015 adds the definition of “used in transportation” to assist in interpreting ORS 377.720(9). The rule describes prohibition on signs on vehicles and trailers, and its exception. This amendment provides clarification to assist the public in understanding more definitively what is prohibited and allowed.

ORAR 734-060-0010 allows outdoor advertising on transit benches. This rule, which had not been amended in 15 years, was updated to reflect changes in the sign program and modernize requirements.

ORAR 734-060-0105 allows a permit exemption for signs of a governmental unit. The purpose of this amendment is general updating; specifying process for applicant to request the exemption.

ORAR 734-060-0175 describes the permit exemption for temporary signs. This amendment adds a provision for variance for time and describes the process for applying for a variance.

ORAR 734-060-0185 describes the permit exemption for public convenience and safety signs. The purpose of this amendment is general updating.

Rules Coordinator: Lauri Kunze—(503) 986-3171

734-059-0015

Definitions

(1) The terms “neat,” “clean,” “attractive” and “good repair” as used in ORS 377.710(18) and 377.720(8) are defined as follows:

(a) The terms “neat” and “attractive” mean without rotting or broken parts, having parts that are solid and sound, without chipping or peeling paint, paper, vinyl or plastic, without graffiti, and without faded, washed-out or illegible copy. The terms apply to all component parts of a sign.

(b) The term “clean” means free of dirt, unsoiled, without grime or soot. The term does not include a minor dust coating that is undetected from the main-traveled way of a state highway. The term applies to all component parts of a sign that are visible to the main-traveled way of a state highway.

(c) The term “good repair” means having sound and solid parts, without rotting or broken parts, firmly fixed in place so as to be able to withstand a wind pressure of 20 pounds per square foot of exposed surface. The term includes all component parts of a sign.

(2) In interpreting ORS 377.720(9), to be considered “used in transportation” the owner or operator must demonstrate the vehicle or trailer is regularly used in a manner consistent with its usual purpose. The Department may consider but is not limited to the following factors:

(a) Whether it is used only for storage;

(b) Whether it is incapable of being moved in its normal way, such as due to a flat tire or mechanical problems;

(c) Whether its movement would be illegal such as if its registration has expired;

(d) Whether its location is compatible with being regularly used in transportation;

(e) How frequently it is moved;

(f) How far it is moved;

(g) Whether any change in location appears to be a mere attempt to qualify a sign structure under the exemption.

Stat. Auth.: ORS 184.616, 184.619, 377.710 & 377.720

Stats. Implemented: ORS 377.720

Hist.: TO 4-2002, f. & cert. ef. 4-15-02; HWD 1-2009, f. & cert. ef. 2-20-09

734-060-0010

Criteria for Issuance of New Permits for Benches Utilized as Outdoor Advertising Signs

(1) A new permit may be issued for a bus or transit bench utilized for an outdoor advertising sign (bench signs) and such signs may only be erected after a permit has been obtained from the Department of Transportation.

These rules do not authorize the placement of any bench, only the addition of an outdoor advertising sign to a bench structure.

(a) Bench signs are prohibited where the sign would be visible to:

(A) an interstate highway;

(B) a full control access highway;

(C) any state highway where the area adjacent to the highway is a designated scenic area under ORS 377.505 to 377.540; or

(D) any state highway designated as a scenic byway, unless the sign was legally in place before the byway designation.

(b) Size. The maximum allowable size for a bench sign is 16 square feet and the sign shall not exceed two feet in height or eight feet in length excluding supports.

(c) Height. The maximum allowable height is four feet including supports.

(d) Special Requirements:

(A) Bench signs may only be located in a commercial or industrial zone or, if located on unzoned city street right of way, only where adjacent to a commercial or industrial zone;

(B) Bench signs may only be located inside incorporated city limits or within an urban growth boundary;

(C) Bench signs may only be located at a bus or transit stop on a city or urban transit system route. The applicant must provide official documentation, such as a route map produced by the transit system, showing the site meets this requirement;

(D) Bench signs shall not be located on state highway right of way.

(f) These rules do not apply to any bench sign for which a preexisting outdoor advertising sign permit has already been issued under ORS 377.725.

(2) All signs subject to these regulations are also subject to the provisions of ORS 377.700 to 377.840 and 377.992 and to all applicable federal laws, regulations and agreements entered into by the Transportation Commission and the Federal Highway Administration. Signs erected under these regulations are also subject to any city or county ordinance or regulation.

(3) All bench signs granted permits under these rules are subject to removal in accordance with ORS 377.775.

Stat. Auth.: ORS 184.616, 184.619, 377.753

Stats. Implemented: ORS 377.7536

Hist.: 1 OTC 17-1979(Temp), f. & cert. ef. 7-19-79; 1 OTC 26-1979, f. & cert. ef. 10-30-79; HWY 5-1993(Temp), f. & cert. ef. 7-23-93; HWY 6-1993, f. & cert. ef. 10-21-93; HWD 1-2009, f. & cert. ef. 2-20-09

734-060-0105

Signs of a Governmental Unit

(1) In order to qualify for a permit exemption under ORS 377.735(1)(a) as a sign of a governmental unit the following criteria must be satisfied:

(a) The sign must be within the territorial or zoning jurisdiction of the governmental unit;

(b) The governmental unit must have the authority to declare, expound, administer, or apply the law within the area;

(c) The governmental unit may only erect the sign, or allow it to be erected, for the purpose of carrying out an official duty or responsibility directed or authorized by law.

(2) Location. Signs permitted by this rule are prohibited on state highway right of way.

(3) Size. Maximum area allowed is 200 square feet; maximum height or length allowed is 20 feet.

(4) Number. A governmental unit may have two such permit exemptions. If the limitation on number of signs will cause undue hardship, a waiver for additional signing may be granted by the Director, or authorized representative, upon application by the sign owner.

(5) The entire message must be contained on one sign. Fragmentation of messages on separate sign panels is prohibited.

(6) Signs erected under this rule are subject to the provisions of ORS 377.720 and to applicable federal requirements. Nothing in this rule is intended to permit a sign that is otherwise prohibited by a local government.

(7) No person may receive compensation for displaying the sign.

(8) This rule is not intended to regulate official traffic control signs or devices.

(9) To apply for the permit exemption an official of the governmental unit must submit a completed certification form, and an image of the proposed sign showing dimensions and copy, to the Outdoor Advertising Sign Program office.

Stat. Auth.: ORS 184.616, 184.619 & 377.735

Stats. Implemented: ORS 377.735

ADMINISTRATIVE RULES

Hist.: HWY 1-1989, f. & cert. ef. 5-2-89; TO 7-2001, f. & cert. ef. 12-13-01; HWD 1-2009, f. & cert. ef. 2-20-09

734-060-0175

Temporary Signs

(1) This rule is enacted pursuant to ORS 377.735 regarding the permit exemption for temporary signs and in furtherance of the Oregon Motorist Information Act (OMIA, ORS 377.700 through 377.840 and 377.992).

(2) Location generally. A temporary sign may be erected outside of state highway right of way, within view of a state highway, subject to the requirements of the local jurisdiction and the OMIA. A sign that complies with all the provisions of ORS 377.735(1)(b) may be erected without prior approval of the Department. A sign that requires a variance to comply must obtain that variance before erecting the sign. The Department may, at its discretion, retroactively grant a variance.

(3) Changes in copy or location. For the sake of the time limits described in ORS 377.735(1)(b), the following will be considered one sign:

(a) The same sign structure, regardless of copy, moved less than 600 feet from a former site; or

(b) A different sign structure, regardless of copy, in approximately the same location as another sign that was removed.

(3) Variance Procedure.

(a) A variance request must be in writing on a form provided by the Department. The request must be sent to the Outdoor Advertising Sign Program. There is no fee for a variance.

(b) A variance request must describe the specific location including:

(A) Name or number of highway;

(B) Side of highway; and

(C) Approximate milepoint, distance from a known highway feature (e.g. an intersection), or physical address.

(c) A variance request must describe the reason that constitutes good cause to grant the variance. If a reason is the amount of copy itself, requester must include the proposed copy. The Department may consider the amount, not the substance, of the copy.

(d) The request must include the name and mailing address of the requester. If the requester wants the Department to be able to make contact in any other way, such as to obtain supplemental information to process the request, requester may also include that contact information. The requester will be considered a sign owner for the sake of violation of sign laws.

(e) The request must include the date the sign will be posted and the date it will be removed so as to comply with the time limits to qualify for the exemption.

(f) Requester must certify that he or she:

(A) Has permission from the person in control of the property to post the sign;

(B) Will comply with all requirements of the local jurisdiction;

(C) Will not pay or receive any form of compensation for posting the sign; and

(D) Will comply with all requirements of the OMIA.

(g) The Department must grant or deny the request within 14 days after the Outdoor Advertising Sign Program receives it. The Department may deny applicant's variance request due to lack of required information; the applicant may re-submit the request. If the Department denies a request, fails to make a decision within 14 days, or grants and later revokes a variance, the requester may request a contested case hearing. Failure of the Department to meet the time limits required by this rule does not require that the variance be granted.

(h) If the Department determines a requester provided false information, including a false certification under (3)(f), it may deny the request and revoke any variance already granted to that person or the organization the applicant represents.

(i) Variances for both size and time will not be granted to the same sign or location. The Department will not grant more than 10 variances to one requester or organization for the same period of time.

(4) Specific Variance Criteria.

(a) Variance for size. The Department may grant a variance for size up to 32 square feet per side of a back-to-back sign. Good cause to grant a size variance may include, but is not limited to the following:

(A) Due to highway speed, width of right of way, topography, or other similar reasons beyond the applicant's control, the sign copy will not be legible to motorists if the sign is 12 square feet or less;

(B) Due to the amount of copy on the sign, the copy will not be legible to motorists if the sign is 12 square feet or less; or

(C) The sign was manufactured before the 12/13/2001 change in administrative rules regarding exempt signs, and the sign continues to comply with those former rules.

(b) Variance for time. The Department may grant a variance for time up to a total of 90 continuous days in a calendar year. The Department may grant the variance for good cause shown. Good cause may include, but is not limited to, a showing that:

(A) The applicant is attempting to obtain an outdoor advertising sign permit for the sign but will be unable to complete the application process within 60 days;

(B) Due to conditions of the land, weather, or similar reasons beyond requester's control, requester will be unable to remove the sign within 60 days.

(5) Prohibitions and penalties.

(a) Other than official traffic control devices, signs are prohibited in state highway right of way. Accessing a sign or sign site by crossing access-controlled right of way is prohibited. Violations of this rule are subject to ORS 377.725(9) and any other removal or penalty provision under law. Signs in or overhanging state highway right of way may be removed pursuant to ORS 377.650 and OAR 734-060-0060 to 734-060-0070.

(b) Signs outside of right of way are subject to the removal procedures of ORS 377.775, and the penalty provisions of ORS 377.992 as well as any other penalty provision under law.

(c) If the sign or site has been accessed from access-controlled right of way, or the sign has been placed in or overhanging right of way, the Department may revoke any variance for that sign, by that requester, or by the represented organization. The Department may deny any subsequent variance request for that sign, by that requester, or by that organization at any location. If the Department discovers multiple violations of (a) above, it may file for an injunction under ORS 374.415.

(6) Signs erected under this rule are subject to the provisions of ORS 377.720 and to all applicable state and federal requirements.

Stat. Auth.: ORS 184.616, 184.619 & 377.735

Stats. Implemented: ORS 377.735

Hist.: HWY 1-1989, f. & cert. ef. 5-2-89; TO 7-2001, f. & cert. ef. 12-13-01; HWD 1-2009, f. & cert. ef. 2-20-09

734-060-0185

Public Convenience and Safety Signs

(1) Location. Public convenience or safety signs are allowed on private property visible to a state highway, under the exemption in ORS 377.735, except as prohibited by these rules. Public convenience or safety signs are prohibited on state highway right of way unless approved in writing by the Deputy Director of the Department of Transportation. Public convenience signs must be within one mile of the convenience covered by the sign.

(2) Size. The maximum permissible size for public convenience or safety signs is six square feet.

(3) Spacing and Form. Minimum spacing between two public convenience or safety signs on the same side of the highway is 100 feet. The entire message must be contained on one sign. Fragmentation of messages on separate sign panels is prohibited.

(4) Qualification. Public safety signs are those necessary for the safety of the public such as, but not limited to, signs with legal notices or warnings, or signs warning of danger to the public. Public convenience signs are those necessary for guiding the public in the use of the state transportation system such as, but not limited to, signs identifying transit stops, freight entrances, train stations, ports, airports, or signs identifying public rest rooms.

(5) Signs erected under this rule are subject to ORS 377.720 and to applicable federal requirements.

(6) Removal. Signs erected under this rule are subject to the removal procedures as provided in ORS 377.775.

(7) No person or organization may receive compensation for the act of displaying a public convenience or safety sign.

(8) This rule is not intended to regulate, prohibit or limit official highway traffic control signs or devices.

Stat. Auth.: ORS 184.616, 184.619 & 377.735

Stat. Imp.: ORS 377.735

Hist.: TO 7-2001, f. & cert. ef. 12-13-01; HWD 1-2009, f. & cert. ef. 2-20-09

ADMINISTRATIVE RULES

Department of Transportation, Rail Division Chapter 741

Rule Caption: Railroad-Highway Crossing Rules.

Adm. Order No.: RD 1-2009

Filed with Sec. of State: 2-20-2009

Certified to be Effective: 2-20-09

Notice Publication Date: 11-1-2008

Rules Adopted: 741-100-0005, 741-100-0040, 741-200-0065

Rules Amended: 741-100-0020, 741-100-0030, 741-110-0020, 741-110-0030, 741-110-0040, 741-110-0050, 741-110-0060, 741-110-0070, 741-110-0080, 741-110-0090, 741-115-0030, 741-115-0040, 741-115-0060, 741-115-0070, 741-120-0020, 741-120-0040, 741-200-0010, 741-200-0040

Rules Repealed: 741-105-0010, 741-105-0020, 741-105-0030, 741-125-0020

Subject: Certain rules are adopted to add new definitions and clarification of regulations. Other rules are amended to comply with MUTCD or to reduce confusion over the temporary closure of crossings to perform necessary maintenance activities. Other rules are repealed because they are unnecessary.

Rules Coordinator: Lauri Kunze—(503) 986-3171

741-100-0005

Jurisdiction of the State

The jurisdiction of the state for the regulation of railroad-highway grade crossings includes all roadways open to or to be opened to and used by the public, which are equipped with protective devices as required under OAR chapter 741, divisions 100 through 200, or by Order of the Department. The state's jurisdiction extends a distance equal to the safe stopping distance, for the posted or statutory speed, measured back from the location of the stop clearance lines at the railroad-highway grade crossing.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stat. Implemented: ORS 824.200

Hist.: RD 1-2009, f. & cert. ef. 2-20-09

741-100-0020

Definitions

As used in OAR chapter 741, divisions 100 through 200, the following definitions apply:

(1) "Alter" means any change to the roadway or tracks at a crossing that materially affects use of the crossing by railroad equipment, vehicles, or pedestrians. Alterations include, but are not limited to adding or removing tracks; changing the width of the roadway; installing or removing protective devices; creating an additional travel lane; changing the direction of traffic flow; installing curbs, sidewalks, or bicycle facilities; or changing grade, including superelevation, if sufficient to necessitate a change of the grade of the railroad or highway being crossed.

(2) "AASHTO" means the American Association of State Highway and Transportation Officials, 2001, A Policy on Geometric Design of Highways and Streets, Fourth Edition.

(3) "Bicycle facilities" is a general term denoting improvements and provisions made to accommodate or encourage bicycling, including shared roadway not specifically designed for bicycle use.

(4) "Bicycle lane" has the meaning given in Section 1A.13 of the Manual on Uniform Traffic Control Devices (MUTCD), see section 13 below).

(5) "Crossing" means the area affecting or affected by the intersection of a highway with a track or tracks of a railroad or a rail fixed guideway system.

(6) "Curb" means standard curb as per Oregon Standard Drawing No. RD700.

(7) "Grade crossing" means a highway-rail grade crossing as defined in Section 1A.13 of the MUTCD.

(8) "Guardrail" means a device as depicted in Oregon Standard Drawing No. RD445.

(9) "Highway" has the meaning given that term in ORS 824.200(2).

(10) "Illumination" means a system of luminaires arranged in a unique pattern (see Figure 7) to provide direct lighting on the side of railroad equipment occupying a grade crossing during hours of darkness.

(11) "Interconnection" is as defined in Section 8A.01 of the MUTCD.

(a) "Preemption" is as defined in Section 8A.01 of the MUTCD.

(b) "Advance Preemption" is as defined in Section 8A.01 of the MUTCD.

(c) "Simultaneous Preemption" is as defined in Section 8A.01 of the MUTCD.

(12) "Maintenance" includes but is not limited to the repair, replacement, alignment, cleaning of protective devices and other actions necessary to assure the proper warning is conveyed to users of the crossing. It also includes the required power to properly activate and operate the protective devices. Minor changes resulting from the maintenance of surface, grade, and alignment, or the replacement in kind of existing signs and signals are not alterations. See OAR 741-120-0020 regarding maintenance of grade crossing surfaces.

(13) "MUTCD" means the Manual on Uniform Traffic Control Devices as adopted by OAR 734-020-0005.

(14) "Multi-use path" means shared-use path as defined in Section 1A.13 of the MUTCD.

(15) "Public authority" has the meaning given to the term "public authority in interest" in ORS 824.200(7).

(16) "Rail fixed guideway system" means any light, heavy or rapid rail system, monorail, inclined plane, funicular, trolley or automated guideway used primarily for carrying passengers.

(17) "Railroad" has the meaning given that term in ORS 824.020(2) and 824.200(7).

(18) "Roadway" has the meaning given in Section 1A.13 of the MUTCD.

(19) "Safe Stopping Distance" (SSD) means the design stopping sight distance as set forth in AASHTO 2001, Exhibit 3-1 (see Table 1).

(20) "Separated crossing" means a crossing where the highway and railroad are not at common grade. There are two types of separated crossings:

(a) "Overcrossing" means the highway is above the railroad.

(b) "Undercrossing" means the railroad is above the highway.

(21) "Shoulder" means that portion of the roadway contiguous with the traveled way that accommodates stopped vehicles, emergency use, and lateral support of sub-base, base, and surface courses.

(22) "Sidewalk" means that portion of a grade crossing set aside for use by pedestrians.

(23) "Sight Distance" means the distance from the railroad highway grade crossing, measured along the railroad, that a train must become visible to a motorist who is at the SSD.

(24) "Standard Protective Devices" means the traffic control devices listed in the MUTCD, and the Active, Passive, Auxiliary and Advance Warning devices listed in Sections (2), (3), (4), (5), (6), and (7) of OAR 741 110 0030.

(25) "Traffic Signal Preemption Control" is as defined in Section 4A.02, 42 of the MUTCD.

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

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

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stat. Implemented: ORS 824.200

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0002; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09

741-100-0030

Adoption of Tables and Figures Related to Railroad-Highway Crossings

For the purposes of OAR chapter 741, division 100 through division 200, Tables 1 and 2 and Figures 1 through 9 are hereby adopted and made a part of these rules.

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

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stat. Implemented: ORS 824.212

Hist.: RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; ; RD 1-2009, f. & cert. ef. 2-20-09

741-100-0040

Display of U.S. DOT Inventory Number

The U.S. DOT crossing number shall be displayed at all public railroad-highway crossings.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stat. Implemented: ORS 824.200

Hist.: RD 1-2009, f. & cert. ef. 2-20-09

741-110-0020

Application of Rules to Existing Protective Devices

(1) Protective devices installed on or after the effective date of these rules shall comply with these rules.

(2) Except as required by OAR 741-110-0050(2), protective devices installed at grade crossings are deemed to be in compliance with the rules

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and regulations of the Department, if the installations were performed in accordance with the rules in effect at the time of their installation.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220
Stats. Implemented: ORS 824.202
Hist.: PUC 3-1983, f. & ef. 4-8-83 (Order No. 83-143); PUC 9-1983, f. & ef. 8-22-83 (Order No. 83-511); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0055; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09

741-110-0030

Standard Protective Devices

(1) The devices listed in the MUTCD and the devices listed in Sections (2), (3), (4), (5), (6), and (7) of this rule are "standard protective devices."

(2) Passive Devices:

(a) Crossbuck/STOP sign assembly is depicted in Figure 4.

(b) Crossbuck/YIELD sign assembly is depicted in Figure 4.

(c) Railroad STOP Sign Figure 1 is a fixed rectangular sign that shall bear the word "STOP" in white reflective letters on red reflective material, or in black letters on white reflective material.

(d) Stop Clearance Line is a stop line as set forth in Section 3B.16 of the MUTCD, which is 24 inches wide.

(e) "Illumination" (Figure 7) is a system of luminaires arranged in a unique pattern to provide direct lighting on the side of railroad equipment occupying a grade crossing during hours of darkness.

(3) Active Devices at Grade Crossings:

(a) Flashing-Light Signal is as set forth in Section 8D.02 of the MUTCD, which has an audible warning device. For additional specifications for Flashing-light signals, refer to subsections (e) and (f) of this section.

(b) Cantilevered Flashing-Light Signal is as set forth in Section 8D.03 of the MUTCD, which has an audible warning device. For additional specifications on cantilevered Flashing-light signals, refer to subsections (e) and (f) of this section.

(c) Pedestrian Flashing-Light Signal is an active warning device that shall sound an audible warning and alternately flash two 12 inch diameter, vertically mounted, red lights in both directions along the multi-use path to provide warning of an approaching train. For additional specifications on Pedestrian Flashing-light signals, refer to subsections (e) and (f) of this section (See Figure 2).

(d) Automatic Gate is as set forth in Section 8D.04 of the MUTCD.

(e) Light units on Flashing-light signals, Cantilevered Flashing-light signals, and Pedestrian Flashing-light signals shall be aligned so that insofar as it is practical to do so, at least one full 12-inch diameter red light shall be visible when viewed from any point on the roadway within the safe stopping distance.

(f) Unless otherwise specified, 12-inch diameter roundels (lenses) on Flashing-light signals, Cantilevered Flashing-light signals, and Pedestrian Flashing-light signals, if incandescent bulbs are used, shall be as follows:

(A) Front light units: roundel rated with a 30-degree horizontal and 15-degree downward spread.

(B) Back light units: roundel rated with a 70-degree horizontal spread.

(C) Cantilevered front and back light units: roundel rated with a 20-degree horizontal and 32-degree downward spread.

(g) Traffic Signal Preemption Control is as set forth in Section 8D.07 of the MUTCD. Traffic Signal Preemption Control is required when railroad tracks are located on a roadway within 215 feet of a highway/highway intersection that is equipped with vehicle traffic signals. The distance is measured from the nearest rail at the crossing to the nearest vehicle stop location at the highway/highway intersection.

(4) Auxiliary Devices. The Department may authorize the installation of auxiliary signs and signals at a crossing. Such devices shall be installed so as not to obscure other crossing signs or signals at the crossing.

(5) Advance Warning Devices:

(a) Train-Activated Advance Warning Device (Figure 5) is a signal that shall alternately flash two yellow lights along the highway in advance of a crossing, to provide warning of an approaching train.

(b) Skewed Angle Bicycle Warning signs are signs OBW8-19R and OBW8-19L (See Figure 9).

(6) Guardrail is as depicted in Oregon Standard Drawing No. RD445.

(7) Curb is a standard curb as depicted in Oregon Standard Drawing No. RD700.

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

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 4-8-83 (Order No. 83-143); PUC 9-1983, f. & ef. 8-22-83 (Order No. 83-511); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0060; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09

741-110-0040

Location of Protective Devices

(1) Standard Protective Devices shall be located as set forth in Part 8 of the MUTCD.

(2) Pedestrian Flashing light signals (Figure 2) shall be located at the side of the multi-use path in advance of the grade crossing and to the right of approaching pedestrians or bicyclists.

(3) Railroad STOP signs (Figure 1) shall be located adjacent to the track on which the stopping requirement applies not closer than six feet nor further than 25 feet from the nearest edge of the roadway.

(4) The stop clearance line described in OAR 741-110-0030(2) (d) shall be located in accordance with the MUTCD as adopted by OAR 734-020-0005.

(5) Advance warning signs and advance warning pavement markings shall be located in accordance with the MUTCD as adopted by OAR 734-020-0005.

(6) STOP AHEAD (W3-1 or W3-1a signs, YIELD AHEAD (W3-2 or W3-2a) signs and train-activated advance warning signals shall be located not less than 100 feet in advance of the advance warning sign. See Figure 5.

(7) Guardrails shall be located so that the face of the guardrail, at a point perpendicular to the roadway centerline, shall coincide with the outside edge of the roadway. No part of the guardrail shall be closer than 10 feet from the centerline of the nearest track.

(8) Curb shall be located on the outside edge of the roadway. See Figure 6. Curb shall commence not less than 10 feet from centerline of nearest track and must extend 50 feet in advance of the automatic protective device.

(9) Illumination Devices. The system of luminaires shall be located at the grade crossing, as determined by field conditions, to light the side of the train during hours of darkness. See Figure 7.

(10) Crossbuck/STOP sign and Crossbuck/YIELD sign assemblies (Figure 4). Unless otherwise ordered by the Department, the assemblies shall be located a minimum of 12 feet from the centerline of nearest track and on the right side of the highway approach to the railroad highway grade crossing. The minimum clearance for the nearest edge of the assembly should be six feet from the edge of the traveled way.

(11) Overhead Mounting of Signs and Signals. At the option of the public authority, or by Order of the Department, authorized signs and signals may be installed directly over a lane of traffic on the roadway.

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

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.220

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 9-1983, f. & ef. 8-22-83 (Order No. 83-511); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0070; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09

741-110-0050

Authority Required for Installation, Removal or Change of Protective Devices/Exceptions

No protective device shall be installed, removed or substituted for any other device, without prior authorization by Order of the Department, except:

(1) Additional flashing light units may be installed on existing installations of Flashing-light signals and Cantilevered Flashing-light signals by the railroad.

(2) Worn out or destroyed protective devices may be replaced by a similar device; however, the replacement shall comply with the rules and regulations of the Department in effect at the time of replacement.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 9-1983, f. & ef. 8-22-83 (Order No. 83-511); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0075; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09

741-110-0060

Required Installation of Specified Protective Devices

Unless otherwise ordered by the Department, the following protective devices shall be installed at the grade crossings described below.

(1) One railroad STOP sign shall be installed, where physical circumstances permit, on each track approach to each crossing equipped with Flashing-light signals, Cantilevered Flashing-light signals, Pedestrian Flashing-light signals, and automatic gates when the minimum signal activation requirement of OAR 741 110-0070(1) cannot be met.

(2) Two Number of Tracks (R15-2) signs shall be installed at each grade crossing consisting of two or more tracks.

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(3) Stop Clearance Lines. One stop clearance line shall be installed on each paved roadway approach lane at each grade crossing.

(4) Advance Warning Signs. Appropriate railroad advance warning signs shall be installed on each roadway approach to each grade crossing.

(5) Advance Warning Pavement Markings. Advance warning pavement markings shall be installed on each paved vehicle approach lane to each grade crossing.

(6) Guardrail or Curb. Guardrail or curb, as appropriate, shall be installed at each crossing equipped with active protective devices.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0080; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09

741-110-0070

Operation of Active Devices

(1) Activation of Devices. Unless otherwise ordered by the Department, Flashing-light signals, Cantilevered Flashing-light signals, Pedestrian Flashing-light signals, and automatic gates shall be activated by approaching trains through control circuitry in such a manner as will provide a warning through continuous signal operation for a period of not less than 20 seconds nor more than 40 seconds before the arrival of a train traveling at the highest speed permissible over that particular track. Prolonged signal operation shall be avoided by reasonable operating and engineering practices.

(2) Cessation of Operation. The warning aspect of Flashing-light signals, Cantilevered Flashing-light signals, Pedestrian Flashing-light signals, and automatic gates shall cease operation immediately after the passage of the train over the roadway unless approach circuits on adjacent tracks are occupied by an oncoming train.

(3) Advance Preemption (railroad detection) or other appropriate methods shall be used to provide a pedestrian clear-out interval (PCOI) before the vehicle clear-out interval (VCOI).

(a) When a VCOI is required, the indication for the track clearance phases shall be green.

(b) The road authority may submit an engineering study to the State Traffic Engineer to request a deviation from the standards. The State Traffic Engineer, together with the ODOT Rail Division Crossing Safety Section Manager, may authorize a signalized intersection operation consistent with the findings of the study.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.220

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0090; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09

741-110-0080

Observance of Railroad Stop Signs

When Railroad STOP signs are installed, traffic on the railroad shall stop prior to entering the roadway and proceed when safe to do so, but not before automatic gate arms have fully lowered, or (in the case of a nongated crossing) not before active protective devices, if any, at the crossing have been fully activated for a period of not less than 20 seconds.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stats. Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 3-16-83, (Order No. 83-143); PUC 3-1985, f. & ef. 4-8-85, (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0096; RD 1-2009, f. & cert. ef. 2-20-09

741-110-0090

Maintenance and Replacement of Protective Devices

Protective devices installed at grade crossings shall be maintained in satisfactory condition, location and in proper alignment. Signs shall be legible at all times. Signal lenses shall be visible as required in OAR 741 110 0030(3)(e). After notification of damage, destruction, failure or malfunction of a protective device, the party responsible for its maintenance shall promptly replace or repair the device, and adequately protect the crossing in the interim.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.204 & 824.206

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0105; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09

741-115-0030

Responsibility for Installation and Maintenance of Protective Devices

Unless otherwise ordered by the Department, or unless the parties agree otherwise, the party responsible for the installation and maintenance of protective devices at a grade crossing is as set forth in Table 2. At grade

crossings with interconnected vehicle traffic signals, the responsibilities are shared between the railroad and the public authority. The railroad shall install and maintain the circuitry located on the track and its connection to the outside of the railroad signal case. The railroad shall provide appropriate electrical contacts to the public authority. The railroad shall install and maintain "DO NOT STOP ON TRACKS" (R8-8) signs on Cantilevered Flashing light signals pursuant to OAR 741-110-0040(11). The public authority shall install and maintain all other signs, signals and circuitry connected to the outside of the railroad signal case to assure proper operation of the subject device.

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

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stat. Implemented: ORS 824.200 & 824.212

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 9-1983, f. & ef. 8-22-83 (Order No. 83-511); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); PUC 26-1985, f. & ef. 12-19-85 (Order No. 85-1196); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0114; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09

741-115-0040

Special Requirements for Traffic Signal Preemption Control

(1) Each public authority with responsibility for maintaining a vehicle traffic signal system interconnected with active protective devices at an adjacent grade crossing shall:

(a) Install the notice, provided by the Department, in the traffic signal cabinet.

(b) Install a "DO NOT STOP ON TRACKS" (R8-8) sign (see Figure 3) capable of holding three flags.

(c) When the railroad preemption feature fails and cannot be repaired within 30 minutes, install flags on the "DO NOT STOP ON TRACKS" (R8-8) signs (see Figure 3) and/or provide manual flag protection alerting motorists of the potential hazard.

(d) Remove the flags required in subsection (c) of this section upon completion of repairs to the railroad preemption feature.

(2) Upon notification of failure of the railroad preemption feature at a crossing equipped with an interconnected vehicle traffic signal system, the railroad shall immediately issue appropriate instructions to all train and switch crews operating over the crossing to be alert for trapped vehicles when approaching the crossing.

(3) The appropriate public authority will provide the Department with a report within 15 days of any signal interconnection malfunction reported to the railroad dispatcher.

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

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stat. Implemented: ORS 824.220

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0116; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09

741-115-0060

Stop Signs at Private Crossings

(1) Unless otherwise ordered by the Department under ORS 824.224, the railroad shall cause to be installed one vehicle stop sign (24-inch minimum) on each side of any private or farm crossing at grade that is not equipped with automatic protective devices.

(2) The railroad shall also cause to be installed an auxiliary sign identifying the crossing as a private crossing by stating the words "PRIVATE CROSSING" in letters at least two inches high. The color of the sign shall be black letters on a white background (see Figure 8). Optional information such as the words "NO TRESPASSING," the name of the railroad from which permission must be secured for use of the crossing and permit number may be included on the auxiliary sign.

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

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.224

Hist.: PUC 3-1983, f. & ef. 3-16-83, (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0120; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09

741-115-0070

Bicycle Lane and Multi-use Path Construction

(1) Bicycle facilities shall intersect railroad tracks as close to 90 degrees as possible.

(2) Multi-use paths or bicycle lanes that have angles of intersection with railroad tracks of 60 to 74 degrees shall have an appropriate sign (see Figure 9) posted on each approach to the crossing.

(3) Multi-use paths or bicycle lanes that have angles of intersection with railroad tracks of 59 degrees or less shall require an engineering study.

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

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.212

Hist.: RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09

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741-120-0020

Grade Crossing Construction and Maintenance

(1) At all new or altered grade crossings used by motor vehicles, bicycles, or pedestrians, the roadway or multi-use path shall be constructed to conform to or exceed nationally recognized and commonly used construction standards.

(2) The width of the crossing surface, including sidewalks, at the crossing shall be not less than the width of the roadway approaches to the crossing.

(3) Unless authorized in writing by the Department, the surface of the roadway shall be in the same plane as the top of rails for a distance of at least two feet outside the rails, and not more than three inches higher nor three inches lower than the top of the nearest rail at a point thirty feet from the rail, measured at right angles thereto.

(4) The surface of each grade crossing shall conform to the plane of the top of the rails and be constructed and maintained in a reasonably smooth condition.

(5) The railroad shall notify the public authority at least two weeks in advance of the date it intends to raise or lower the elevation of one or more tracks at the crossing.

(6) The public authority shall notify the railroad at least two weeks in advance of the date it intends to raise or lower the elevation of its roadway on the roadway approach to the crossing. See Section 8A.05 of the MUTCD.

(7) Upon notification by the Department of a condition that does not conform to the requirements of sections (1) through (5) of this rule, the railroad or the public authority, within 30 days of such notification, unless any party requests a hearing, shall bring its portion of the crossing into compliance with the provisions of this rule, unless a time extension is granted in writing by the Department. See OAR 741-120-0010.

(8) The construction of new driveways within 100 feet of any railroad track at existing grade crossings requires an application under ORS 824.206, except for railroad right-of-way roads.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220

Stats. Implemented: ORS 824.212

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 3-1985, f. & ef. 4-8-85 (Order No. 85-291); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0215; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09

741-120-0040

Authority for Closure of Crossings and Removal of Tracks at Crossings

(1) Permanent Closure of Roadway at Crossings. Whenever a crossing is permanently closed to motor vehicle, bicycle or pedestrian traffic, the public authority at the crossing shall notify the Department of the closure and comply with OAR 741-120-0050. After such closure has been accomplished, the roadway cannot be reopened without the authority of the Department pursuant to ORS 824.204 or 824.210.

(2) Temporary Closure of Roadway at Crossings by the Railroad. When a railroad desires to close a railroad-highway crossing temporarily, it shall provide to the public authority at least two weeks advance notification of its intent to close the crossing. The railroad may provide the road authority less than two weeks advance notice of its intent to temporarily close the grade crossing, if the temporary closure is needed for emergency circumstances. See Section 8A.05 of the MUTCD.

(3) Discontinuance of Railroad Operations at Crossings. Whenever railroad use of a crossing is to be discontinued in accordance with federal requirements, the owner of the track at the crossing and the railroad operating over such track shall notify the Department of the discontinuance.

(4) Removal of Trackage at Crossings. Whenever one or more tracks is to be removed at a grade crossing, the railroad operating over such track-age shall file an application to alter the crossing under ORS 824.206.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.206

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); PUC 9-1983, f. & ef. 8-22-83 (Order No. 83-511); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-042-0235; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09

741-200-0010

Purpose

To provide procedures to apply for authority to construct, relocate, alter or close crossing.

Stat. Auth.: ORS 823 & 824

Stats. Implemented: ORS 824.202

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96; Renumbered from 860-043-0005; RD 1-2009, f. & cert. ef. 2-20-09

741-200-0040

Form of Applications

(1) Applications shall be filed on forms approved by the Department.

(2) An original application and attachments must be filed with the Rail Division of the Department.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202 & 824.220

Stats. Implemented: ORS 824.204, 824.206 & 824.210

Hist.: PUC 3-1983, f. & ef. 3-16-83 (Order No. 83-143); RS 2-1996, f. & cert. ef. 3-14-96;

Renumbered from 860-043-0040; RD 3-2003 f. 9-18-03, cert. ef. 10-1-03; RD 1-2009, f. & cert. ef. 2-20-09

741-200-0065

Submittal Process

Application and application materials may be submitted electronically or in hard copy format.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 824.202, 824.220, 84.022, 84.025

Stats. Implemented: ORS 824.202

Hist.: RD 1-2009, f. & cert. ef. 2-20-09

Economic and Community Development Department Chapter 123

Rule Caption: These rules have been revised to clarify procedural standards for contracts.

Adm. Order No.: EDD 1-2009

Filed with Sec. of State: 2-23-2009

Certified to be Effective: 2-24-09

Notice Publication Date: 2-1-2009

Rules Amended: 123-070-1000, 123-070-1100, 123-070-1150, 123-155-0000, 123-155-0175, 123-155-0350

Rules Repealed: 123-106-0000, 123-106-0010, 123-106-0020, 123-106-0030, 123-106-0040, 123-106-0050, 123-106-0060, 123-106-0070, 123-106-0080, 123-106-0090

Subject: This rulemaking makes technical corrections, conformity and updating associated with recent rulemakings and statutory revisions affecting First-source Agreement requirements for the Strategic Investment Program and Enterprise Zones, and modifying “Oregon Investment Advantage” small city/business development taxable income exemption), in particular for purposes of section 75 through 80, chapter 843, Oregon Laws 2007. It also repeals administrative rule division for the now statutory inoperative Advanced Telecommunications Facilities Tax Credit.

Rules Coordinator: Janelle Lacefield—(503) 986-0036

123-070-1000

Purpose and Scope

(1) The purpose of this division of administrative rules is to implement ORS 461.740, under which business firms are required to enter into a First Source Agreement if benefiting from funds derived from the Oregon State Lottery through certain economic or community development programs, as determined by the Oregon Economic and Community Development Department.

(2) Provisions of this division of administrative rules also apply to businesses benefiting under the following tax incentive programs, as provided by the relevant statutes:

(a) The “Strategic Investment Program” under ORS 285C.600 to 285C.626 and 307.110(4) and 307.123, as specified in division 023 of this chapter of administrative rules; and

(b) The “enterprise zones” under ORS 285C.050 to 285C.250, as specified in division 065 of this chapter of administrative rules and OAR chapter 150.

(3) Requiring Benefited Businesses to enter into a First Source Agreement is intended to help individuals, who are already receiving job training and assistance supported by public funds, by linking these individuals with private sector employment opportunities of businesses that:

(a) Will be hiring in association with the receipt of public benefits; and

(b) Should make a good faith effort to hire and retain such individuals, who are presumed to have low incomes or otherwise face disadvantages in finding employment.

(4) First Source Agreements and this division of administrative rules are not intended to do the following:

(a) Guarantee employment for any such individual;

(b) Dictate the actual hiring by a Benefited Business; or

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(c) Necessarily accomplish other public or social objectives associated with employment opportunities.

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.215(3) & 285C.615(7)
Stats. Implemented: ORS 285C.060, 285C.175, 285C.215, 285C.606 & 461.740
Hist.: EDD 7-1989(Temp), f. & cert. ef. 10-17-89; EDD 8-1990, f. 4-13-90, cert. ef. 4-14-90; EDD 1-1996, f. 2-28-96, cert. ef. 3-1-96; EDD 3-2000, f. & cert. ef. 2-1-00, Renumbered from 123-070-0300; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2009, f. 2-23-09, cert. ef. 2-24-09

123-070-1100 Definitions

For purposes of this division of administrative rules, unless the context demands otherwise:

(1) Contact Agency is defined as the entity designated to represent publicly funded job training providers as specified in OAR 123-070-1200(3)(a), and it shall designate a Contact Person, which means an accessible and appropriate staff person at the Contact Agency, who is charged with interacting with Benefited Businesses and other entities and with representing the Contact Agency on matters related to First Source Agreements.

(2) Department means the State of Oregon's Economic and Community Development Department as (re) organized under ORS chapter 285A.

(3) Director means the Director of the Department appointed under ORS 285A.070, for whom the Department's Deputy or Assistant Director, or any other designee may substitute.

(4) First Source Agreement means the contract between a Benefited Business and Providers, as executed by a Contact Agency, under this division of administrative rules, and it has the same meaning as "first-source hiring agreement" as used in ORS 285C.050(10), 285C.606(4) and 461.740(4)(b), which covers and is applicable to all of the Benefited Business's hiring or job openings, except for those persons or positions that are:

- (a) Hired solely to construct, renovate or install property;
- (b) Excluded by a waiver in accordance with OAR 123-070-1500; or
- (c) Specified in OAR 123-070-2100 as inapplicable for enterprise zone purposes.

(5) As used in ORS 461.740(1), "good faith effort to hire and retain as employees low-income individuals who have received job training assistance from publicly funded job training providers" means the Benefited Business will do whatever is reasonably feasible to honor the terms of the First Source Agreement entered into with the Contact Agency for local Providers as specified in OAR 123-070-1700.

(6) Interagency Agreement is the agreement entered into among Providers as specified in OAR 123-070-1200.

(7) Provider has the same meaning as "publicly funded job training provider," as used in ORS 285C.050(14), 285C.606(4) and 461.740(4)(c) and means one of the following:

- (a) A local office of the Oregon Department of Human Services that delivers training or employment services for low-income parents, seniors, persons with disabilities and so forth;
- (b) An administrative agent for programs under the federal Workforce Investment Act of 1998 (Public Law 105-220) or amendments thereto;
- (c) A community college of this state;
- (d) A government or government-supported entity, similar to those in subsections (a) to (c) of this section, that is directly or indirectly engaged in training or assisting people to perform or succeed in the workplace or in a particular occupation; or

(e) Any other entity that is a party to the Interagency Agreement as described in OAR 123-070-1200, but such inclusion is effective only insofar as the entity, including but not limited to a local office of this state's Employment Department, remains such a party.

(8) Qualified Applicants means individuals who have received job training assistance and who meet the Benefited Business's minimum requirements for education, experience, reliability and skills, or who are able to meet these requirements within a reasonable time period (as negotiated with the Benefited Business) with training provided either by the Benefited Business or by a Provider.

(9) As used in sections (5) and (8) of this rule, "received job training assistance" means the individual has received intake or other services from a Provider.

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.215(3) & 285C.615(7)
Stats. Implemented: ORS 285C.050, 285C.060, 285C.215, 285C.606 & 461.740
Hist.: EDD 7-1989(Temp), f. & cert. ef. 10-17-89; EDD 8-1990, f. 4-13-90, cert. ef. 4-14-90; EDD 1-1996, f. 2-28-96, cert. ef. 3-1-96; EDD 3-2000, f. & cert. ef. 2-1-00, Renumbered from 123-070-0310; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2009, f. 2-23-09, cert. ef. 2-24-09

123-070-1150

Affected Businesses

For purposes of this division of administrative rules:

(1) A Benefited Business means any for-profit business firm (regardless of its form of ownership or organization) that benefits directly or substantially from a state lottery-funded program, as indicated below in this section:

(a) Any of the following programs, throughout this state, except as set forth in section (3) of this rule:

(A) Oregon Business Development Fund (ORS 285B.050 to 285B.098);

(B) Strategic Reserve Fund (ORS 285B.266); or

(C) Special Public Works Fund (ORS 285B.410 to 285B.482).

(b) Any program financed by state lottery funds and administered by the Department, as so determined by the Director, including but not limited to industry development activities under ORS 285B.280 to 285B.286.

(2) A Benefited Business also means either of the following, regardless if section (1) of this rule applies too:

(a) An "authorized business firm" as defined under ORS 285C.050(2) for an enterprise zone exemption on qualified property from ad valorem taxation under ORS 285C.175; or

(b) A business firm approved to receive or receiving the partial exemption of property from ad valorem taxation as an eligible project of the Strategic Investment Program under ORS 285C.600 to 285C.626.

(3) Regardless of association with a program in subsection (1)(a) or (b) of this rule, a business firm is not a "Benefited Business" solely because it receives any of the following from the Department, a grantee or any other entity:

- (a) A purchase order or contract to provide services;
- (b) Funds strictly for marketing or research activities; or
- (c) Any grant or loan of \$50,000 or less.

(4) "Benefits directly" from any program financed by state lottery funds" as used in ORS 461.740(4)(a) and section (1) of this rule means the business firm is receiving money by way of a loan or grant directly from the Department or a grantee as described in OAR 123-070-1300(2).

(5) "Benefits" substantially from any program financed by state lottery funds" as used in ORS 461.740(4)(a) and section (1) of this rule means that the business firm:

(a) Receives benefits through infrastructure or facility improvements financed by an entity that is receiving state lottery-funded loan or grant assistance to immediately make such improvements; and

(b) Was given prior notice from the Department or the entity that the First Source Agreement was a condition for the facility or infrastructure improvements or modifications arising from lottery funds.

(6) "Local zone manager" means a person appointed by the sponsor of the enterprise zone under ORS 285C.105(1)(a).

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.615(7)
Stats. Implemented: ORS 285C.050, 285C.060, 285C.175, 285C.215, 285C.606 & 461.740
Hist.: EDD 3-2000, f. & cert. ef. 2-1-00; EDD 1-2005, f. & cert. ef. 2-25-05; EDD 1-2009, f. 2-23-09, cert. ef. 2-24-09

123-155-0000

Purpose and Scope

The purpose of these administrative rules is to specify procedures and criteria necessary to guide the Economic and Community Development Department's duties of certification under ORS 285C.500 to 285C.506 for the exemption on qualified facilities from State of Oregon business income or corporate excise taxation, as allowed under ORS 316.778 or 317.391. Known as "Oregon Investment Advantage, these exemptions of taxable income/profits encourage businesses to invest in new Oregon operations with new full-time employees (earning minimum compensation levels) at qualifying facilities in counties exhibiting the worst per capita income and unemployment rates statewide.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.500 - 285C.506, 316.778 & 317.391
Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05; EDD 1-2009, f. 2-23-09, cert. ef. 2-24-09

123-155-0175

Unique Operations

Under ORS 285C.503(5)(e), a business firm's operations that comprise a Facility proposed for preliminary certification must be new business operations respective to the site of the Facility and to any other location in this state where the firm operates, such that:

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(1) In the case of the business firm itself, the new business operations must be categorically different from any operations in which that same firm has recently engaged. (As an example, a business firm may be certified for a Facility that will manufacture or distribute certain products here for the first time, even if the firm's products were already being sold in this state)

(2) In the case where the business firm has 100-percent common equity interest or is under common control (by way of corporate, familial or similar affiliations) with one or more other business firms operating in this state, the new business operations must be significantly dissimilar from any operations in which any other such firm has recently engaged. (As an example, a corporate subsidiary may be certified for a new, first-in-Oregon facility fabricating a laminated wood product, even if another subsidiary of the same parent company already makes essentially the same product in this state, but the new operations utilize an advanced generation of technology with which the product has higher performance standards or weight-bearing specifications)

(3) Irrespective of section (1) or (2) of this rule, the acquisition of a preexisting Facility does not qualify as new business operations, unless both of the following are satisfied:

(a) The business firm also will invest appreciably in real property or extensively in terms of installing personal property at the Facility after applying for preliminary certification; and

(b) The operations to be undertaken pursuant to the new investment are significantly dissimilar from operations recently performed at the Facility.

(4) For purposes of this rule:

(a) "Categorically different" means that the existing, in-state business operations produce, render, deliver or provide another type of good or service for a distinct market segment or customer base.

(b) "Recently" means at any time during the 12 months before the submission date of the application for preliminary certification to the Department.

(c) "Significantly dissimilar" means that the existing, in-state business operations, or the goods or services arising from them, utilize different technology, processes, delivery methods, points in supply chain, marketing, brand names or the like.

(5) This rule is in no way concerned with how much a Facility's proposed operations are like those of any unaffiliated business existing anywhere in Oregon, except as provided under ORS 285C.503(4)(b)(A) and (5)(f), to the extent the operations will compete with local business or businesses, as described in OAR 123-155-0270(4) and (5).

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.500 & 285C.503

Hist.: EDD 9-2005, f. & cert. ef. 11-4-05; EDD 1-2009, f. 2-23-09, cert. ef. 2-24-09

123-155-0350

Issues of Initial and Subsequent Annual Certifications

For purposes of annual certification as described in OAR 123-155-0300:

(1) The first such application for annual certification may not be filed with the Department until after the end of the tax year, in which all of the following are true:

(a) Business operations have commenced at the Facility;

(b) Relevant employees have been hired; and

(c) Facility property has been fully acquired or leased by the business firm and completed in terms of the construction, reconstruction, modification and installation of proposed property and improvements.

(2) For purposes of this first filing, the application shall show that after the date on which preliminary certification was approved:

(a) Business operations commenced at the Facility within 18 months, if involving major construction or reconstruction, or 6 months, if only acquiring existing buildings or structures; and

(b) Facility property did not remain in an unfinished state of construction, reconstruction, modification or installation for more than six months without significant progress toward completion of such activities.

(3) In order for the Facility to be certified with the first filing:

(a) The location and nature of the Facility's business operations must basically conform to what was indicated in the application for preliminary certification, to which the business firm may formally amend information before the end of the tax year.

(b) Subsection (2)(a) or (b) of this rule must be satisfied, except as allowed by Department staff through a written finding that the delay or interruption is reasonable and not excessive, given the nature and extent of the business firm's investment in the Facility or of inadvertent circumstances.

(4) For purposes of an application for annual certification:

(a) Its approval shall not depend on any current issue of actual competition with other local businesses, Qualified Location or Unique Operations.

(b) The application may be denied if Department staff discover that when the application for preliminary certification was submitted, the Facility was not at a Qualified Location or did not represent Unique Operations, including but not limited to the case where the preliminary certification application contained false or incomplete information.

(c) The Department may approve the application, even if the nature of the Facility or the business firm/ownership changes after the first filing, including but not limited to changes in:

(A) The composition of Facility property or its exact location; or

(B) The corporate or ownership structure or organization of the business.

(5) To allow a change as described in section (4)(c) of this rule depends on:

(a) Direct, ongoing continuity with the original facility;

(b) Business operations remaining materially the same; and

(c) Relative to the location identified in the application for preliminary certification, the Facility is located at what was likewise a Qualified Location inside the same urban growth boundary or at a similarly proximate location.

(6) The business firm need not make its first such filing immediately following the tax year described in section (1) of this rule, and the business firm may miss or skip any of the ten opportunities to apply for annual certification; however:

(a) Neither postponement of the first filing nor failure to apply in any subsequent tax year shall modify or extend the period for which certification is otherwise allowed.

(b) The business firm may not claim or exercise the exemption under ORS 316.778 or 317.391 for any such tax year, after which timely application for annual certification is not made as described in OAR 123-155-0300. The firm may still use the exemption for any remaining, eligible tax year (not more than nine consecutive tax years after the year described in section (1) of this rule) for which it does apply and is certified.

(c) If an application for annual certification is timely filed but denied by the Department, then the exemption is disallowed for not only that year, but also for all other remaining, eligible tax years (but without retroactive effect on any prior exemption).

Stat. Auth.: ORS 285A.075 & 285C.506(6)

Stats. Implemented: ORS 285C.506, 316.778 & 317.391

Hist.: EDD 9-2005, f. & cert. ef. 11-4-05; EDD 1-2009, f. 2-23-09, cert. ef. 2-24-09

Rule Caption: Clarifies Safe Drinking Water Revolving Loan Program.

Adm. Order No.: EDD 2-2009(Temp)

Filed with Sec. of State: 3-6-2009

Certified to be Effective: 3-6-09 thru 9-1-09

Notice Publication Date:

Rules Amended: 123-049-0005, 123-049-0030, 123-049-0050

Subject: The American Recovery and Reinvestment Act (ARRA) of 2009 allocates \$28,515,000 in economic recovery funds through the Safe Drinking Water Revolving Loan Fund Program (Program) to the state of Oregon. The Act stipulates specific timelines for and use of the funds requiring amendment of the Program's Program Guidelines and Applicant's Handbook.

Rules Coordinator: Janelle Lacefield—(503) 986-0036

123-049-0005

Purpose, Scope and Incorporated Documents

(1) This division of administrative rules implements a federally funded state revolving fund to provide financing to community and nonprofit non-community drinking water systems for planning, design, construction or improvement of drinking water facilities or systems needed to maintain or achieve compliance with drinking water standards and to further public health protection goals of the federal Safe Drinking Water Act Amendments of 1996 P.L. 104-182 and this state's Drinking Water Quality Act.

(2) In accordance with ORS 285A.213, this division of administrative rules governs the administration of the moneys awarded through this Safe Drinking Water Revolving Loan Fund by the Economic and Community Development Department in cooperation with the State of Oregon's Health Services of the Oregon Department of Human Services, but not activities of Health Services itself.

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(3) "SAFE DRINKING WATER IN OREGON: Program Guidelines & Applicant's Handbook for the Federally Funded Safe Drinking Water Revolving Loan Fund & Drinking Water Protection Fund" (March 2009), including but not limited to its appendices, is:

(a) The principal source of information on this program, as prepared by the department;

(b) Available by contacting any of the department's regionally assigned staff;

(c) Incorporated into and adopted as part of this division of administrative rules, by reference;

(d) Subject to the same definitions as used in this division of administrative rules; and

(e) Provides guidance specific to assistance for economic stimulus funding authorized by the American Recovery and Reinvestment Act of 2009 and allocated through the Safe Drinking Water Revolving Loan Fund Program.

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

Stat. Auth.: ORS 285A.075 & 285A.213(4)

Stats. Implemented: ORS 285A.213

Hist.: EDD 6-1999, f. & cert. ef. 8-26-99; EDD 11-2000(Temp), f. 7-20-00, cert. ef. 7-20-00 thru 1-16-01; EDD 1-2001, f. 1-11-01, cert. ef. 1-12-01; EDD 8-2004, f. & cert. ef. 2-3-04; EDD 28-2008, f. 8-28-08, cert. ef. 9-1-08; EDD 2-2009(Temp), f. & cert. ef. 3-6-09 thru 9-1-09

123-049-0030

Program Information

(1) The department shall prepare program guidelines, application forms and other supplementary program information to help eligible applicants seek financing and prepare financing applications for the fund.

(2) Program guidelines as prepared under section (1) of this rule shall include an explanation of project eligibility, the project priority list, the Intended Use Plan, disadvantaged communities, types of financial assistance, loan rates and terms, borrowing limits, public notification process, contract administration, federal crosscutting requirements and environmental review process.

(3) In addition to this division of administrative rules, the department shall administer the fund in compliance with the requirements of the Act, as amended, and the Act's applicable rules, guidelines and requirements from USEPA.

(4) For purposes of land use coordination, any project activity paid for with financing from the Fund shall comply with the applicable requirements of division 8 of this chapter of administrative rules and OAR chapter 660.

Stat. Auth.: ORS 285A.075 & 285A.213(4)

Stats. Implemented: ORS 285A.213

Hist.: EDD 6-1999, f. & cert. ef. 8-26-99; EDD 8-2004, f. & cert. ef. 2-3-04; EDD 28-2008, f. 8-28-08, cert. ef. 9-1-08; EDD 2-2009(Temp), f. & cert. ef. 3-6-09 thru 9-1-09

123-049-0050

Private Ownership and Regulation of Subsidies for Public Benefit

(1) Only if a privately owned public water system is regulated under the jurisdiction of the State of Oregon Public Utility Commission (PUC) may it enjoy the benefits of a "disadvantaged community," pursuant to section 1452(d) of the Act, in receiving financial assistance through the fund, including but not limited to principal forgiveness.

(2) The amount of subsidy shall not be treated as equity, but rather in all cases as a contingent liability on the balance sheet of the public water system receiving the financing and on the balance sheet of any entity that acquires that system or the assets financed by the Fund.

(3) If a water system is sold that was awarded subsidy by the fund, the value of the subsidy shall be effectively excluded from the purchase price, consistent with section (2) of this rule, such that the benefit of the principal forgiveness continues to accrue to the ratepayers or users of the system rather than to the seller. (This section also applies to the sale or lease of system assets financed by the loan, and it pertains but is not limited to the privatization of a publicly owned system.)

(4) If section (2) or (3) of this rule is violated, then the water system shall repay the full amount of the subsidy into the fund. The department shall determine the schedule of such repayment, as it deems appropriate under the circumstances.

(5) The Oregon Public Utility Commission (PUC) has full authority to enforce the effects of this rule through applicable regulation of an affected water system.

(6) For non-PUC regulated privately-owned public water systems receiving financial assistance through the Fund under OAR 123-049-0005(3)(e), including but not limited to principle forgiveness, the amount of subsidy shall not be treated as equity, but rather in all cases as a contingent liability on the balance sheet of the public water system receiving the

financing and on the balance sheet of any entity that acquires that system or the assets financed by the Fund. If the water system is sold that was awarded subsidy by the Fund, the value of the subsidy shall be effectively excluded from the purchase price, such that the benefit of the subsidy continues to accrue to the ratepayers or users of the system rather than to the seller. (This section also applies to the sale or lease of system assets financed by the Fund, and it pertains but is not limited to the privatization of a publicly owned system.) If this rule is violated, then the water system shall repay the full amount of the subsidy into the Fund. The department shall determine the schedule of such repayment, as it deems appropriate under the circumstances.

Stat. Auth.: ORS 285A.075 & 285A.213(4)

Stats. Implemented: ORS 285A.213

Hist.: EDD 11-2000(Temp), f. 7-20-00, cert. ef. 7-20-00 thru 1-16-01; EDD 1-2001, f. 1-11-01, cert. ef. 1-12-01; EDD 8-2004, f. & cert. ef. 2-3-04; EDD 28-2008, f. 8-28-08, cert. ef. 9-1-08; EDD 2-2009(Temp), f. & cert. ef. 3-6-09 thru 9-1-09

Oregon Department of Education Chapter 581

Rule Caption: Adopts by reference instructional materials for science and mathematics.

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

Filed with Sec. of State: 2-24-2009

Certified to be Effective: 2-24-09 thru 8-4-09

Notice Publication Date:

Rules Adopted: 581-011-0136, 581-011-0142

Subject: Adopts by reference criteria for instructional materials in mathematics, grades 9–12 and science for kindergarten through grade 12. Applies to contract years 2010–2016.

Rules Coordinator: Paula Merritt—(503) 947-5746

581-011-0136

Criteria for Adoption of Instructional Materials — Science 2010–2016

The State Board of Education adopts by reference the Criteria for the Adoption of Instructional Materials for Science in the following categories:

- (1) Science — Grades K–5/6;
- (2) Science — Grades 6–8;
- (3) Biology — Grades 9–12;
- (4) Chemistry — Grades 9–12.
- (5) Earth Science — Grades 9–12
- (6) Integrated Science — Grades 9–12
- (7) Physical Science — Grades 9–12
- (8) Physics — Grades 9–12

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

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 337.035

Hist.: ODE 1-2009(Temp), f. & cert. ef. 2-24-09 thru 8-4-09

581-011-0142

Criteria for Adoption of Instructional Materials — Mathematics, Grades 9–12, 2010–2016

The State Board of Education adopts by reference the Criteria for the Adoption of Instructional Materials for Mathematics in the category of Mathematics — Grades 9–12.

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

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 337.035

Hist.: ODE 1-2009(Temp), f. & cert. ef. 2-24-09 thru 8-4-09

Oregon State Library Chapter 543

Rule Caption: Oregon Statewide Reference Assistance Program.

Adm. Order No.: OSL 1-2009

Filed with Sec. of State: 2-25-2009

Certified to be Effective: 3-2-09

Notice Publication Date: 2-1-2009

Rules Adopted: 543-060-0070

Rules Amended: 543-060-0000, 543-060-0010, 543-060-0020, 543-060-0030, 543-060-0040, 543-060-0060

Subject: This rule provides a framework for providing statewide reference assistance to libraries in Oregon.

This adoption and amendment expands the scope of division 60 to include statewide cooperative reference service. It allows the State Library Board of Trustees to assess and collect annual payments from

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some public and academic libraries to partially support statewide cooperative reference services.

Rules Coordinator: James B. Scheppke—(503) 378-4367, ext. 243

543-060-0000

Scope

OAR chapter 543, division 60, applies to programs that assist libraries to provide reference services, including statewide licensing of electronic databases in public, school, academic, and tribal libraries and statewide cooperative reference services.

Stat. Auth.:

Stats. Implemented: ORS 357.206, 357.209 & 357.212

Hist.: OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04; OSL 2-2003, f. 12-15-03 cert. ef. 1-1-04; OSL 3-2006, f. & cert. ef. 2-14-06; OSL 1-2009, f. 2-25-09, cert. ef. 3-2-09

543-060-0010

Definitions

The following definitions apply to the terms used in this division:

(1) "Public library" has the meaning given to public library in ORS 357.400(3), and shall be established in accordance with ORS 357.410.

(2) "Academic library" means any library of a not-for-profit institution of postsecondary education in Oregon, whether publicly or privately funded.

(3) "School library" means any library in a common school district or union high school district.

(4) "Tribal library" means a library operated by any of the nine federally-recognized tribes in Oregon.

(5) "Resource sharing systems" means all public, academic, or school libraries participating in a resource sharing system.

(6) "Fiscal Year" means the period of one year commencing on July 1 and closing on June 30th.

(7) "Interlibrary Loan" means one item of library material, or one copy from library materials, that is made available from a library's holdings to another library upon request.

(8) "Statewide database licensing" means the cooperative contract negotiation and purchase to make collections of electronically stored data, records or full text available to public, school, academic, and tribal libraries in Oregon.

Stat. Auth.:

Stats. Implemented: ORS 357.206, 357.209 & 357.212

Hist.: OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04; OSL 2-2003, f. 12-15-03 cert. ef. 1-1-04; OSL 3-2006, f. & cert. ef. 2-14-06; OSL 1-2009, f. 2-25-09, cert. ef. 3-2-09

543-060-0020

Authorized Activities

(1) Oregon State Library is authorized to negotiate and contract with commercial database providers on behalf of public, school, academic, and tribal libraries to provide access to full text periodicals databases and a newspaper database that includes the Oregonian. The statewide database subsidy program is established under the provisions of this division to assist eligible public, academic, school and tribal libraries to participate in the statewide full text periodicals database program. The Oregon State Library is authorized to collect and administer funds from public and academic libraries in payment for such databases. A statewide database subsidy is established under the provisions of this division to assist eligible school, public, academic, and tribal libraries to participate in the statewide newspaper database program.

(2) Oregon State Library is authorized to provide a statewide cooperative reference service that enables all Oregonians to obtain information from library staff at cooperating libraries using advanced Internet technologies. The statewide cooperative reference service program is established under the provisions of this division to provide this cooperative service and to provide other assistance to public, academic, school and tribal libraries to improve their reference services using advanced Internet technologies. The Oregon State Library is authorized to collect and administer funds from public and academic libraries to provide partial support for the statewide cooperative reference service program in an amount to be determined annually by the Trustees of the State Library. The Oregon State Library is authorized to provide a statewide cooperative reference service directly or by contracting with one or more libraries to provide the service.

Stat. Auth.:

Stats. Implemented: ORS 357.206, 357.209 & 357.212

Hist.: OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04; OSL 2-2003, f. 12-15-03 cert. ef. 1-1-04; OSL 3-2006, f. & cert. ef. 2-14-06; OSL 1-2009, f. 2-25-09, cert. ef. 3-2-09

543-060-0030

Statewide Database Licensing Program

(1) Eligibility: Any public, school, academic, tribal library or resource sharing system as defined above is eligible to participate in the program if the following criteria are met:

(a) The library or resource sharing system provides interlibrary loans without charge to requesting in-state public, academic, school, and tribal libraries and resource sharing systems.

(b) The public, academic library or resource sharing system is a signatory to and abides by the "Interlibrary Loan Code for Oregon Libraries."

(c) The library or resource sharing system certifies the above criteria are met and agrees to participate in the Statewide Database Licensing Program and the Statewide Cooperative Reference Service Program.

(2) The Statewide Database Licensing Advisory Committee shall be appointed by the Library Services and Technology Act (LSTA) Advisory Council.

(a) Role: The Statewide Database Licensing Advisory Committee shall advise the LSTA Advisory Council and the Oregon State Library staff in request for proposal development and database product evaluation, and provide ongoing database product assessment and customer feedback. The Statewide Database Licensing Advisory Committee shall also advise the LSTA Advisory Council on the appropriate percentage allocation of periodicals database costs to public, academic and school libraries.

(b) Membership of the Statewide Database Licensing Advisory Committee: One representative from the LSTA Advisory Council; three public library representatives, one each from libraries serving populations over 100,000, between 25,000–100,000, and 25,000 or less; three academic library representatives, one each from a community college, Oregon University System, and private academic institution; one representative from a resource sharing system; one tribal library representative, and, two school library representatives. Orbis Cascade Alliance and the Organization for Educational Technology and Curriculum (OETC) will each have one representative serving in a non-voting, ex officio capacity. In making appointments the LSTA Advisory Council will seek representatives with experience in database licensing and the use of databases.

(c) Terms of appointment: Terms shall be for three years, except initial terms shall be staggered. The LSTA Advisory Council representative shall serve a two year term.

(d) Meetings: The Statewide Database Licensing Advisory Committee shall meet at least twice each calendar year, and may meet more often as needed.

(3) Request for proposal process: The Oregon State Library shall be the fiscal agent for the program and shall use Federal funds under the Library Services and Technology Act to subsidize the program. Oregon State Library shall work with the Department of Administrative Services to procure periodical and newspaper full text databases.

(4) Database subsidy process:

(a) The Oregon State Library administers the database subsidy process.

(b) Participating public and academic libraries and resource sharing systems shall be billed annually, in July, for periodicals database charges for the upcoming service year. Invoices to participants represent the difference in the subsidized annual costs paid by the State Library and the cost to the participants.

(5) Formula for periodicals database subsidy to public, academic libraries or resource sharing systems: Once a determination has been made of the percentage allocation of periodicals database cost among school, public and academic libraries, the costs will be further allocated to participants in the following manner:

(a) The public library or resource sharing system cost is based on the population served during the previous year, as determined by the State Library.

(b) The academic library cost is based on the student enrollment during the previous academic year, as determined by official sources, such as the Integrated Postsecondary Education Data System (IPEDS), and the Oregon Community College Unified Reporting System (OCCURS). Community college FTE will be adjusted for terms to arrive at an average annual full time enrollment.

(c) Individual library periodicals database costs per year of \$240 or less are subsidized in full by the State Library. Periodicals database costs per year of more than \$240 are subsidized at 50% of the total annual periodicals database costs. Participants will be billed for the 50% unsubsidized portion of total annual periodicals database costs.

(6) Formula for periodicals database costs to school libraries: The annual database contract costs to school libraries will be supported with

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LSTA funds as determined by the State Library Board of Trustees, with a recommendation from the LSTA Advisory Council.

(7) Formula for periodicals database costs to tribal libraries: The annual database contract costs to tribal libraries will be supported with LSTA funds as determined by the State Library Board of Trustees, with a recommendation from the LSTA Advisory Council.

(8) Formula for newspaper database subsidy: All eligible public, school, academic, and tribal libraries, or resource sharing systems accessing the full text newspaper database are subsidized in full by the State Library.

(9) Statewide database expenditure plan: An annual budget for the Statewide Database Licensing Program shall be recommended by the Library Services and Technology Act Advisory Council to the State Library Board of Trustees and shall be adopted by the State Library Board of Trustees.

Stat. Auth.: ORS 357.209
Stats. Implemented: ORS 357.206
Hist.: OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04; OSL 2-2003, f. 12-15-03 cert. ef. 1-1-04; OSL 1-2004, f. 8-17-04 cert. ef. 9-1-04; OSL 3-2006, f. & cert. ef. 2-14-06; OSL 1-2009, f. 2-25-09, cert. ef. 3-2-09

543-060-0040

Calendar for Statewide Database License Procurement

The Statewide Database Licensing Program in Request for Proposal years shall follow a calendar of events as listed below:

(1) The Request for Proposal shall be issued no later than January in a year requiring proposal development, and responses shall be received no later than March.

(2) Request for Proposal evaluations shall be completed by the Statewide Database Licensing Advisory Committee within 60 days of receipt of responses.

(3) Recommendations by the Statewide Database Licensing Advisory Committee to the Library Services and Technology Act Advisory Council shall be made prior to its May meeting.

(4) The Library Services and Technology Act Advisory Council shall review the database recommendations at its May meeting, and make recommendations to the State Library Board of Trustees in June.

(5) Participating libraries shall be notified of anticipated costs for that subscription year after the Board meeting, invoiced in July, and payments shall be due in August or as determined by the vendor contract. Annual invoicing in non-Request for Proposal years shall follow a calendar of events as listed below: Recommendations by the Statewide Database Licensing Advisory Committee to the Library Services and Technology Act Advisory Council shall be made prior to its May meeting. Participating libraries will be notified of anticipated costs for that subscription year after the meeting. The Library Services and Technology Act Advisory Council shall review the database recommendations at its May meeting, and make recommendations to the State Library Board of Trustees in June. Participating libraries shall be invoiced in July, and payments shall be due in August or as determined by the vendor contract.

Stat. Auth.: ORS 357.209
Stats. Implemented: ORS 357.206, 357.209 & 357.212
Hist.: OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04; OSL 2-2003, f. 12-15-03 cert. ef. 1-1-04; OSL 1-2004, f. 8-17-04 cert. ef. 9-1-04; OSL 1-2009, f. 2-25-09, cert. ef. 3-2-09

543-060-0060

Population Determination for Public Libraries

(1) The State Librarian shall use the population estimates for cities and counties included in the publication, Population Estimates for Oregon, published by the Center for Population Research and Census, Portland State University, as amended by the latest supplements to this publication.

(2) In accordance with ORS 357.780(2)(c), a public library may be assigned population beyond its governing authority's jurisdiction in cases where the library has a valid contract with a unit of local government to provide services to this population. The contract, which must be on file at the State Library, must grant the library the sole responsibility to serve the population in question, and the population must be specified in the contract in a clear and precise manner, in order for additional population to be assigned for grant purposes. Public libraries established as non-profit corporations under Oregon law may be assigned population and may receive grants only in this manner.

(3) In cases other than those described in section (2) of this rule, where the same population is served by two or more public libraries, the State Librarian shall determine which public library is the primary service provider to the population in question, and shall assign the population to the primary service provider. In making this determination the State Librarian

shall consider the location of library facilities and any available statistics on patterns of library use by the population in question.

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

Stat. Auth.:
Stats. Implemented: ORS 357.206 amended Sec. 1 SB 12, ORS 357.209 amended Sec. 1 SB 12, ORS 357.212 amended Sec. 1 SB 12
Hist.: OSL 1-2003(Temp), f. 8-22-03, cert. ef. 9-1-03 thru 1-30-04; OSL 2-2003, f. 12-15-03 cert. ef. 1-1-04; OSL 1-2009, f. 2-25-09, cert. ef. 3-2-09

543-060-0070

Statewide Cooperative Reference Service Program

(1) Eligibility: Any public, school, academic, tribal library or resource sharing system as defined above is eligible to participate in the program.

(2) Partial Support by Public and Academic Libraries:

(a) The Trustees of the State Library shall, in the last quarter of every calendar year, determine the total amount of partial support that will be billed to public and academic libraries in the following calendar year. They shall also determine the proportion of the total amount that will be billed to public libraries and to academic libraries.

(b) Participating public and academic libraries and resource sharing systems shall be billed annually, in July, for partial support for the upcoming service year. The billing will be combined with the billing for the Statewide Database Licensing Program.

(3) Formula for allocating partial support to public and academic libraries: Once the Trustees of the State Library have determined the proportional allocation of partial support among public and academic libraries, the costs will be further allocated to participants in the following manner:

(a) The public library or resource sharing system cost is based on the population served during the previous year, as determined by the State Library.

(b) The academic library cost is based on the student enrollment during the previous academic year, as determined by official sources, such as the Integrated Postsecondary Education Data System (IPEDS), and the Oregon Community College Unified Reporting System (OCCURS). Community college FTE will be adjusted for terms to arrive at an average annual full time enrollment.

(c) Any library that receives a full subsidy under the cost allocation formula for the Statewide Database Licensing Program will be exempt from partial support payments for the Statewide Cooperative Reference Services Program.

(4) Statewide Cooperative Reference Services expenditure plan: An annual budget for the Statewide Cooperative Reference Services Program shall be recommended by the Library Services and Technology Act Advisory Council to the State Library Board of Trustees and shall be adopted by the State Library Board of Trustees.

Stat. Auth.: ORS 357.209
Stats. Implemented: ORS 357.206
Hist.: OSL 1-2009, f. 2-25-09, cert. ef. 3-2-09

Oregon State Lottery Chapter 177

Rule Caption: Amends rules specifying number of future drawings for which a player may purchase a ticket.

Adm. Order No.: LOTT 2-2009

Filed with Sec. of State: 2-27-2009

Certified to be Effective: 3-1-09

Notice Publication Date: 2-1-2009

Rules Amended: 177-046-0020, 177-075-0010, 177-081-0020, 177-083-0020, 177-083-0030, 177-083-0040, 177-085-0015, 177-094-0020

Rules Repealed: 177-046-0020(T), 177-075-0010(T), 177-081-0020(T), 177-083-0020(T), 177-083-0030(T), 177-083-0040(T), 177-094-0020(T), 177-085-0015(T)

Subject: This rulemaking repeals current language in each of the above game divisions specifying the number of future consecutive drawings for which a player may purchase a ticket, and adopts a new provision in division 46 that authorizes the Lottery to determine that limit.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-046-0020

Sale of Lottery Tickets and Shares

(1) **General:** The Director may contract with retailers for the sale of Lottery tickets and shares. Only a retailer under contract with the Lottery may sell Lottery tickets or shares. Nothing in this section shall be construed

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to prevent a person who lawfully purchases or possesses a Lottery ticket or share from making a gift of such ticket or share to another.

(2) **Retailer Sales Locations:** Unless authorized by the Lottery, Lottery tickets or shares may only be sold by a Lottery retailer at the location listed in the retailer contract.

(3) **Lottery Sales:** The Lottery may designate its agents or employees to sell Lottery tickets or shares directly to the public, either in person or through electronic means.

(4) **Future Drawings:** A player may purchase a ticket or tickets for future consecutive drawings to the extent permitted by the Lottery for each Lottery game. The player must specify at the time of purchase that the ticket or tickets include future consecutive drawings.

(5) **Sales Are Final:** Unless otherwise provided in OAR chapter 177, the sale of all Lottery tickets and shares is final. A player may not return a Lottery ticket or share for a refund of the purchase price or exchange unless the specific game rule provides otherwise. The Lottery is not liable for Lottery tickets or shares that are purchased in error.

(6) **Distribution:** The Director is authorized to arrange for the direct distribution of on-line terminals, ticket stock, and supplies shipped directly from the manufacturer or supplier to an authorized retailer.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08; LOTT 8-2008(Temp), f. 11-21-08, cert. ef. 11-23-08 thru 5-16-09; LOTT 2-2009, f. 2-27-09, cert. ef. 3-1-09

177-075-0010

Ticket Purchase, Characteristics, and Restrictions

(1) **General:** Oregon MegabucksSM is a pari-mutuel lotto game. A player must select an even number set of six different numbers, between 1 and 48 for input into a terminal. Tickets can be purchased either from a terminal operated by a retailer (i.e., a clerk-activated terminal) or from a terminal operated by the player (i.e., a player-activated terminal). If purchased from a retailer, the player may select each set by marking six numbered squares in any one game board on a play slip and submitting the play slip to the retailer, or by requesting "Quick pick" from the retailer. The retailer will then issue a ticket, via the terminal, containing the selected even number set or sets of numbers, each of which constitutes a game play. Tickets can also be purchased from a player-activated terminal by use of a touch screen or by inserting a play slip into the machine. A ticket can contain up to ten game plays lettered A through J. A player may purchase a ticket or tickets for future consecutive drawings up to the maximum permitted by the Lottery.

(2) **Kicker Option:** The player must also choose whether to play "Kicker". Kicker awards larger prizes for correctly selecting three of six, four of six, and five of six numbers.

(3) **Non-Cancellation:** A MegabucksSM ticket may not be voided or cancelled by returning the ticket to the retailer, including tickets that are printed in error or purchased for a future consecutive drawing. The placing of plays is done at the player's own risk. The On-Line retailer acts on behalf of the player in entering the player's plays.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.210
Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 6-1986, f. & ef. 3-5-86; SLC 12-1986, f. 5-28-86, ef. 6-1-86; LC 16-1988, f. & cert. ef. 6-2-88; LC 10-1989(Temp), f. 4-25-89, cert. ef. 4-30-89; LC 11-1989, f. & cert. ef. 7-6-89; LC 9-1990, f. 7-20-90, cert. ef. 8-5-90; LC 2-1991, f. & cert. ef. 7-24-91; LC 6-1993, f. & cert. ef. 7-2-93; LC 3-1995, f. & cert. ef. 4-27-95; LOTT 8-2001(Temp), f. & cert. ef. 5-18-01 thru 11-9-01; LOTT 11-2001, f. & cert. ef. 8-7-01; LOTT 16-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 27-2002, f. & cert. ef. 11-25-02; LOTT 8-2008(Temp), f. 11-21-08, cert. ef. 11-23-08 thru 5-16-09; LOTT 2-2009, f. 2-27-09, cert. ef. 3-1-09

177-081-0020

Price

The price of a ticket shall be determined by the amount of money a player chooses to wager on the game play selected, multiplied by the number of drawings in which the ticket will be played.

(1) **Price** — Clerk-Operated Terminal: The price of a ticket for a single drawing purchased through a clerk-operated terminal shall range from a minimum of \$1.00 to a maximum of \$7.00 in \$.50 increments.

(2) **Price** — Player-Operated Terminal: The price of a ticket for a single drawing purchased through a player-operated terminal shall range from a minimum of \$1.00 to a maximum of \$7.00 in \$1.00 increments. When a player requests a Quick Pick from a player-operated terminal the only wager possible is \$1.00.

(3) **Tickets for Multiple Drawings:** A player may purchase a ticket for a single drawing or for future consecutive drawings up to the maximum permitted by the Lottery. The price of a ticket is determined by multiplying

the number of drawings in which the ticket will be played by the total wager for each drawing. The minimum ticket price for a ticket containing consecutive drawings is \$2.00 (\$1 x 2 consecutive drawings = \$2). A game slip indicating a price of less than \$1.00 or a price greater than that permitted by the Lottery shall be automatically rejected by the terminal.

(4) **Whole Dollar Amounts:** Notwithstanding sections (1) through (3) of this rule, the price of a ticket for consecutive drawings purchased through a player-operated terminal must be in whole dollar amounts. For example, a \$1.50 wager placed for two consecutive drawings is permitted because it equals a \$3.00 total game play wager. A \$1.50 wager placed for three consecutive drawings is not permitted because it equals a \$4.50 total game play wager.

Stat. Auth.: OR Const. Art. XV Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.210, 461.220, 461.240 & 461.250
Hist.: LOTT 2-2000, f. 3-31-00, cert. ef. 4-3-00; LOTT 17-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 28-2002, f. & cert. ef. 11-25-02; LOTT 8-2008(Temp), f. 11-21-08, cert. ef. 11-23-08 thru 5-16-09; LOTT 2-2009, f. 2-27-09, cert. ef. 3-1-09

177-083-0020

Price

(1) **Ticket Price for a Single Drawing:** A player may purchase a ticket for a single drawing. The price of a ticket for a single drawing is \$2.

(2) **Ticket Price for Consecutive Drawings:** The price of a ticket for consecutive drawings is a minimum of \$4 (\$2.00 x 2 consecutive drawings = \$4.00).

Stat. Auth.: ORS 461 & OR Const., Art. XV, §4(4)
Stats. Implemented: ORS 461.210
Hist.: LOTT 4-2006, f. 3-23-06, cert. ef. 4-9-06; LOTT 8-2008(Temp), f. 11-21-08, cert. ef. 11-23-08 thru 5-16-09; LOTT 2-2009, f. 2-27-09, cert. ef. 3-1-09

177-083-0030

Ticket Purchase, Characteristics, and Restrictions (Lucky Lines)

(1) **Hours of Purchase:** Lucky LinesSM tickets may be purchased everyday of the year during the hours of operation of the Lottery's On-Line game system and a Lottery On-Line retailer's business hours of operation.

(2) **Ticket Purchase:** Tickets may be purchased either from a clerk-operated terminal or from a player-operated terminal. To play Lucky LinesSM, a player must:

(a) Complete a play slip for input into a clerk-operated terminal or player-operated terminal; or

(b) Request a Quick Pick from a clerk or by using a player-operated terminal; and

(c) Pay the ticket price.

(3) **Play Slip:** Completing a play slip:

(a) A player must choose a game play by one of two methods:

(A) A player must select one number out of a group of four numbers in each of the eight fields; or

(B) The player may select the numbers using the Quick Pick option.

(b) A player must indicate if the game play is for consecutive drawings.

(4) **Clerk-Operated Terminal:** Purchasing a ticket from a clerk-operated terminal:

(a) The player may complete a game slip and submit it with the price of the ticket to the clerk. The clerk will use the terminal to issue a ticket to the player with the player's game plays; or

(b) Without using a game slip, the player may request that a clerk electronically use the terminal's Quick Pick number selection. Upon payment of the price of the ticket to the clerk, the clerk will use the terminal to issue a ticket to the player with the player's Quick Pick game plays.

(c) The placing of game plays is done at the player's own risk. The On-Line retailer acts on behalf of the player in entering the player's plays.

(5) **Player-Operated Terminal:** A player may purchase a ticket from a player-operated terminal by following the instructions appearing on the screen of the terminal either by:

(a) Completing a game slip, inserting it into the terminal, and paying the price of the ticket into the terminal. The terminal will issue a ticket to the player with the player's game plays; or

(b) The player may use the terminal's Quick Pick number selection without using a game slip by following the instructions appearing on the terminal screen and paying the price of the ticket. The terminal will issue a ticket to the player with the player's Quick Pick game plays.

(c) The placing of game plays on a player-operated terminal is done at the player's own risk.

Stat. Auth.: ORS 461 & OR Const., Art. XV, § 4(4)
Stats. Implemented: ORS 461.210
Hist.: LOTT 4-2006, f. 3-23-06, cert. ef. 4-9-06; LOTT 8-2008(Temp), f. 11-21-08, cert. ef. 11-23-08 thru 5-16-09; LOTT 2-2009, f. 2-27-09, cert. ef. 3-1-09

ADMINISTRATIVE RULES

177-083-0040

Cancellation of Tickets

(1) **General:** A player may cancel a Lucky LinesSM ticket for a single drawing or consecutive drawings. To cancel a ticket, a player must follow the procedure in OAR 177-046-0060.

(2) **Refund:** In the event that a ticket is canceled in accordance with OAR 177-083-0040(1) and 177-046-0060, the player shall be entitled to a refund from the retailer equal to the purchase amount shown on the player's ticket.

Stat. Auth.: ORS 461 & OR Const., Art. XV, § 4(4)
Stats. Implemented: ORS 461.210
Hist.: LOTT 4-2006, f. 3-23-06, cert. ef. 4-9-06; LOTT 8-2008(Temp), f. 11-21-08, cert. ef. 11-23-08 thru 5-16-09; LOTT 2-2009, f. 2-27-09, cert. ef. 3-1-09

177-085-0015

Game Description

(1) **General Information:** Powerball® is a five out of fifty-nine numbers plus one out of thirty-nine numbers on-line lottery game, drawn every Wednesday and Saturday, which pays the Grand Prize, at the election of the player made in accordance with these rules or by a default election made in accordance with these rules, either on an annuitized pari-mutuel basis or as a single lump sum payment of the total cash amount held for this prize pool on a pari-mutuel basis. Except as provided in the rules, all other prizes are paid as a single lump sum payment.

(2) **Selection of Numbers:** To play Powerball®, a player shall select five different numbers, from one through fifty-nine and one additional number from one through thirty-nine, for input into a terminal. The additional number may be the same as one of the first five numbers selected by the player, as long as it is from one through thirty-nine.

(3) **Purchase of Tickets:** Tickets can be purchased either from a terminal operated by a retailer (i.e., a clerk-activated terminal) or from a terminal operated by the player (i.e., a player-activated terminal). If purchased from a retailer, the player may select a set of five numbers and one additional number by marking six numbered squares in any one game board on a play slip and submitting the play slip to the retailer, or by requesting "Quick Pick" from the retailer. The retailer will then issue a ticket, via the terminal, containing the selected set or sets of numbers, each of which constitutes a game play. Tickets can be purchased from a player-activated terminal by use of a touch screen or by inserting a play slip into the machine. A player may purchase tickets for future consecutive drawings up to the maximum permitted by the Lottery.

(4) **Player's Responsibility:** It is the sole responsibility of the player to verify the accuracy of the game play or plays and other data printed on the ticket. A ticket may not be voided or canceled by returning the ticket to the retailer or to the Lottery, including tickets that are printed in error. No ticket shall be returned to the Lottery for credit. The placing of plays is done at the player's own risk through the On-Line retailer, who when entering the play or plays is acting on behalf of the player.

(5) **Determination of Winning Numbers:** The winning numbers for the Powerball® game shall be determined at a drawing conducted under the supervision of the MUSL Board. The MUSL Board shall determine the frequency of Powerball® game drawings. Winning numbers shall be selected at random with the aid of mechanical drawing equipment or a random number generator. The Lottery Director shall designate a Drawing Manager who shall review and randomly observe the drawings conducted by the MUSL Board.

Stat. Auth.: ORS 461.250 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220
Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 6-1993, f. & cert. ef. 7-2-93; LC 1-1994, f. 1-27-94, cert. ef. 2-1-94; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 8-2008(Temp), f. 11-21-08, cert. ef. 11-23-08 thru 5-16-09; LOTT 11-2008, f. 11-21-08, cert. ef. 1-4-09; LOTT 2-2009, f. 2-27-09, cert. ef. 3-1-09

177-094-0020

Price

(1) **General:** The minimum price of a ticket for a single drawing is \$2.

(2) **Consecutive Drawings:** The price of a ticket for play in consecutive drawings shall be the price of a ticket for a single drawing (\$2.00) multiplied by the number of consecutive drawings in which the ticket will be played. The minimum ticket price for consecutive drawings is \$4.00 (\$2 x 2 consecutive drawings = \$4). A player may purchase tickets for future consecutive drawings up to the maximum permitted by the Lottery.

(3) **Game Boards:** A game slip contains five boards. Each of the five boards may be used by a player to purchase a single ticket. Therefore, a game slip may be used to purchase up to five tickets. Any game slip indi-

ating a total ticket purchase price greater than that permitted by the Lottery shall be automatically rejected by the terminal.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461
Hist.: LOTT 11-2000, f. & cert. ef. 12-1-00; LOTT 18-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 29-2002, f. & cert. ef. 11-25-02; LOTT 8-2008(Temp), f. 11-21-08, cert. ef. 11-23-08 thru 5-16-09; LOTT 2-2009, f. 2-27-09, cert. ef. 3-1-09

Rule Caption: Change calculation of time period to return unsold Scratch-itSM tickets when a game has ended.

Adm. Order No.: LOTT 3-2009

Filed with Sec. of State: 2-27-2009

Certified to be Effective: 3-1-09

Notice Publication Date: 2-1-2009

Rules Amended: 177-050-0100

Subject: The Oregon Lottery® amended OAR 177-050-0100 to change how the time period for returning unsold Scratch-itSM tickets by Lottery retailers is calculated.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-050-0100

Official End of Scratch-itSM Ticket Games and Last Date to Claim a Prize or to Receive Credit for Unsold Scratch-itSM Tickets

(1) **Director's Determination:** The Director shall determine the official ending date of a Scratch-itSM ticket game.

(2) **Notice:** The Director shall announce the official ending date of each Scratch-itSM ticket game by any reasonable means, which may include: Notice on the Lottery's website, media advertisements, or notice through Lottery retail sales sites.

(3) **Last Date to Claim a Prize:** In accordance with ORS 461.250(7), the last date to claim a prize is one calendar year from the official ending date of the game, unless the Lottery Commission defines a shorter time period to claim a prize in a particular Scratch-itSM ticket game. A prize must be claimed by the close of business on the last date to claim a prize and if not claimed by that date is an unclaimed prize. If the final date of the claim period falls on a weekend or a Lottery holiday, the last date to claim a prize extends to the close of the next Lottery business day.

(4) **Unsold Returns:** To receive a credit after a game has ended for unsold Scratch-itSM tickets in any ticket pack activated by the retailer, the retailer must return the unsold tickets to the Lottery within six calendar months from the date Lottery will no longer activate tickets for that game. Lottery will announce to the Lottery retail sales sites the date the tickets will no longer be activated. Upon a showing of good cause by the retailer, the Director may authorize credit for unsold Scratch-itSM tickets returned beyond this six-month period.

Stat. Auth.: ORS 461 & Or. Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250, & 461.260
Hist.: LOTT 9-2008, f. 11-21-08, cert. ef. 12-1-08; LOTT 3-2009, f. 2-27-09, cert. ef. 3-1-09

Oregon University System Chapter 580

Rule Caption: Reduce the incidental fee charged by the University of Oregon for spring term 2009.

Adm. Order No.: OSSHE 2-2009(Temp)

Filed with Sec. of State: 2-20-09

Certified to be Effective: 2-20-09 thru 6-30-09

Notice Publication Date:

Rules Amended: 580-040-0040

Subject: Reduce the incidental fee charged by the University of Oregon for spring term 2009.

Rules Coordinator: Marcia M. Stuart—(541) 346-5749

580-040-0040

Academic Year Fee Book

The document entitled "Academic Year Fee Book" dated June 6, 2008, is amended to reduce the incidental fees assessed by the University of Oregon for spring term 2009 to those shown below.

Credit Hours — Undergraduates — Graduates — Law

1 — 40 — 55 — 192
2 — 45 — 60 — 192
3 — 50 — 65 — 192
4 — 55 — 70 — 192
5 — 60 — 75 — 192
6 — 65 — 80 — 192
7 — 70 — 85 — 192
8 — 75 — 90 — 192
9 — 80 — 95 — 192

ADMINISTRATIVE RULES

10 — 85 — 95 — 192
11 — 90 — 95 — 192
12+ — 95 — 95 — 192

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

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 4-1978, f. & ef. 6-15-78; HEB 5-1979, f. & ef. 7-20-79; HEB 11-1979, f. & ef. 8-22-79; HEB 1-1980, f. & ef. 4-18-80; HEB 7-1980, f. & ef. 6-18-80; HEB 11-1980, f. & ef. 8-20-80; HEB 4-1981(Temp), f. 6-30-81, ef. 7-1-81; HEB 5-1981, f. & ef. 8-18-81; HEB 15-1981(Temp), f. & ef. 12-18-81; HEB 5-1982, f. & ef. 7-14-82; HEB 4-1983, f. & ef. 7-29-83; HEB 4-1984, f. & ef. 6-20-84; HEB 5-1985, f. & ef. 8-12-85; HEB 12-1986, f. & ef. 7-30-86; HEB 6-1987, f. & ef. 8-4-87; HEB 8-1988, f. & cert. ef. 8-5-88; HEB 10-1988, f. & cert. ef. 11-16-88; HEB 3-1989, f. & cert. ef. 11-27-89; HEB 6-1989, f. & cert. ef. 7-28-89; HEB 7-1990, f. & cert. ef. 6-4-90; HEB 8-1990(Temp), f. & cert. ef. 7-26-90; HEB 12-1990, f. & cert. ef. 10-3-90; HEB 5-1991, f. & cert. ef. 8-15-91; HEB 8-1992, f. & cert. ef. 7-31-92; HEB 2-1993, f. & cert. ef. 2-5-93; HEB 5-1993, f. & cert. ef. 8-11-93; HEB 7-1994, f. & cert. ef. 8-4-94; HEB 3-1995, f. & cert. ef. 8-1-95; HEB 3-1996, f. & cert. ef. 8-8-96; HEB 5-1996, f. & cert. ef. 12-18-96; HEB 3-1997, f. & cert. ef. 7-24-97; OSSHE 4-1998, f. & cert. ef. 7-22-98; OSSHE 5-1998(Temp), f. & cert. ef. 8-21-98 thru 1-31-99; OSSHE 9-1998, f. & cert. ef. 12-23-98; OSSHE 3-1999(Temp), f. & cert. ef. 7-22-99 thru 1-14-00; OSSHE 4-1999, f. & cert. ef. 9-16-99; OSSHE 3-2000, f. & cert. ef. 7-26-00; OSSHE 4-2001, f. & cert. ef. 7-27-01; OSSHE 8-2002, f. & cert. ef. 8-14-02; OSSHE 2-2003, f. & cert. ef. 8-4-03; OSSHE 6-2004, f. & cert. ef. 6-15-04; OSSHE 2-2006, f. & cert. ef. 6-8-06; OSSHE 3-2007, f. & cert. ef. 6-21-07; OSSHE 6-2008(Temp), f. & cert. ef. 3-20-08 thru 9-1-08; OSSHE 8-2008, f. & cert. ef. 6-17-08; OSSHE 2-2009(Temp), f. & cert. ef. 2-20-09 thru 6-30-09

Rule Caption: To ensure fairness and simplify the administration of the voluntary FTE reduction program.

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

Filed with Sec. of State: 3-13-2009

Certified to be Effective: 3-13-09 thru 8-31-09

Notice Publication Date:

Rules Adopted: 580-021-0027

Subject: During the period that any employee participates in a voluntary FTE reduction program authorized by OUS, leave accruals and other benefits administered under this division will be calculated based upon the employee's FTE immediately prior to program participation and will not be reduced to reflect the reduction in FTE caused by the employee's participation in the program.

Rules Coordinator: Marcia M. Stuart—(541) 346-5749

580-021-0027

Participation in a Voluntary FTE Reduction Program

During the period that any employee participates in a voluntary FTE reduction program authorized by OUS, leave accruals and other benefits administered under this division will be calculated based upon the employee's FTE immediately prior to program participation and will not be reduced to reflect the reduction in FTE caused by the employee's participation in the program.

Stat. Auth.: ORS 351.070

Stat. Implemented: ORS 351.070

Hist.: OSSHE 3-2009(Temp), f. & cert. ef. 3-13-09 thru 8-31-09

Rule Caption: Increase tuition charged by the University of Oregon for spring term 2009.

Adm. Order No.: OSSHE 4-2009(Temp)

Filed with Sec. of State: 3-13-2009

Certified to be Effective: 3-13-09 thru 6-30-09

Notice Publication Date:

Rules Amended: 580-040-0040

Rules Suspended: 580-040-0040(T)

Subject: Increase the tuition charged by the University of Oregon for spring term 2009 to offset General Fund reductions.

Rules Coordinator: Marcia M. Stuart—(541) 346-5749

580-040-0040

Academic Year Fee Book

The document entitled "Academic Year Fee Book" dated June 6, 2008, is amended to reduce the incidental fees and increase tuition assessed by the University of Oregon for spring term 2009 to those shown below:

(1) Reduction of Incidental Fees:

Credit Hours — Undergraduates — Graduates — Law

1 — \$40 — \$55 — \$192
2 — 45 — 60 — 192
3 — 50 — 65 — 192
4 — 55 — 70 — 192
5 — 60 — 75 — 192
6 — 65 — 80 — 192
7 — 70 — 85 — 192
8 — 75 — 90 — 192
9 — 80 — 95 — 192

10 — 85 — 95 — 192
11 — 90 — 95 — 192
12+ — 95 — 95 — 192

(2) Increase of Undergraduate Tuition1

Credit Hours — Resident Tuition — Resident Surcharge — Nonresident Tuition — Nonresident Surcharge

1 — \$124.00 — \$75.00 — \$469.00 — \$175.00
2 — 247.00 — 75.00 — 938.00 — 175.00
3 — 371.00 — 75.00 — 1,407.00 — 175.00
4 — 495.00 — 75.00 — 1,876.00 — 175.00
5 — 618.00 — 75.00 — 2,345.00 — 175.00
6 — 742.00 — 75.00 — 2,814.00 — 175.00
7 — 865.00 — 75.00 — 3,283.00 — 175.00
8 — 990.00 — 150.00 — 3,752.00 — 350.00
9 — 1,114.00 — 150.00 — 4,221.00 — 350.00
10 — 1,237.00 — 150.00 — 4,690.00 — 350.00
11 — 1,361.00 — 150.00 — 5,159.00 — 350.00
12 — 1,485.00 — 150.00 — 5,628.00 — 350.00
13 — 1,608.00 — 150.00 — 6,097.00 — 350.00
14 — 1,671.00 — 150.00 — 6,175.00 — 350.00
15 — 1,734.00 — 150.00 — 6,253.00 — 350.00
16 — 1,796.00 — 150.00 — 6,331.00 — 350.00
17 — 1,920.00 — 150.00 — 6,800.00 — 350.00
18 — 2,044.00 — 150.00 — 7,269.00 — 350.00
19 — 2,167.00 — 150.00 — 7,738.00 — 350.00
20 — 2,291.00 — 150.00 — 8,207.00 — 350.00
21 — 2,415.00 — 150.00 — 8,676.00 — 350.00

Each Add'l Credit Hour — \$124.00 — \$150.00 — \$469.00 — \$350.00

1Tuition for designated courses offered in the early morning and late afternoon is discounted 10% per credit hour.

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

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: HEB 4-1978, f. & ef. 6-15-78; HEB 5-1979, f. & ef. 7-20-79; HEB 11-1979, f. & ef. 8-22-79; HEB 1-1980, f. & ef. 4-18-80; HEB 7-1980, f. & ef. 6-18-80; HEB 11-1980, f. & ef. 8-20-80; HEB 4-1981(Temp), f. 6-30-81, ef. 7-1-81; HEB 5-1981, f. & ef. 8-18-81; HEB 15-1981(Temp), f. & ef. 12-18-81; HEB 5-1982, f. & ef. 7-14-82; HEB 4-1983, f. & ef. 7-29-83; HEB 4-1984, f. & ef. 6-20-84; HEB 5-1985, f. & ef. 8-12-85; HEB 12-1986, f. & ef. 7-30-86; HEB 6-1987, f. & ef. 8-4-87; HEB 8-1988, f. & cert. ef. 8-5-88; HEB 10-1988, f. & cert. ef. 11-16-88; HEB 3-1989, f. & cert. ef. 11-27-89; HEB 6-1989, f. & cert. ef. 7-28-89; HEB 7-1990, f. & cert. ef. 6-4-90; HEB 8-1990(Temp), f. & cert. ef. 7-26-90; HEB 12-1990, f. & cert. ef. 10-3-90; HEB 5-1991, f. & cert. ef. 8-15-91; HEB 8-1992, f. & cert. ef. 7-31-92; HEB 2-1993, f. & cert. ef. 2-5-93; HEB 5-1993, f. & cert. ef. 8-11-93; HEB 7-1994, f. & cert. ef. 8-4-94; HEB 3-1995, f. & cert. ef. 8-1-95; HEB 3-1996, f. & cert. ef. 8-8-96; HEB 5-1996, f. & cert. ef. 12-18-96; HEB 3-1997, f. & cert. ef. 7-24-97; OSSHE 4-1998, f. & cert. ef. 7-22-98; OSSHE 5-1998(Temp), f. & cert. ef. 8-21-98 thru 1-31-99; OSSHE 9-1998, f. & cert. ef. 12-23-98; OSSHE 3-1999(Temp), f. & cert. ef. 7-22-99 thru 1-14-00; OSSHE 4-1999, f. & cert. ef. 9-16-99; OSSHE 3-2000, f. & cert. ef. 7-26-00; OSSHE 4-2001, f. & cert. ef. 7-27-01; OSSHE 8-2002, f. & cert. ef. 8-14-02; OSSHE 2-2003, f. & cert. ef. 8-4-03; OSSHE 6-2004, f. & cert. ef. 6-15-04; OSSHE 2-2006, f. & cert. ef. 6-8-06; OSSHE 3-2007, f. & cert. ef. 6-21-07; OSSHE 6-2008(Temp), f. & cert. ef. 3-20-08 thru 9-1-08; OSSHE 8-2008, f. & cert. ef. 6-17-08; OSSHE 2-2009(Temp), f. & cert. ef. 2-20-09 thru 6-30-09; OSSHE 4-2009(Temp), f. & cert. ef. 3-13-09 thru 6-30-09

Oregon University System, Eastern Oregon University Chapter 579

Rule Caption: Amend Special Student and Course Fees.

Adm. Order No.: EOU 1-2009

Filed with Sec. of State: 3-12-2009

Certified to be Effective: 3-12-09

Notice Publication Date: 2-1-2009

Rules Amended: 579-020-0006

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

Rules Coordinator: Lara Moore—(541) 962-3368

579-020-0006

Special Student Fees

Eastern Oregon University intends to adopt by reference Special Student Fees for the 2009–10 school year.

[ED NOTE: Fee list referenced is available from the agency.]

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: EOSC 3, f. & ef. 6-23-76; EOSC 8, f. & ef. 6-16-77; EOSC 6-1978, f. & ef. 10-2-78; EOSC 1-1979, f. & ef. 6-27-79; EOSC 1-1981, f. & ef. 1-12-81; EOSC 3-1981, f. & ef. 7-1-81; EOSC 2-1983, f. & ef. 12-16-83; EOSC 2-1984, f. & ef. 10-25-84; EOSC 1-1986, f. & ef. 2-13-86; EOSC 2-1988, f. & cert. ef. 10-28-88; EOSC 2-1989, f. & cert. ef. 7-31-89; EOSC 2-1990, f. & cert. ef. 10-9-90; EOSC 3-1991, f. & cert. ef. 9-20-91; EOSC 5-1990, f. & cert. ef. 12-20-91 (and corrected 1-2-92); EOSC 1-1992, f. & cert. ef. 5-13-92; EOSC 2-1992, f. & cert. ef. 8-24-92; EOSC 4-1993, f. & cert. ef. 8-2-93; EOSC 4-1994, f. & cert. ef. 7-25-94; EOSC 1-1996, f. & cert. ef. 8-15-96; EOU 1-2001, f. & cert. ef. 9-28-01; EOU 1-2003, f. & cert. ef. 7-31-03; EOU 1-2005, f. & cert. ef. 5-16-05; EOU 1-2006, f. & cert. ef. 4-14-06; EOU 1-2007, f. & cert. ef. 5-14-07; EOU 4-2007(Temp), f. & cert. ef. 8-15-07 thru 1-15-08; Administrative Correction 1-24-08; EOU 1-2008, f. & cert. ef. 3-14-08; EOU 5-2008, f. & cert. ef. 8-15-08; EOU 1-2009, f. & cert. ef. 3-12-09

ADMINISTRATIVE RULES

Parks and Recreation Department Chapter 736

Rule Caption: Amendment to OAR 736-018-0045 for adoption of the Luckiamute State natural Area master Plan.

Adm. Order No.: PRD 3-2009

Filed with Sec. of State: 3-12-2009

Certified to be Effective: 4-1-09

Notice Publication Date: 3-1-2009

Rules Amended: 736-018-0045

Subject: ORS 390.180(1) authorizes the Oregon Parks and Recreation Department to adopt administrative rules that establish a master plan for each state park. Accordingly, OPRD is adopting a new master plan for Luckiamute State Natural Area. 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 a new master plan as an Oregon Administrative Rule.

The Master Plan responds to the most current information on park resource conditions and public recreation needs as they pertain to this park. The plan was formulated through OPRD's mandated master planning process which included meetings and written comment opportunities involving the general public, park neighbors, an advisory committee, recreation user groups, natural resource interest groups, 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 effect 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) Champoege 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 Park; Paradise Point Ocean Wayside, renamed as Paradise Point State Recreation Site; Port Orford Heads Wayside, renamed as Port Orford Heads

State Park; Humbug Mountain State Park; Otter Point Wayside, renamed as Otter Point State Recreation Site; Cape Sebastian State Park, renamed as Cape Sebastian State Scenic Corridor; Otter Point Wayside; Port Orford Cedar Forest Wayside, renamed as Port Orford Cedar Forest State Scenic Corridor; and Buena Vista Ocean Wayside; Pistol River State Scenic Viewpoint; Samuel H. Boardman State Scenic Corridor; Harris Beach State Recreation Area; McVay State Recreation Site; Winchuck State Recreation Site; Crissey Field State Recreation Site; Alfred A. Loeb State Park;

(o) Hat Rock State Park Master Plan, renamed as Hat Rock State Recreation Area;

(p) Deschutes County State Parks, including: La Pine and Tumalo State Parks; Cline Falls, renamed as Cline Falls State Scenic Viewpoint; and Pilot Butte, renamed as Pilot Butte State Scenic Viewpoint;

(q) Sunset Bay District Parks, including: Umpqua Lighthouse State Park (this chapter was replaced by the Umpqua Lighthouse State Park Master Plan, 2004); William M. Tugman State Park; Yoakam Point State Park, renamed as Yoakam Point State Natural Site; Sunset Bay State Park; Shore Acres State Park; and Cape Arago State Park;

(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; and

(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.

(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.

ADMINISTRATIVE RULES

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

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

Rule Caption: Establishes financial records retention periods in the state general records retention schedule.

Adm. Order No.: OSA 1-2009

Filed with Sec. of State: 2-19-2009

Certified to be Effective: 2-19-09

Notice Publication Date: 2-1-2009

Rules Amended: 166-300-0025

Subject: Brings state agency general records retention schedule into compliance with Automated Clearing House and National Automated Clearing House Association rules with regard to financial records retention.

Rules Coordinator: Julie Yamaka—(503) 378-5199

166-300-0025

Financial Records

(1) **Account Reconciliation Records** Records document the reconciliation of agency funds and accounts such as cash accounts with the State Treasury or other subsystems, capital asset to capital expenditures, or federal revenue to federal expenditures. Records may include printouts, worksheets, reports, schedules, and other supporting documentation. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: Retain 6 years, destroy).

(2) **Account Transfer Records** Records document the authorized movement and transfer of funds between various accounting structures, such as the Statewide Financial Management Application (SFMA) Program Cost Account (PCA), Index, Program, Organizational Structures, and Treasury accounts. Records may include journal vouchers and transfer requests. Records include those produced by SFMA, the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: (a) Retain records documenting transfers between statutory funds: 75 years, destroy; (b) Retain all other account transfer records: 6 years, destroy).

(3) **Accounting Structure Organizational Hierarchy Records** Records document the program and/or organization of an agency's accounting structure. The accounting structure includes items such as comptroller objects, agency objects, fund structure, and general ledger account and other codes and profiles. Records include those produced by the Statewide Financial Management Application (SFMA) the Department of Administrative Services Data Mart, and any other subsystems used by the agency. Records may include SFMA profile listings showing accounting structure and fund split tables. (Retention: Retain 6 years, destroy).

(4) **Accounting System Input Documents and Listings, and Agency Control Reports Records** document transactions or changes entered into the accounting system and other subsystems. They are used to control accuracy of data entry and to verify data input and batch control. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. Records include input documents, batch control reports, hand-posted spreadsheets, control reports, and memoranda. (Retention: Retain 4 years, destroy).

(5) **Accounts Payable Reports Records** document current outstanding liabilities and provide a record of payments of bills by the agency. They may also serve as a subsidiary ledger. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: (a) Retain SFMA requestable reports: 6 years, destroy; (b) Retain all other accounts payable records: 6 years, destroy).

(6) **Accounts Receivable Reports** Records document billings and collections and provide a record of money owed to the agency. Serves as a subsidiary ledger of original entry/input and records amounts received from debtors for goods and/or services. Aging reports are used to monitor accounts that are outstanding and overdue. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: (a) Retain monthly accounts receivable reports and SFMA requestable reports: 6 years, destroy; (b) Retain all

other accounts receivable records: 6 years after collected or deemed uncollectible, destroy).

(7) **Annual Financial Reports** Records document the agency's annual financial condition and results of operation as of June 30 using trial balance data. These reports are used as a reference by the Secretary of State, Audits Division and included in the Comprehensive Annual Financial Report (CAFR) produced by the Department of Administrative Services. Records may include transmittal cover sheet, organization and function, combined balance sheet, combined statement of revenues, expenditures, changes in fund balance, notes to the financial statement, and exhibits. Exhibits may include a working trial balance by fund type, adjustments to accounting data, cash flow analysis, and other documents supporting statement amounts and notes. The Department of Administrative Services maintains the statewide record copy of the CAFR. (Retention: Retain 10 years, destroy).

(8) **Audit Reports Records** document an examination of the agency's fiscal condition, internal control and compliance policies and procedures, performance or other financial related audits by the Secretary of State, Audits Division; internal auditors; or independent auditors. Records include audit reports, supporting documentation, agency comments, and correspondence. The Secretary of State, Audits Division maintains the statewide record copy of their audits. SEE ALSO Internal Audit Reports in this section. (Retention: (a) Retain grant fund audit reports: 5 years or according to the terms (if greater than 5 years) specified in the grant, destroy; (b) Retain all other audit reports: 5 years, destroy).

(9) **Bank Statements Records** document the current status and transaction activity of agency funds held at a bank or at the State Treasury. Records may include bank/Treasury statements and support reconciliation records, validated deposit slips and/or paid check/warrant copies. (Retention: Retain 6 years, destroy).

(10) **Budget Allotment Reports** Records document the agency's containment within quarterly budget authorizations using expenditure, encumbrance, and budget data. Records are used to develop and monitor apportioned fiscal distributions. (Retention: Retain present and previous biennium, destroy).

(11) **Budget Preparation Records** Records document the agency's activity to plan, develop, estimate and propose biennial budget requests. Records may include budget requests, spreadsheets, expenditure projection work papers, preliminary division/section budget proposals, budget development schedules, allotment reports, decision packages, spending plans, funding formula factor analysis, compensation plan proposals, contingency/deviation plans, performance measures, fiscal impact analysis, and correspondence. Records may also include monthly trial balance summaries, expenditure detail reports, revenue detail reports, monthly encumbrance registers, and expenditure and revenue registers. (Retention: Retain present and previous biennium, destroy).

(12) **Cash Receipt Records** Records document tabulated and keyed-in transactions for cash received by the agency. Records may include cash register tapes or equivalent, copies of receipts, and batch sheets. SEE ALSO Receipts and Receipt Registers in this section. (Retention: Retain 6 years, destroy).

(13) **Check Cancellation Request Records** Records document the request to cancel checks issued and to request the issuance of duplicates. Records may include request memoranda and check photocopies. (Retention: Retain 6 years, destroy).

(14) **Check Registers Records** document an original entry listing which logs checks issued by the agency. Information includes date, check number, payee, and amount. (Retention: Retain 6 years, destroy).

(15) **Checks Records** document redeemed checks written on agency accounts. Records may include redeemed, void and canceled checks, and supporting documentation. (Retention: Retain 6 years, destroy).

(16) **Competitive Bid Records** Records document the evaluation and award of bids to vendors and/or agencies and provides evidence of accepted and rejected bids. Records may include but are not limited to requests for proposals, bids, and information; bid and quote lists; notices of bid opening and award; comparison summaries; spreadsheets; tabulation worksheets; bid advertising records; tally sheets; bid specifications; and vendor correspondence. SEE ALSO Purchasing Records and Vendor Reports in this section. (Retention: Retain 6 years after bid awarded or canceled, destroy).

(17) **Credit Card Records** Records document the application and approval to use state-issued credit cards and purchases made with these cards. Records may include but are not limited to credit card applications, approvals, credit card transaction logs, credit card security and checkout records, monthly credit card statements, and purchasing documentation.

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(Retention: (a) Retain application and approvals: 3 years after card cancelled, revoked, or denied, destroy; (b) Retain all other credit card records: 6 years, destroy).

(18) **Debit/Credit Advices Records** document the receipt of and/or verification of special deposits or withdrawals and the adjustment of dollar amounts in funds because of recording errors or fund transfers between accounts. Information includes account number, debit/credit amount, authorization, and justification. (Retention: Retain 6 years, destroy).

(19) **Deposit Slips Records** document monies deposited in banks at privately operated institutions and the State Treasury. Records are used to reconcile and balance an agency's State Treasury or bank accounts. Information may include date and amount deposited. (Retention: Retain 6 years, destroy).

(20) **Emergency Board Request Records** Records document the agency's requests to the Legislative Emergency Board for additional funds or authority to spend funds between legislative sessions. Records may include but are not limited to requests, schedules and agendas, exhibits, organization charts, testimony summaries, fiscal analysis, legislative progress reports, revenue projections, reclassification plans, presentation drafts, performance measures, other exhibits, and correspondence. (Retention: Retain present and previous biennium, destroy).

(21) **Encumbrance Registers Records** document a listing of outstanding encumbrances (financial obligations), purchase commitments, and vouchers written to liquidate or reduce encumbrances. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: Retain 3 years, destroy).

(22) **Expenditure and Revenue Reports** Records summarize expenditures, revenue, encumbrances, and budgetary data, and are used to monitor and control expenditures in accordance with Legislatively Approved Budgets. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: (a) Retain monthly expenditure and revenue 6 years, destroy; (b) Retain SFMA expenditure and revenue projection reports: until superseded or obsolete, destroy; (c) Retain all other expenditure and revenue reports: 2 years, destroy).

(23) **General Ledger Transaction Reports** Records document all fiscal transactions of the agency for each month. Data is used to prepare an agency's financial statements. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. The Department of Administrative Services, Statewide Financial Management Services section maintains the statewide record copy of the General Ledger. (Retention: Retain 6 years, destroy).

(24) **Grant Records Records** document the application, evaluation, awarding, administration, monitoring, and status of grants in which the agency is the recipient, grantor, allocator, or administrator. Grants may be awarded from federal or state government, or other public or private funding sources. Records may include but are not limited to applications including project proposals and narratives, summaries, objectives, activities, budgets, exhibits, and award notification; grant evaluation records and recommendations concerning grant applications; grant administration records including progress reports, budgets, project objectives, proposals, and summaries; records documenting allocation of funds; contracts; records monitoring project plans and measuring achievement and performance; equipment inventories; financial reports, accounting records, audit reports, expenditure reports, and related correspondence and documentation. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: (a) Retain grant records, including SFMA requestable reports: 5 years after final or annual expenditure report accepted, destroy; (b) Retain unsuccessful grant applications: 3 years after rejection or withdrawal, destroy; (c) Retain capital asset records: 3 years after disposition of assets, destroy).

(25) **Internal Audit Reports Records** document financial and performance audits performed on an annual or project basis by agency-employed internal auditors or contracted auditors. Audits investigate potential problem areas and internal fiscal control structures and may include recommendations for improvement in agency systems. Records include audit reports, supporting documentation, agency comments, and correspondence. SEE ALSO Audit Reports in this section. (Retention: Retain 5 years, destroy).

(26) **Invoice Registers Records** document a listing of who was billed by the agency for services rendered and provide a detailed breakdown of

individual invoice billings. Information includes invoice number, amount, date, item or service billed for, and billed party name. (Retention: Retain 6 years, destroy).

(27) **Invoices Records** document goods and services billed by the agency. Information may include invoice number, date, transaction description, identification of parties involved, prices, and terms of sale. (Retention: Retain 6 years, destroy).

(28) **Journal Entry Registers Records** document an account record of original entry/input and provides a record of debit and credit journal transactions. Information includes date, account number, action, and debit/credit amount. (Retention: Retain 6 years, destroy).

(29) **Legislatively Adopted Budgets Records** document the comprehensive financial plan for the agency's biennial operating budget that was approved by the legislature and forms a basis for appropriations. Records may include supplemental reports dealing with affirmative action, productivity, performance measures, improvement in programs, information systems, and other subjects. The Department of Administrative Services, Budget and Management section maintains the statewide record copies of Legislatively Adopted Budgets. (Retention: Retain 10 years, destroy).

(30) **Oregon State Treasury Reports** Records document reports generated by the Oregon State Treasury and are used to update an agency on account and fund status and activity, investment balances and transactions, and the agency's activities in issuing debt. Records include banking, account, and other finance reports, investment reports, and debt management reports. (Retention: (a) Retain daily account reports: until superseded by monthly reports which summarize daily activity, destroy; (b) Retain debt management reports: 6 years after indebtedness is retired, whether by maturing or being called, destroy; (c) Retain all other State Treasury reports: 6 years, destroy).

(31) **Petty Cash Fund Records** Records document petty cash activity for the agency. Records include requests and authorizations to establish petty cash funds, ledgers, statements, requests for disbursements, copies of receipts and invoices. (Retention: Retain 6 years, destroy).

(32) **Purchasing Records** Records document the purchase of goods and services by the agency. Records may include purchase orders and requests, purchase authorizations, requisitions, contract release orders, price agreements, material/cost specifications, copy center/printing orders, and correspondence. SEE ALSO Competitive Bid Records and Vendor Reports in this section. (Retention: Retain 6 years, destroy).

(33) **Receipt Registers Records** document a detailed list of processed cash receipt transactions and is used to verify receipts, estimate revenue, and reconcile accounts. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: Retain 6 years, destroy).

(34) **Receipts Records** document acknowledgment of payment and/or delivery. Information includes date, amount, signature, items received or delivered, and receipt number. SEE ALSO Cash Receipt Records in this section. (Retention: Retain 6 years, destroy).

(35) **Travel Expense Records** Records document reimbursement claims made by employees for travel and related expenses. Records may include travel expense detail sheets, supporting documentation, and correspondence. (Retention: Retain 6 years, destroy).

(36) **Trial Balance Reports** Records document a summary of general ledger accounts and shows the agency's current financial position. Reports are used to prepare the agency's financial statements. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: Retain 6 years, destroy).

(37) **Vendor Reports Records** document vendor data, which is used to select vendors, and to track voucher and purchase order status. Records include those produced by the Statewide Financial Management Application (SFMA), Data Mart, and any other subsystems used by the agency. SEE ALSO Purchasing Records in this section. (Retention: (a) Retain annual vendor reports: 6 years, destroy; (b) Retain all other vendor reports: until superseded or obsolete, destroy).

(38) **Voucher Registers Records** document a book of original entry and provides a listing of vouchered disbursement transactions. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other subsystems used by the agency. (Retention: Retain 6 years, destroy).

(39) **Vouchers Records** document individually authorized expenditure transactions. Records provide the documentation and backup for all

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payments to vendors. Voucher files may contain invoices, receipts, travel expense detail sheets, purchase requests, purchase orders, cancelled checks, other supporting documents, and correspondence. Records include those produced by the Statewide Financial Management Application (SFMA), the Department of Administrative Services Data Mart, and any other sub-systems used by the agency. (Retention: Retain 6 years, destroy).

(40) **Warrant Cancellation Request Records** Records document the request to cancel warrants issued on vouchers, and to request the issue of duplicates. If the warrant is physically available, it is cancelled and re-issued if necessary. However, if the warrant is not physically present, an affidavit is required. Records include request memoranda, affidavits, photocopies and memoranda from the Department of Administrative Services confirming re-issuance. (Retention: Retain 6 years, destroy).

(41) **Warrant Registers Records** document a listing of warrants issued by an agency. Information includes date, payee, warrant number, and amount. (Retention: Retain 6 years, destroy).

(42) **Warrants Records** document the promise to pay and the authorization for claim payments. Records may include redeemed, void cancelled, and undeliverable warrants, and supporting documentation. (Retention: (a) Retain undeliverable warrant: until expired, destroy (b) Retain all other warrants: 6 years, destroy).

(43) **1099-Miscellaneous Forms Records** document the agency's responsibility for ensuring vendor payments are accurate. If vendor information is incorrect, the agency prepares a '1099-Misc. Change Request' and forwards it to the Statewide Financial Management Services section for correct to the 1099-Misc. form. The Statewide Financial Management Application (SFMA) tracks vendor payments and produces 1099-Misc. forms for federal reporting. (Retention: Retain 6 years, destroy).

(44) **Check Conversion Records** document checks received from customers that are electronically deposited after being imaged and converted to an Automated Clearing House (ACH) transaction or Image Replacement Document (IRD) (Retention: (a) Retain original paper instrument 120 days, destroy (b) Retain ACH transaction or IRD 6 years, destroy).

(45) **Credit and Debit Receipts** agency's copy of credit or debit card receipt documenting payment received by agency. Records include customer's name and account information (Retention: Retain 36 months after transaction, destroy).

Stat. Auth.: ORS 192 & 357
Stats. Implemented: ORS 192.005-192.170 & 357.805-357.895
Hist.: OSA 3-1995, f. & cert. ef. 5-25-95, OSA 3-1996, f. 4-9-96, cert. ef. 4-15-96; OSA 9-1998, f. & cert. ef. 12-30-98; OSA 1-1999, f. & cert. ef. 2-4-99, Renumbered from 166-305-0010; OSA 5-2002, f. & cert. ef. 10-14-02; OSA 1-2005, f. & cert. ef. 2-28-05; OSA 1-2009, f. & cert. ef. 2-19-09

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

Rule Caption: Adopts Candidate Filing Deadlines for Oregon Trail School District Board Zone 4.

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

Filed with Sec. of State: 2-18-2009

Certified to be Effective: 2-18-09 thru 3-20-09

Notice Publication Date:

Rules Adopted: 165-020-2022

Subject: The Oregon Trail School District, Zone 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 deadlines to accept candidate filings and voters' pamphlet statement filings.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-020-2022

Extended Deadlines for Oregon Trail School Board Zone 4

Due to a vacancy in the Oregon Trail School Board Zone 4, the following deadlines apply:

(1) February 25, 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 Clackamas County Clerk.

(3) March 23, 2009, last date to file candidate statements for inclusion in county voters' pamphlet.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 255.245, 332.030
Hist.: ELECT 1-2009(Temp), f. & cert. ef. 2-18-09 thru 3-20-09

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Rule Caption: Adopts Candidate Filing Deadlines for Klamath Emergency Communications District, Zone 5.

Adm. Order No.: ELECT 2-2009(Temp)

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

Certified to be Effective: 3-3-09 thru 3-20-09

Notice Publication Date:

Rules Adopted: 165-020-2023

Subject: The Klamath County Emergency Communications District, Zone 5, has a vacancy in office that occurred after the deadline for notifying candidates of vacancies in office, but before the 62nd day before 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

165-020-2023

Extended Deadlines for Klamath County Emergency Communications District, Zone 5

Due to a vacancy in the Klamath County Emergency Communications District, Zone 5 the following deadlines apply:

(1) March 6, 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 Klamath County Clerk.

Stat. Auth.: ORS 246.150
Stats. Implemented: ORS 255.245 & 332.030
Hist.: ELECT 2-2009(Temp), f. & cert. ef. 3-3-09 thru 3-20-09

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Rule Caption: Adopts Candidate Filing Deadlines for Lakeside Rural Fire Protection District, Position 1.

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

Filed with Sec. of State: 3-5-2009

Certified to be Effective: 3-5-09 thru 3-20-09

Notice Publication Date:

Rules Adopted: 165-020-2024

Subject: The Lakeside Rural Fire Protection 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

165-020-2024

Extended Deadlines for Lakeside Rural Fire Protection District, Position 1

Due to a vacancy in the Lakeside Rural Fire Protection District, Position 1 the following deadlines apply:

(1) March 7, 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 Coos County Clerk.

Stat. Auth.: ORS 246.150
Stats. Implemented: ORS 255.245 & 332.030
Hist.: ELECT 3-2009(Temp), f. & cert. ef. 3-5-09 thru 3-20-09

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**Teacher Standards and Practices Commission
Chapter 584**

Rule Caption: Amends 584-036-0055 Fees.

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

Filed with Sec. of State: 2-27-2009

Certified to be Effective: 2-27-09 thru 8-25-09

Notice Publication Date:

Rules Amended: 584-036-0055

Subject: 584-03-0055: Fees — Amends policy of imposing late fees when applicants seek to reinstate expired licenses. Amendments extend the "90-day rule" application period to allow the rule's application to be more equitable to applicants.

Rules Coordinator: Victoria Chamberlain—(503) 378-6813

ADMINISTRATIVE RULES

584-036-0055

Fees

(1) All fees are assessed for evaluation of the application and are not refundable.

(2) If the applicant is eligible for the license, registration, or certificate for which application is made and the license, registration or certificate is issued within 90 days of original application, the commission shall issue the license, without additional charge with the following exceptions:

(a) If the commission determines the application is incomplete and fails to notify the applicant in less than one calendar week, the commission will extend the 90 days by an amount equal to the number of days the commission delayed notifying the applicant of incomplete items.

(b) For renewable licenses with a 120 day grace period, the original application fee remains good throughout the 120 days.

(c) If the commission fails to issue the license within 90 days due to commission backlog, the fee shall remain good until the license is issued or 120 days, whichever is less.

(3) The fee for evaluating an initial application:

(a) Initial I License (3 years): \$100;

(b) Initial I Teaching License (18 months): \$50;

(c) Initial II License (3 years): \$100;

(d) Basic License (3 years): \$100;

(e) Continuing License (5 years): \$100;

(f) Standard License (5 years): \$100;

(g) Restricted Transitional License (3 years): \$100;

(h) Limited License (3 years): \$100;

(i) American Indian Language License (3 years): \$100;

(j) Substitute License (3 years): \$100;

(k) Restricted Substitute License (3 years, 60 days per year): \$100;

(l) Exceptional Administrator License (3 years): \$100;

(m) Three-Year Career and Technical Education License (3 years): \$100;

(n) Five-Year Career and Technical Education License (5 years): \$100;

(o) NCLB Alternative Route License (3 years): \$100;

(p) Emergency Teaching License (term at discretion of Executive Director): \$100;

(q) School Nurse Certification (3 years): \$100.

(4) The fee for evaluating all applications for a first Oregon license based on completion of an out-of-state educator preparation program or an out of state license is \$120 regardless of the license issued.

(5) The fee for registration of a charter school teacher or administrator is \$75 which includes the fee for required criminal records and fingerprinting costs.

(6) The fee for evaluating an application for renewal of any license or certification is \$100.

(7) The fee for each of the following circumstances is \$20:

(a) A duplicate license, registration, or certificate for any reason;

(b) An approved extension to a provisional license; and

(c) Adding a district to an existing Restricted Teaching or Substitute License.

(8) The fee for evaluating an application to add one or more endorsements or authorization levels to a currently valid license is \$100. No additional fee is required to add an endorsement or authorization in conjunction with an application for renewal or reinstatement of a license.

(9) The fee to evaluate an application for reinstatement of an expired license or certificate is \$100 plus a late application fee of \$25 for each month or portion of a month that the license or certificate has been expired to a maximum of \$200 total.

(a) The reinstatement fee does not include any separate fingerprint fee that may be required if more than three years has elapsed from the date of the expired license, or school nurse certification.

(b) Late fees may only be imposed one time following the expiration of a license or school nurse certificate. If the applicant does not initially qualify for the license or certificate the applicant is seeking to reinstate, no additional late fees will be imposed upon application for subsequent licensures so long as the applicant has a current active license, registration or certification in effect at the time of application.

(10) The fee for evaluating an application for reinstatement of a suspended license or certificate is \$100 in addition to the \$100 application fee for a total of \$200. The fee does not include any separate fingerprint fee that may be required if more than three years has elapsed from the date of the expired license or certificate.

(11) The fee for evaluating an application for reinstatement of a suspended charter school registration is \$50 and does not include any separate

fingerprint fee that may be required if more than three years has elapsed from the date of the expired registration.

(12) The fee for evaluating an application for reinstatement of a revoked license or certificate is \$150 in addition to the \$100 application fee for a total of \$250. The reinstatement fee does not include any separate fingerprint fee that may be required if more than three years has elapsed from the date of the expired license, or school nurse certificate.

(13) The fee for evaluating an application for reinstatement of a revoked charter school registration is \$150 in addition to the \$25 application fee for a total of \$175. The reinstatement fee does not include any separate fingerprint fee that may be required if more than three years has elapsed from the date of the expired charter school registration.

(14) Forfeiture for a check which the applicant's bank will not honor is \$25, unrelated to any evaluation fees. The total amount due shall be paid in cash, credit, or Money Order at the Commission's office.

(15) The fee for evaluating licensure applications submitted on behalf of teachers participating in exchange programs or on Congressional appointment from foreign countries is \$100.

(16) The fee for alternative assessment in lieu of the test for licensure endorsement is \$100.

(17) The fee for expedited service for an emergency or other license, registration or certificate is \$99 plus the fee for the license registration or certificate application as defined in this administrative rule.

(18) The fee to evaluate an application for reinstatement of an expired charter school registration is \$25 plus a late application fee of \$25 for each month or portion of a month that the registration has been expired to a maximum of \$125 total. The reinstatement fee does not include any separate fingerprint fee that may be required if more than three years has elapsed from the date of the expired charter school registration.

(19) The fee for renewal of a charter school registration is \$25.

(20) The fee for a criminal records check including fingerprinting is \$62.

(21) The fee for a "highly qualified teacher" evaluation is \$50.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200, 342.400 & 342.985

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 2-1979, f. 8-21-79, ef. 1-1-80; TS 1-1982, f. & ef. 1-5-82; TS 3-1983, f. & ef. 5-16-83; TS 4-1983, f. 5-17-83, ef. 7-1-83; TS 6-1984, f. 12-27-84, ef. 1-15-85; TS 4-1985, f. 10-4-85, ef. 1-1-86; TS 7-1986, f. 10-15-86, ef. 1-15-87; TS 5-1988, f. 10-6-88, cert. ef. 1-15-89; TS 7-1989, f. & cert. ef. 12-13-89; TS 1-1992, f. & cert. ef. 1-15-92; TS 4-1994, f. 7-19-94, cert. ef. 10-15-94; TS 5-1994, f. 9-29-95, cert. ef. 10-15-94; TS 4-1997, f. 9-25-97, cert. ef. 10-4-97; TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 2-2000, f. & cert. ef. 5-15-00; TSPC 1-2003, f. & cert. ef. 1-13-03; TSPC 6-2004, f. & cert. ef. 8-25-04; TSPC 6-2005(Temp), f. & cert. ef. 8-16-05 thru 1-30-06; TSPC 9-2005, f. & cert. ef. 11-15-05; TSPC 11-2005(Temp), f. 11-18-05, cert. ef. 1-1-06 thru 6-29-06; TSPC 5-2006, f. & cert. ef. 2-10-06; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 5-2008, f. & cert. ef. 6-13-08; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 1-2009(Temp), f. & cert. ef. 2-27-09 thru 8-25-09

Rule Caption: Amends Initial, Continuing, Substitute, Restricted Substitute, Emergency licenses and Alternative Assessment requirements.

Adm. Order No.: TSPC 2-2009

Filed with Sec. of State: 3-12-2009

Certified to be Effective: 3-12-09

Notice Publication Date: 12-1-2008

Rules Adopted: 584-036-0083, 584-050-0100, 584-060-0182

Rules Amended: 584-036-0010, 584-036-0015, 584-036-0080, 584-050-0040, 584-052-0027, 584-052-0030, 584-052-0031, 584-052-0032, 584-052-0033, 584-060-0171, 584-060-0181, 584-060-0210, 584-100-0006

Rules Repealed: 584-060-0040, 584-060-0091

Rules Ren. & Amend: 584-050-0004 to 584-036-0095, 584-050-0042 to 584-036-0105, 584-050-0043 to 584-036-0110

Subject: (1) Clarifies special assignment areas such as no-endorsement area, coaching assignments, alternative education, private schools and charter schools.

(2) Separates Restricted Substitute License from Substitute Teaching License rule and specifies requirements.

(3) Removes language that implies the basic or standard license is available to new applicants and removes portions of the rules that apply to ALL Oregon teaching licenses.

(4) Eliminates references to test scores on the Web; accepts out-of-state tests in lieu of passing Oregon adopted tests; allows copy of score reports as proof of test passage, updates names of testing com-

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panies and requires out of states who have not passed a test to pass a test.

(5) Adds Initial and Continuing license to scope of 584-052-0027 and eliminates language related to waiving Basic Skills test.

(6) Removes language that refers to "pilot" in alternative assessment rules; changes subject matter test from one to two times without passing with one no-pass required within the last calendar year.

(7) Removes reference of alternative assessment as a rigorous state test.

(8) Clarifies preparation required in 584-060-0171 and requires basic skills or district statement needed upon first renewal; adds recency as a requirement for renewal.

(9) Specifies requirements for the application of an Emergency Teaching License and clarifies language.

(10) Clarifies definitions in 584-100-0006.

(11) Amends & renumbers rules currently in Division 50 to Division 36 (rules for licensure).

(12) General housekeeping clarifications, amends statutory citations and repeals redundant and obsolete rules.

Rules Coordinator: Victoria Chamberlain—(503) 378-6813

584-036-0010

Personnel Required to Hold Licenses, Certificates or Charter School Registrations

(1) Educators who are employed by public schools and who are compensated for their services from public funds must hold licenses, certificates or registrations issued by the Commission except as provided in section (2) of this rule. Licenses, certificates or registrations are required for:

- (a) Teachers;
- (b) School counselors;
- (c) School psychologists;
- (d) Supervisors;
- (e) Career and technical education directors;
- (f) Principals;
- (g) Program directors; and
- (h) District administrators who evaluate licensed personnel;
- (i) Superintendents;
- (j) Athletic coaches who coach during the school day;
- (k) School nurses (certificates);
- (l) Substitute teachers;
- (m) Charter school teachers (registrations);
- (n) Charter school administrators (registrations); and
- (o) Other personnel performing the above duties regardless of title.

(2) School districts may provide related services for children identified as requiring special education services by employing a public agency, such as a community mental health program, or by employing professionals who are licensed within their own specialties by the State of Oregon. These personnel are not required to hold licensure from the Commission. See also ORS 343.221.

(3) Notwithstanding ORS 342.173, community college faculty who provide instruction in cooperation with a school district for academic career and technical education, school-to-work or other work-related programs under ORS chapter 329 shall not be required to have teaching licenses. See also ORS 341.535. Both full-time and part-time faculty employed under this section are subject to criminal history records checks by the Oregon State Police and the Federal Bureau of Investigation. See also ORS 326.603 and OAR 581-022-1730.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.200, 342.400 & 342.985

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 2-1979, f. 8-21-79, ef. 1-1-80; TS 1-1982, f. & ef. 1-5-82; TS 2-1986, f. 4-18-86, cert. ef. 1-15-88; TS 1-1988, f. 1-14-88, cert. ef. 1-15-88; TS 1-1992, f. & cert. ef. 1-15-92; TS 4-1995, f. & cert. ef. 11-9-95; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 2-2009, f. & cert. ef. 3-12-09

584-036-0015

Basic and Standard Teaching Licenses with Authorizations and Endorsements

(1) A Basic Teaching License issued under rules adopted prior to 1999 is valid for three years and may be renewed under conditions set forth in division 048. The endorsements are valid only for departmental assignments in elementary, middle, or junior high schools through grade nine if requirements leading to standard licensure are not met. To retain authorization for teaching in a high school, holders of subject matter endorsements must meet renewal requirements leading to standard licensure (See, Division 40 for further information).

(2) A Standard Teaching License issued under rules adopted prior to 1999 is valid for five years and may be renewed. A Standard Teaching License is valid for the same assignments as a Basic Teaching License with similar authorizations and endorsements. In addition, the Standard Teaching License authorizes assignments in grades five through twelve or in preprimary through grade twelve for which a renewed Basic Teaching License may not provide authorization. These authorizations and endorsements are explained in the following sections.

(3) Grade level authorizations are stated on a Basic or Standard Teaching License as follows:

- (a) Preprimary through nine;
- (b) Preprimary through twelve;
- (c) Grades five through nine in an elementary, middle, or junior high school; or
- (d) Grades five through twelve.

(4) Assignments: Assignments which are permitted on Basic and Standard Teaching Licenses are stated as endorsements as follows:

(a) Elementary (014): An elementary subject matter endorsement issued before January 14, 1987 is valid for the self-contained classroom and for departmental assignments in preprimary through grade nine of an elementary, middle, or junior high school except assignments of .51 percent or more in:

- (A) Art;
- (B) Library media;
- (C) Foreign language;
- (D) Health;
- (E) Home economics;
- (F) Technology education;
- (G) Music;
- (H) Physical education;
- (I) Reading;
- (J) ESOL; and
- (K) School Counseling.

(b) Elementary (016): An elementary subject matter endorsement issued after January 14, 1987 is valid for the self-contained classroom and for departmental assignments in preprimary through grade nine of an elementary, middle, or junior high school except assignments of .51 percent or more in:

- (A) Art;
- (B) Library media;
- (C) Foreign language;
- (D) Health;
- (E) Home economics;
- (F) Technology education;
- (G) Mathematics;
- (H) Music;
- (I) Physical education;
- (J) Reading;
- (K) ESOL; and
- (L) School Counseling.

(c) The elementary endorsement is also valid for assignments in the high school in which the holder is teaching elementary basic skills as it relates to more than one of the following high school subject areas:

- (A) Language arts;
- (B) Social studies;
- (C) Mathematics; or
- (D) Reading.

(d) Middle School endorsements: Middle school endorsements in language arts, social studies or science may be added to a Basic or Standard teaching license. These endorsements are valid to teach the subject in grades 5 through 9 in an elementary, middle or junior high school only.

(e) Subject matter endorsements valid in preprimary through 12: The following subject matter endorsements are valid for teaching in the subject area in grades preprimary through grade twelve:

- (A) Art;
- (B) ESOL;
- (C) Foreign language;
- (D) Health;
- (E) Home economics;
- (F) Technology education;
- (G) Library media;
- (H) Mathematics;
- (I) Music;
- (J) Physical education; or
- (K) Reading.

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(5) Special Education Assignments: The appropriate special education endorsement is required for a special education assignment in a state-reimbursed or state-approved program. Special education endorsements are valid in preprimary through grade twelve, but are limited to teaching in the special education endorsement area only.

(a) The Exceptional Learner I and II endorsements are valid for teaching exceptional learners and severe exceptional needs learners, except hearing impaired, speech impaired, and visually impaired, which require the specific endorsement.

(b) The Severe Exceptional Needs Learner endorsement is valid for teaching those defined in OAR 584-036-0005.

(6) Basic special education license must qualify for standard: Upon expiration of the second Basic Teaching License, the holder of a special education endorsement must qualify for a Standard Teaching License with a standard special education endorsement. The severe exceptional needs learner endorsement is an exception to this rule; it may be renewed without completion of a Standard Teaching License. (See OAR 584-048-0030 regarding renewal of the severe exceptional needs learner endorsement.)

(7) Career and Technical Education endorsements: A career and technical education endorsement is valid for teaching in career and technical education programs approved by the Oregon Department of Education and as noted on the license. Any career and technical education endorsement is valid for assignments in diversified occupations or as work experience coordinators. (See OAR 584 division 42 for Career and Technical Education Licenses.)

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 200, 342.400 & 342.985

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 2-1979, f. 8-21-79, ef. 1-1-80; TS 2-1981(Temp), f. & ef. 8-17-81; TS 1-1982, f. & ef. 1-5-82; TS 6-1982, f. & ef. 12-9-82; TS 3-1983, f. & ef. 5-16-83; TS 6-1984, f. 12-27-84, ef. 1-15-85; TS 7-1986, f. 10-15-86, ef. 1-15-87; TS 1-1987, f. & ef. 3-3-87; TS 1-1988, f. 1-14-88, cert. ef. 1-15-88; TS 3-1988, f. & cert. ef. 4-7-88; TS 2-1989, f. & cert. ef. 2-16-89; TS 3-1989, f. & cert. ef. 7-31-89; TS 5-1989(Temp), f. & cert. ef. 10-6-89; TS 7-1989, f. & cert. ef. 12-13-89; TS 2-1990, f. 6-1-90, cert. ef. 6-14-90; TS 1-1992, f. & cert. ef. 1-15-92; TS 4-1992, f. & cert. ef. 10-1-92; TS 6-1997, f. 9-25-97, cert. ef. 1-15-01; TSPC 5-2001, f. & cert. ef. 12-13-01; TSPC 4-2005(Temp), f. & cert. ef. 5-6-05 thru 9-30-05; TSPC 7-2005, f. & cert. ef. 8-24-05; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 2-2009, f. & cert. ef. 3-12-09

584-036-0080

Licensure Tests

(1) Licensure tests are required to demonstrate subject-matter competency in endorsement areas established by the commission.

(2) Out-of-state applicants may present proof of passage of another state's subject-matter competency test under the following conditions:

(a) The area in which the test was passed is comparable to the subject-matter endorsement area adopted by the commission; and

(b) The test was administered by either Evaluation Systems of Pearson (ESP) or Education Testing Service (ETS).

(3) An applicant may present a score from a test that was used by the commission at one time but is no longer administered so long as the test was passed during the same period in which the commission had adopted the test. Passing scores for these tests are available upon request from the commission.

(4) An electronic score report submitted by the testing company administering the test at the applicant's request will be treated as an "original" score report. In all other cases, only the original score report, or an authentic facsimile will be accepted as validation of passing the required test.

(5) Other evidence documenting passage of a required test for licensure may be accepted at the executive director's discretion when exigent circumstances prohibit the educator from presenting an original score report.

(6) Basic Skills Tests: To satisfy the basic skills testing requirements, the commission will accept passing scores on the following tests:

(a) The California Basic Educator Skills Test (CBEST) — Evaluation Systems of Pearson (ESP)

(b) The Washington Educator Skills Test — Basic (WEST-B) — Evaluation Systems of Pearson (ESP);

(c) The Praxis I: Pre-Professional Skills Assessment (PPST) — Education Testing Service (ETS);

(d) See 584-036-0082 for information related to coursework in lieu of Basic Skills Tests.

(e) A doctorate degree waives the basic skills tests.

(f) The basic skills requirement may be met by a combination of any one of the testing options or coursework options offered in OAR 584-036-0082. For example: A passing test of the writing portion of the CBEST; combined with a passing score of the reading portion of the PPST; com-

combined with the approved math coursework at an approved institution would satisfy the Basic Skills requirement for licensure.

(7) Applicants may be eligible for Alternative Assessment in lieu of the subject-matter tests. Alternative Assessment is only allowed for waiver of subject-matter tests required for specific licenses or endorsements. (See OAR 584-052-0030 to 584-052-0033 regarding Alternative Assessment. See OAR 584-036-0082 regarding Basic Skills Tests.)

(8) Applicants seeking endorsement in areas where the commission has not adopted an approved test must complete coursework requirements in Division 38 to add the endorsement to a Basic, Standard, Initial or Continuing Teaching License.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120-342.200, 342.400, 342.985

Hist.: TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 2-2009, f. & cert. ef. 3-12-09

584-036-0083

Special Assignments

(1) No Endorsement Areas: Any Basic, Standard, Initial, Limited, Continuing or Five-Year teaching license is valid for assignment in areas in which the Commission has no licensure endorsements, including but not limited to:

(a) Computer education;

(b) Personal finance;

(c) Driver's Education;

(d) Outdoor education; or

(e) Other World languages.

(2) Coaching assignments: An Oregon teaching license is required for coaching assignments that are included within the regular school day and for any class time for which graduation credit is offered.

(3) Assignments in "subjects" contained within an endorsement: Assignments in subjects which are a component of a broader endorsement (such as history, which is subsumed in the social studies endorsement) necessitate the broader endorsement or a Limited Teaching License (See OAR 584-060-0171).

(4) Teachers On Special Assignments (TOSA): Any Basic, Standard, Initial or Continuing teaching license is valid for an assignment involving leadership responsibilities, such as planning and development of curriculum, organization and maintenance of professional growth programs for licensed personnel, or improvement of instructional practices. A TOSA is not valid if the administrative position's duties require evaluation of licensed personnel.

(5) Drivers education assignments: A teacher holding a Basic, Standard, Initial, Limited, Continuing or Five-Year Regular Teaching License and the appropriate Oregon motor vehicle operator's license may serve as a driver education instructor for the classroom portion of the course. An instructor who provides the behind-the-wheel portion of the course shall meet requirements established by the Oregon Department of Transportation.

(6) Alternative Education: Any Basic, Standard, Initial, Continuing or Five-Year teaching license is valid to teach any subject or grade level in a public alternative education program.

(7) Private Schools and Programs: A teaching license is not required to teach in a private regular or private alternative education program.

(8) Charter Schools: Any Basic, Standard, Initial or Continuing Teaching License may count as the fifty-percent portion of required licensed staffing pursuant to ORS 338.135. Licensed charter school personnel may be assigned outside the scope of the endorsements and authorizations on her or his license.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430 & 342.985

Hist.: TSPC 2-2009, f. & cert. ef. 3-12-09

584-036-0095

Procedure for Incomplete Application

(1) The Commission shall not process an initial application or an application for renewal or reinstatement that is not on the currently prescribed application form.

(2) The applicant shall be allowed 90 days after the date the application and fees are received at the TSPC office to correct any deficiencies or incomplete items in an application without incurring additional fees.

Stat. Auth.: ORS 181 & 342

Stats. Implemented: ORS 181.525, 342.120 - 342.430 & 342.985

Hist.: TSPC 4-1998, f. & cert. ef. 6-5-98; TSPC 13-2006, f. & cert. ef. 11-22-06; Renumbered from 584-050-0004, TSPC 2-2009, f. & cert. ef. 3-12-09

ADMINISTRATIVE RULES

584-36-0105

Addresses and Uses of Addresses

(1) A license, registration or certificate holder must report changes of, employment, residential and email addresses to the Commission within 90 days of such change.

(2) Changes of address may be made by telephone, in writing, or email notification. Changes of address must include the educator's name, social security number, TSPC account number and the old and new addresses the educator is changing.

(3) All licenses, registrations, certificates, correspondence or notices sent by the Commission will be sent to the last known residential address on file for the educator. The Commission is not responsible if the educator has moved and has failed to notify the Commission of any new address and that failure to notify resulted in the educator's failure to receive important licensure, registration, certification or discipline-related information.

(4) Verification of change in employment must be accompanied by any documentation from the new employer including but not limited to: notification on district letterhead from a human resources representative.

(5) The Commission may send notice for opportunity for a hearing pursuant to ORS 342.175 (notice of charges related to discipline) or ORS 183.430 (notice of denial of renewal) to an educator at the address the educator provides in writing to the Commission. The Commission may complete service of notice under ORS 342.143(4), 342.176(5) or 183.430, by mailing the notice through certified mail addressed to the educator's address on file with the Commission and such mailing will be deemed conclusive evidence of service.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430 & 342.985

Hist.: TSPC 4-1998, f. & cert. ef. 6-5-98; TSPC 13-2006, f. & cert. ef. 11-22-06; Renumbered from 584-050-0042, TSPC 2-2009, f. & cert. ef. 3-12-09

584-036-0110

Name Changes

(1) Notification of a new married or assumed name must be made within 90 days of the change and must be in writing. The notice must include the educator's old and new names, social security number, and one of the following documents:

(a) Employing superintendent's signature on the Professional Educational Experience Report Form verifying the change of name; or

(b) Photocopy of the marriage certificate or court order establishing the change of name; or

(c) Any other legal document indicating the name change including but not limited to: a driver's license, credit card, social security card; or

(d) Any other credible evidence acceptable to the Commission.

(2) If the educator reverts to a name previously established with the Commission, the notification must be in writing and must include the educator's old and new names and social security number. Documentation from a court is not required, but other evidence that the educator is using the former name must be supplied.

(3) If a new license is requested bearing the new name, an application and duplicate license fee are required.

Stat. Auth.: ORS 181 & 342

Stats. Implemented: ORS 181.525, 342.120 – 342.430 & 342.985

Hist.: TSPC 13-2006, f. & cert. ef. 11-22-06; Renumbered from 584-050-0043, TSPC 2-2009, f. & cert. ef. 3-12-09

584-050-0040

Expiration and Continued Use of Expired Licenses and Registrations

(1) A license, certificate or registration expires on the date posted on the license or registration unless an application for renewal or upgrade to the next license is received by the Commission prior to that expiration date. If a license or registration expires, reinstatement requirements, including possible late fees must be met for further licensure, certification or registration.

(2) In spite of the expiration date, a license, certificate or registration identified in subsection (1) continues to be valid for a 120 day grace period after the date of expiration for purposes of ORS 342.173 so long as the application and fee for renewal has been received by the TSPC office on or before the date of expiration.

(a) Late applications will receive a grace period that does not exceed the amount of time the educator would have had if the application and fee had been received prior to the expiration date on the license, certificate or registration.

(b) The period the license, certificate or registration was expired will show in the Commission's records. The next license, certificate or registration will be issued from the date the application and fees were received if received after the expiration date on the license, certificate or registration.

(3) Unless an application for renewal and fee are received prior to the expiration date on the license, certificate or registration subject to this rule, the educator is not eligible to continue employment under the license or registration.

(a) The educator may become eligible to work if the application and fee are received at anytime within the 120 day grace period for the remaining time on the grace period.

(b) If an application for renewal is late, an applicant may have to pay for an expedited license, certificate or renewal if there is insufficient time to issue the license, certificate or renewal before the 120 day grace period expires.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.200

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 2-1981(Temp), f. & ef. 8-17-81; TS 1-1982, f. & ef. 1-5-82; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 7-2007, f. & cert. ef. 12-14-07; TSPC 2-2009, f. & cert. ef. 3-12-09

584-050-0100

Fingerprinting of Subject Individuals

(1) Definitions:

(a) "Applicant" means a subject individual for whom fingerprint cards and other required information have been submitted to the Commission for a criminal history check and review;

(b) "Conviction" means: For purposes of criminal background checks pursuant to ORS 342.223 conducted in relation to individuals subject to such criminal background verification, the following definitions of "conviction" of a crime applies:

(A) Any adjudication in any criminal court of law, in this state or in any other jurisdiction, finding the individual committed a crime. A crime is an offense for which a sentence of imprisonment is authorized and generally refers to any felony or misdemeanor.

(B) Any adjudication in a juvenile proceeding, in this state or in any other jurisdiction, determining that the individual committed an offense, which if committed by an adult, would constitute a crime listed in ORS 342.143.

(C) Any conduct which resulted in mandatory registration reporting as a sex offender in this state or any other jurisdiction. A later court order or other action relieving the individual of the sex offender registration/reporting requirement does not effect the status of the conduct as a conviction for purposes of this rule.

(D) Any plea of guilty, no contest or nolo contendere in connection with a crime, in this state or in any other jurisdiction.

(E) A conviction exists for purposes of this rule, regardless of whether a dismissal was later entered into the record in connection with a diversion or on any sort of deferred adjudication or delayed entry of judgment.

(F) A conviction exists for purposes of this rule even if a crime was expunged or removed from the record of the individual under the laws of another jurisdiction if the crime would be ineligible under ORS 137.225 for expunction or removal from the record if the conviction had occurred in Oregon. A conviction does not exist where an Oregon court has expunged or otherwise removed a conviction from the record of an individual.

(G) A conviction does not exist, except as noted above, only where there was a judicial adjudication that the individual did not commit the offense in question, or when a conviction, adjudication or plea is overturned by an appellate court of record and no later conviction, adjudication or plea indicating the individual committed the offense in question is on the record.

(c) "Fee" means the total charges for processing each fingerprint card submitted. The fee amount shall be as specified in OAR 584-036-0055.

(d) "Information to be required" means all information requested by the Commission for processing the fingerprint application, including the following:

(A) One properly completed FBI fingerprint card;

(B) A properly completed TSPC form for fingerprint handlers;

(C) Certified court records of any arrests or criminal convictions; [See, definition of "convictions," above;] and

(D) A full explanation of the circumstances surrounding the arrest or conviction, signed and dated within the 30 days prior to submission to the commission.

(e) "Initial Issuance of a school nurse certificate" means: Any school nurse certificate if the applicant has not held an active TSPC certificate within the previous three years from the date of the application.

(f) "Initial Issuance of a charter school registration" means: Any charter school registration if the applicant has not held an active TSPC registration or license within the previous three years from the date of the application.

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(g) "Student Teaching, Practicum or Internship" means: any placement of a student admitted to a commission-approved educator preparation program in a public or private school, charter school or other educational setting.

(h) "Subject individual" means:

(A) A person who is applying for initial issuance of a license under ORS 342.120 to 342.430 as a teacher, administrator or personnel specialist if the person has not submitted to a criminal records check by the commission within the previous three years.

(B) A person who is applying for reinstatement of a license as a teacher, administrator or personnel specialist whose license has lapsed for more than three years prior to the date of application.

(C) A person who is applying for initial issuance of a certificate under ORS 342.475 as a school nurse.

(D) A person who is registering with the commission for student teaching, practicum or internship as a teacher, administrator or personnel specialist, if the person has not submitted to a criminal records check by the commission within the previous three years for student teaching, practicum or internship as a teacher, administrator or personnel specialist.

(E) A person who is applying for initial issuance of a registration as a public charter school teacher or administrator under ORS 342.125.

(2) Certified LEADS personnel will review the criminal records of subject individuals upon the submission of the required fingerprints and state forms. The Executive Director or designee will establish a record of criminal history status.

(3) The TSPC shall not provide copies of criminal records to anyone except as provided by law. The subject individual may inspect his or her personal criminal records under the supervision of properly certified LEADS (Law Enforcement Data Systems) personnel at the Commission's office in Salem.

(4) Subject individuals who refuse to consent to the criminal records check or refuse to be fingerprinted will be denied licensure, registration or certification.

(5) Subject individuals who have been convicted of any of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number, will be denied licensure, certification or registration. The crimes listed in ORS 342.143 are:

- (a) ORS 163.095 — Aggravated Murder;
- (b) ORS 163.115 — Murder;
- (c) ORS 163.185 — Assault in the First Degree;
- (d) ORS 163.235 — Kidnapping in the First Degree;
- (e) ORS 163.355 — Rape in the Third Degree;
- (f) ORS 163.365 — Rape in the Second Degree;
- (g) ORS 163.375 — Rape in the First Degree;
- (h) ORS 163.385 — Sodomy in the Third Degree;
- (i) ORS 163.395 — Sodomy in the Second Degree;
- (j) ORS 163.405 — Sodomy in the First Degree;
- (k) ORS 163.408 — Unlawful Sexual Penetration in the Second

Degree;

- (l) ORS 163.411 — Unlawful Sexual Penetration in the First Degree;
- (m) ORS 163.415 — Sexual Abuse in the Third Degree;
- (n) ORS 163.425 — Sexual Abuse in the Second Degree;
- (o) ORS 163.427 — Sexual Abuse in the First Degree;
- (p) ORS 163.432 — Online Sexual Corruption of a Child in the

Second Degree;

- (q) ORS 163.433 — Online Sexual Corruption of a Child in the First

Degree;

- (r) ORS 163.435 — Contributing to the Sexual Delinquency of a

Minor;

- (s) ORS 163.445 — Sexual Misconduct;
- (t) ORS 163.465 — Public Indecency;
- (u) ORS 163.515 — Bigamy;
- (v) ORS 163.525 — Incest;
- (w) ORS 163.547 — Child Neglect in the First Degree;
- (x) ORS 163.575 — Endangering the Welfare of a Minor;
- (y) ORS 163.670 — Using Child in Display of Sexually Explicit

Conduct;

- (z) ORS 163.675 (1985 Replacement Part) — Sale or Exhibition of

Visual Reproduction of Sexual Conduct by a Child;

- (aa) ORS 163.680 (1993 Edition) — Paying for Viewing Sexual

Conduct Involving a Child;

- (bb) ORS 163.684 — Encouraging Child Sexual Abuse in the First

Degree;

(cc) ORS 163.686 — Encouraging Child Sexual Abuse in the Second

Degree;

(dd) ORS 163.687 — Encouraging Child Sexual Abuse in the Third

Degree;

(ee) ORS 163.688 — Possession of Materials Depicting Sexually

Explicit Conduct of a Child in the First Degree;

(ff) ORS 163.689 — Possession of Materials Depicting Sexually

Explicit Conduct of a Child in the Second Degree;

(gg) ORS 164.325 — Arson in the First Degree;

(hh) ORS 164.415 — Robbery in the First Degree;

(ii) ORS 166.005 — Treason;

(jj) ORS 166.087 — Abuse of a Corpse in the First Degree;

(kk) ORS 167.007 — Prostitution;

(ll) ORS 167.012 — Promoting Prostitution;

(mm) ORS 167.017 — Compelling Prostitution;

(nn) ORS 167.054 — Furnishing Sexually Explicit Material to a

Child

(oo) ORS 167.057 — Luring a Minor

(pp) ORS 167.062 — Sadoomasochistic Abuse for Sexual Conduct in

a Live Show;

(qq) ORS 475.848 — Unlawful manufacture of heroin within 1,000

feet of school;

(rr) ORS 475.852 — Unlawful delivery of heroin within 1,000 feet of

school;

(ss) ORS 475.858 — Unlawful manufacture of marijuana within

1,000 feet of school;

(tt) ORS 475.860 — Unlawful delivery of marijuana;

(uu) ORS 475.862 — Unlawful delivery of marijuana within 1,000

feet of school;

(vv) ORS 475.864(4) — Possession of less than 1 ounce of marijuana

within 1,000 feet of school;

(ww) ORS 475.868 — Unlawful manufacture of 3,4-methylene-

dioxymethamphetamine within 1,000 feet of school;

(xx) ORS 475.872 — Unlawful delivery of 3,4-methylene-

dioxymethamphetamine within 1,000 feet of school;

(yy) ORS 475.878 — Unlawful manufacture of cocaine within 1,000

feet of school;

(zz) ORS 475.880 — Unlawful delivery of cocaine;

(aaa) ORS 475.882 — Unlawful delivery of cocaine within 1,000 feet

of school;

(bbb) ORS 475.888 — Unlawful manufacture of methamphetamine

within 1,000 feet of school;

(ccc) ORS 475.890 — Unlawful delivery of methamphetamine;

(ddd) ORS 475.892 — Unlawful delivery of methamphetamine with-

in 1,000 feet of school;

(eee) ORS 475.904 — Unlawful manufacture or delivery of controlled

substance within 1,000 feet of school; or

(fff) ORS 475.906 — Penalties for distribution to minors.

(6) Subject individuals who have been convicted of any of the crimes

listed in ORS 161.405 or an attempt to commit any of the crimes listed in

subsection (5) this rule shall be refused licensure, certification or registra-

tion.

(7) Subject individuals who have been convicted of crimes involving

the illegal use, sale or distribution of controlled substances may be refused

licensure, certification or registration.

(8) Subject individuals who have been convicted of any crimes in any

jurisdictions may be required to furnish evidence satisfactory to the com-

mission of good moral character, mental and physical health, and such other

evidence as it may deem necessary to establish the applicant's fitness to

serve as a licensed educator, registered charter school educator or certified

school nurse.

(9) Evaluations of crimes shall be based on Oregon laws in effect at

the time of conviction, regardless of the jurisdiction in which the conviction

occurred.

(10) If it appears that a subject individual has made a false state-

ment or has been convicted of crimes under subsection (5) or subsection 6

of this rule, the case will be referred to an investigator for further investi-

gation. All investigation reports generated under this rule will be reviewed

by the Commission pursuant to ORS 342.176.

(11) Subject individuals may be issued a temporary Emergency

License pending the return of the criminal background check from the

Oregon State Police and the Federal Bureau of Investigation.

(12) Only cards and forms approved by the Commission will be

accepted. The Commission will return any incomplete or incorrectly com-

pleted fingerprint cards and associated forms without taking any other

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action. It is up to the applicant to resubmit valid fingerprints in order to have any application for student teaching criminal record clearance, licensure, registration or certification.

Stat. Auth.: ORS 342, 181
Stats. Implemented: ORS 342.143, 342.175 - 342.180, 342.223, 342.227, 181.534,
Hist.: TSPC 2-2009, f. & cert. ef. 3-12-09

584-052-0027

Waiver of Academic or Experience Requirements by the Commission

(1) The Executive Director may substitute successful teaching, personnel service, or administrative experience to satisfy minimal requirements for formal college preparation or public school experience required in the rules for licensure. Experience acceptable for substitution for minimal requirements shall be such that the applicant has developed skills and knowledge comparable to that developed through approved program preparation. To be granted a basic, standard, initial or continuing license, a candidate shall have clearly demonstrated ability to perform the duties of the position.

(2) The Commission shall monitor any waivers granted under section (1) of this rule and shall receive reports on such waivers.

(3) Applicants requesting licensure based on substitution of successful teaching, personnel service, or administrative experience to satisfy licensure requirements shall submit the following materials:

(a) Application form, evaluation fee, and supporting materials;

(b) A written statement from the applicant including type of license requested, requirements and qualifications to be considered, supportive information, and plans for professional growth;

(c) If applicable, written statements from supervisors in the employing school district indicating support for the substitution and the particular competency of the candidate in relationship to identified district and student needs; and

(d) The applicant's resume and a statement indicating reasons for referring the matter to the Executive Director.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 200 & 342.400
Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 6-1980, Of. & ef. 12-23-80; Renumbered from 584-052-025; TS 1-1982, f. & ef. 1-5-82; TS 7-1986, f. 10-15-86, ef. 1-15-87; TS 6-1991, f. & cert. ef. 3-12-91; TS 1-1992, f. & cert. ef. 1-15-92; TS 6-1992(Temp), f. & cert. ef. 10-1-92; TS 3-1993, f. & cert. ef. 4-19-93; TS 7-1994, f. 9-29-94, cert. ef. 1-15-95; TS 3-1997, f. & cert. ef. 9-22-97; TS 4-1997, f. 9-25-97, cert. ef. 10-4-97; TSPC 3-1998(Temp), f. & cert. ef. 3-25-98 thru 9-8-98; Administrative correction 8-9-99; TSPC 2-2000, f. & cert. ef. 5-15-00; TSPC 2-2009, f. & cert. ef. 3-12-09

584-052-0030

Eligibility for Alternative Assessment

(1) Applicants for any endorsement on a license may petition the Commission for alternative assessment in lieu of passing a subject-matter test when all of the following conditions have been met. The applicant:

(a) Has taken the appropriate subject-matter test at least twice without passing;

(b) One test must have been taken within the last calendar year;

(c) Submitted an application for alternative assessment in the form and manner required by the commission; and

(d) Has paid a fee of \$100 for the assessment:

(A) The fee will be valid for 90 days after the receipt of the application for alternative assessment.

(B) If the application is incomplete and the applicant does not complete the application within 90 days from the date the application and fee was received, a new fee must be paid.

(2) All evidence must be submitted at least four weeks prior to the commission meeting in order to be considered. The Commission reserves the right to accept late applications for submission only when extenuating circumstances have been demonstrated and Commission staff reasonably can complete the evaluation prior to the commission meeting.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.127, 342.135, 342.140, 342.143, 342.147, 342.165, 342.175 & 342.176
Hist.: TSPC 5-2004, f. & cert. ef. 8-25-04; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 2-2009, f. & cert. ef. 3-12-09

584-052-0031

Evidence Needed for Subject-Matter Alternative Assessment

All applications for waiver of subject-matter tests through alternative assessment must contain the following items of evidence:

(1) An application in the form and manner required by the Commission;

(2) A fee of \$100;

(3) Official transcripts showing:

(a) Coursework aligned with the subject-matter endorsement requirements as outlined in OAR 584-038 for which the applicant is seeking waiver;

(b) A 3.0 GPA or better in the coursework directly related to the endorsement; and

(c) That any part of the coursework in the subject-area has been completed within the three (3) years immediately prior to the application for alternative assessment.

(4) A completed and signed affidavit attesting to the applicant's eligibility and the authenticity of the work presented;

(5) Original score reports showing two attempts at the test for which the applicant is seeking waiver. All original score reports will be returned to the applicant after verification by Commission staff; and

(6) Two letters of recommendation from two educators attesting to the applicant's content knowledge expertise and describing how the expert has observed the applicant's content knowledge.

(a) The letters must be on professional letterhead and dated not more than one year from the date of submission of the first application for alternative assessment.

(b) The letters must be from any of the following qualified educators:

(A) University faculty members;

(B) College of education practicum or student teaching supervisors;

(C) Practicum or student teaching mentor teacher;

(D) District curriculum specialist; or

(E) Other expert in the content area.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.127, 342.135, 342.140, 342.143, 342.147, 342.165, 342.175 & 342.176
Hist.: TSPC 5-2004, f. & cert. ef. 8-25-04; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 2-2009, f. & cert. ef. 3-12-09

584-052-0032

Determination of Subject-matter Competency through Alternative Assessment

(1) The application, fee and all evidence for alternative assessment must be submitted at least four weeks prior to the scheduled Commission meeting at which the applicant would like to have the application considered.

(2) The application will be evaluated based on the coursework requirements in division 38 for the endorsement area in which the applicant is seeking licensure.

(a) The evaluation will be based on the following:

(A) Whether coursework submitted meets the requirements in OAR 584 division 38 for the content area the candidate is seeking waiver; and

(B) Whether the coursework in the subject area meets a GPA of 3.0 or better.

(3) If no further coursework is recommended by commission staff, the Commission will consider the recommendation of the Executive Director and the applicant's coursework evaluation and other submitted evidence to make a determination of whether the applicant is eligible for subject-matter test waiver.

(4) The Commission will pass a resolution either waiving the applicant's requirement to pass a subject-matter test in the content area or denying the waiver to pass the test based on the evidence submitted for alternative assessment.

(5) If the coursework does not meet the requirements for endorsement in OAR 584 Division 38, a list of necessary additional coursework directly relevant to meeting the Division 38 requirements will be prepared for the applicant by a TSPC evaluator. The application for alternative assessment will be considered incomplete and the applicant may reapply for alternative assessment once the coursework is completed.

(a) All evidence, such as a record of the score report for two attempted tests, transcripts and letters of recommendation submitted with the first alternative assessment application will be kept on file for subsequent alternative assessment resubmissions.

(b) Applicants will only need to submit, a new application, a new fee and proof that the additional coursework required has been completed under the conditions set forth under subsection (2) above.

(6) An applicant or candidate for licensure is deemed to have passed their licensure tests if the commission determines they have met all the requirements for alternative assessment pursuant to OAR 584-052-0030 through 584-052-0033. Additionally, successful completion of alternative assessment satisfies the program completion requirement for passing the licensure test pursuant to OAR 584-017-0200.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.127, 342.135, 342.140, 342.143, 342.147, 342.165, 342.175 & 342.176

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Hist.: TSPC 5-2004, f. & cert. ef. 8-25-04; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 7-2007, f. & cert. ef. 12-14-07; TSPC 2-2009, f. & cert. ef. 3-12-09

584-052-0033

Resubmissions of Alternative Assessments

(1) The Commission will accept only one resubmission of alternative assessment evidence for another evaluation under the following conditions:

(a) The candidate submits a new application and fee for alternative assessment; and

(b) The candidate submits new evidence of subject-matter competency.

(2) If a candidate has failed the alternative assessment two times, the application for the endorsement, based on waiver of the test will be considered incomplete rather than a denial. The applicant's only recourse is to pass the required subject-matter test.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430 & 342.985

Hist.: TSPC 5-2004, f. & cert. ef. 8-25-04; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 2-2009, f. & cert. ef. 3-12-09

584-060-0171

Limited Teaching License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant may be granted a Limited Teaching License.

(2) This license, issued for three years and renewable, is valid at any level and designated for one or more highly specialized subjects of instruction for which the commission does not issue a specific endorsement.

(a) The Executive Director has the authority to grant a Limited Teaching License for an exception to some discreet subjects within an established endorsement upon a showing of district need. Requests for exceptions to established endorsements may be submitted to the commission for approval at the Executive Director's discretion.

(3) This license is valid for substitute teaching at any level but only in subjects listed on the license.

(4) To be eligible for a Limited Teaching License the applicant must have:

(a) Transcripts documenting an accredited associate's degree or its approved equivalent in objectively evaluated post-secondary education related to the intended subject of instruction,

(b) Obtain a passing score on a test of knowledge of U.S. and Oregon civil rights laws; and

(c) Furnish fingerprints in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in the commission's licensure application. (See also, OAR 584-036-0062 for Criminal Records Check Requirement.

(5) The Limited Teaching License is restricted to use within a district that has applied for it jointly with the teacher, whose qualifications and job description are subject to commission approval.

(6) Upon application, the co-applicant district must describe its particular need in relation to the co-applicant teacher's documented qualifications, agree to provide a mentor up to the first renewal of the license, and attest that circumstances prevent hiring a suitable teacher holding any other full-time license appropriate for the role to be filled.

(7) To be eligible for renewal of the Limited Teaching License, an applicant must:

(a) For the first renewal only:

(A) The district must identify the mentor assigned to the teacher including a signed statement from a district administrator attesting to the teacher's progress during the first three years of the license.

(B) Receive a passing score as currently specified by the commission on a test of basic verbal and computational skills; or in lieu of a passing score on basic skills, the district must submit a letter from the district that includes the following:

(i) A statement from the principal verifying that the students taught by the teacher continue to make satisfactory academic progress;

(b) For all subsequent renewals:

(A) Meet recent educational experience requirements pursuant to OAR 584-048-0015;

(B) Provide a statement from the district attesting that the teacher's assignment is exactly the same as originally requested; and

(C) Establish, maintain and report a professional development plan in accordance with OAR 584-090-0020.

(D) A teacher with a Limited Teaching License who works less than .5 FTE during the school year, averaged out over the entire year, need not report continuing professional development.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430 & 342.985

Hist.: TSPC 3-1999, f. & cert. ef. 7-15-99; TSPC 6-2003(Temp), f. & cert. ef. 11-13-03 thru 5-9-04; TSPC 3-2004, f. & cert. ef. 5-14-04; TSPC 1-2005, f. & cert. ef. 1-21-05; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 2-2009, f. & cert. ef. 3-12-09

584-060-0181

Substitute Teaching License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant may be granted a Substitute Teaching License. This license, issued for three years and renewable, is valid at any level in any specialty to substitute for a teacher who is temporarily unable to work.

(2) To be eligible for a Substitute Teaching License, the applicant must:

(a) Have a bachelor's degree or higher from a regionally accredited institution or an approved foreign equivalent related to teaching at one or more levels;

(A) Awarding of a higher degree in the arts and sciences or an advanced degree in the professions from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure.

(b) Hold an unrestricted license for full-time teaching in any state or submit proof of completion of an approved teacher education program in any state.

(c) Demonstrate knowledge of applicable civil rights laws;

(d) Furnish fingerprints in the manner prescribed by the commission if the applicant has not been fingerprinted or has not held an active license issued by the commission in the past three years; and

(3) The holder of a Substitute Teaching License may not continuously replace an individual teacher absent for more than three consecutive months without obtaining a full-time license. If the educator is only lacking recency to qualify for the full-time license, the educator must complete coursework to qualify for the long-term placement.

(4) To be eligible for renewal of the Substitute Teaching License an applicant must:

(a) Show evidence of having obtained a passing score as currently specified by the commission on a test of basic verbal and computational skills, unless the applicant held an Oregon educator license before 1985 or has a regionally accredited doctor's degree;

(b) Obtain a passing score on a test of knowledge of U.S. and Oregon civil rights laws and professional ethics;

(5) A district and co-applicant educator may apply for an Emergency Teaching License for the holder of a Substitute Teaching License if the district is unable to obtain a regularly licensed teacher for any position lasting more than three consecutive months. The Emergency Teaching License will allow the educator to teach for time beyond the allowed timelines stated in subsection (3) above. The Executive Director may approve the Emergency Teaching License upon proof of the district's emergency.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430 & 342.985

Hist.: TSPC 3-1999, f. & cert. ef. 7-15-99; TSPC 9-1999, f. & cert. ef. 11-22-99; TSPC 5-2004, f. & cert. ef. 8-25-04; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 2-2009, f. & cert. ef. 3-12-09

584-060-0182

Restricted Substitute License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant and a co-applying district may be granted a Restricted Substitute Teaching License.

(a) This license, issued for three years and renewable, is valid to substitute for a total of 60 days a school year (September through June) at any level in any specialty to replace a teacher who is temporarily unable to work.

(b) The 60 days a year limit applies regardless if the holder of the license substitutes in multiple districts as may be the case if an applicant and an ESD hold the license.

(c) Districts who did not co-apply with the applicant may request permission to add the substitute to their district upon filing an additional application and fee.

(d) An assignment on this license may not exceed 10 days consecutively under any circumstances.

(2) To be eligible for a Restricted Substitute Teaching License, the applicant must:

(a) Hold a bachelor's degree or higher from a regionally accredited institution or an approved foreign equivalent related to teaching at one or more levels;

(A) Awarding of a higher degree in the arts and sciences or an advanced degree in the professions from a regionally accredited institution

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in the United States validates a non-regionally accredited bachelor's degree for licensure;

(b) Furnish fingerprints in the manner prescribed by the commission if the applicant has not been fingerprinted or has not held an active license issued by the commission in the past three years; and

(c) Provide a letter from the co-applicant district stating the reasons for the license.

(3) To be eligible for renewal of the Restricted Substitute Teaching License an applicant must:

(a) Submit letter from district requesting renewal;

(b) Obtain a passing score as currently specified by the commission on a test of basic verbal and computational skills, unless the applicant has a doctor's degree; and

(c) Obtain a passing score on a test of knowledge of U.S. and Oregon civil rights laws and professional ethics approved by the commission.

(4) A district and co-applicant educator may apply for an Emergency Teaching License for the holder of a Restricted Substitute Teaching License if the district is unable to obtain a regularly licensed teacher for any position lasting more than three consecutive months. The Emergency Teaching License will allow the educator to teach for time beyond the allowed time-limits stated in subsections (1) above. The Executive Director may approve the Emergency Teaching License upon proof of the district's emergency.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430 & 342.985

Hist.: TSPC 2-2009, f. & cert. ef. 3-12-09

584-060-0210

Emergency Teaching License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant and a co-applicant district may be granted an Emergency Teaching License. An Emergency Teaching License may be issued when a school district demonstrates extenuating circumstances that merit the issuance of the license in order to protect the district's programs or students.

(2) The Emergency Teaching License shall be issued solely at the discretion of the Executive Director for any length of time deemed necessary to protect the district's programs or students. In most cases, an Emergency Teaching License will not exceed one year unless the educator or the district has presented unusual extenuating circumstances. The Executive Director may consider efforts the educator has made in meeting licensure requirements. Additionally, the Executive Director will consider academic preparation or experience the proposed educator has had in the area in which the district is requesting the license.

(3) To be eligible for the Emergency Teaching License an applicant and co-applicant district must provide the following:

(a) C-1 application and fee;

(b) Furnish fingerprints in the manner prescribed by the commission if the applicant has not been fingerprinted or has not held an active license issued by the commission in the past three years

(c) Submit a C-3 form from the district and a letter detailing the extenuating circumstances constituting the emergency and the applicant's unique skills qualifying her or him for the license. An applicant may be asked to provide a resume, transcripts or other evidence of qualifications if requested by the Executive Director; and

(d) A request for the least amount of time necessary to meet the Emergency needs of the district.

(4) The Emergency Teaching License is not subject to the 120 day grace period allowed for licensure renewal purposes under ORS 342.127.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430 & 342.985

Hist.: TSPC 3-2003, f. & cert. ef. 5-15-03; TSPC 8-2004(Temp), f. & cert. ef. 9-10-04 thru 3-9-05 (Suspended by TSPC 9-2004(Temp), f. & cert. ef. 9-5-04 thru 3-9-05); TSPC 1-2005, f. & cert. ef. 1-21-05; TSPC 2-2008, f. & cert. ef. 4-15-08

584-100-0006

Definitions

These definitions apply only to division 100.

(1) "Advanced Credential or Advanced Certification" for teachers holding middle level or secondary authorization levels:

(a) A Continuing Teaching License; or

(b) A Standard Teaching License with a Standard endorsement in the core academic subject; or

(c) A certificate from the National Board for Professional Teaching Standards in the core academic subject area.

(2) "Bachelor's Degree":

(a) A degree obtained from a regionally accredited institution in the United States; or

(b) A degree from a foreign institution that is appropriately accredited as affirmed through the Oregon Office of Degree Authorization; or

(c) A higher degree in the arts or sciences or an advanced degree in the professions from a regionally-accredited institution may validate a non-regionally accredited bachelor's degree.

(3) "Complete School Year": Any related teaching assignment for 135 instructional days in a school year. Exceptions may be appealed to the Executive Director pursuant to OAR 584-052-0027.

(4) "Core Academic Subjects":

(a) English (Language Arts);

(b) Reading or Language Arts (Reading or Language Arts)

(c) Mathematics (Basic or Advanced Mathematics);

(d) Science (Integrated Science, Biology, Chemistry, or Physics);

(e) Foreign Languages (Spanish, French, German);

(f) Civics and Government (Social Studies);

(g) Economics (Social Studies);

(h) Arts (Art or Music);

(i) History (Social Studies);

(j) Geography (Social Studies).

(5) "Elementary Classroom": Any combination of self-contained classrooms in grades preprimary through eight in any school identified as an elementary school pursuant to OAR 581-022-0102(25).

(6) "Elementary Teacher": An educator teaching in a self-contained classroom grades preprimary through eight.

(7) "Middle-level Classroom": Any classrooms in grades seven or eight organized departmentally by subject matter.

(8) "New to the Profession": A teacher who has been teaching on an approved license in any U.S. jurisdiction in a public or regionally accredited private school less than three complete school years. (See definition of "Complete School Year" above)

(9) "Newly Hired Teacher": A teacher hired after the first day of the 2002-2003 school year in a Title IA program or Title IA school-wide program. The teacher is not considered "newly hired" if the teacher is already employed in the district and transferred into a Title IA program or Title IA school-wide program.

(10) "Not New to the Profession": A teacher who has been teaching on an approved license in any U.S. jurisdiction in a public or private school for a total of three or more complete school years. (See definition of "Complete School Year" above.)

(11) "Rigorous State Test":

(a) The Multiple Subjects Assessment for Teachers (MSAT) test for elementary or middle level; the ORELA Multiple Subjects Examination; or

(b) The appropriate commission approved licensure subject-matter test for middle-level and high school; or

(c) Another state's subject-matter licensure exam designated as a "rigorous state test."

(12) "Secondary School or high school":

(a) A combination of grades ten through twelve in districts providing a junior high school containing grade nine; or

(b) Any combination of grades nine through twelve organized as a separate unit; or

(c) Grades nine through twelve housed with grades preprimary through twelve.

(13) "Self-contained Classroom": An assignment for teaching in grades preprimary through eight in which the teacher has full responsibility for the curriculum.

(14) "Subject-matter competency": Subject matter competency may be demonstrated through any one of the following:

(a) Passing the appropriate "rigorous state test;" or

(b) Having a major in the subject-matter area (does not apply to elementary endorsements or authorizations); or

(c) Having coursework equivalent to a major in the subject-matter area (does not apply to elementary endorsements or authorizations); or

(d) Having a graduate degree in the subject matter area (does not apply to elementary endorsements or authorizations); or

(e) Satisfying the Highly Objective Uniform State Standard of Evaluation (HOUSSE) requirements set forth in these rules if the educator has taught three complete years or more.

(15) "Undergraduate Major or Coursework Equivalent to a Major": Thirty-four (34) quarter hours or twenty-three (23) semester hours of undergraduate or graduate coursework in core academic subject matter numbered 100 level or above, from a regionally accredited college or university. (See definition of "Bachelor's Degree" for undergraduate credits obtained from an unaccredited college or university.)

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430 & 342.985

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 4-2008(Temp), f. & cert. ef. 6-5-08 thru 11-30-08; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 2-2008, f. & cert. ef. 4-15-08

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123-106-0040	2-24-2009	Repeal	4-1-2009	141-085-0005	3-1-2009	Repeal	3-1-2009
123-106-0050	2-24-2009	Repeal	4-1-2009	141-085-0006	3-1-2009	Repeal	3-1-2009

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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
141-089-0515	3-1-2009	Amend	3-1-2009	161-020-0150	1-30-2009	Amend	3-1-2009
141-089-0520	3-1-2009	Amend	3-1-2009	161-025-0060	1-30-2009	Amend	3-1-2009
141-089-0530	3-1-2009	Amend	3-1-2009	165-020-2022	2-18-2009	Adopt(T)	4-1-2009
141-089-0550	3-1-2009	Repeal	3-1-2009	165-020-2023	3-3-2009	Adopt(T)	4-1-2009
141-089-0555	3-1-2009	Repeal	3-1-2009	165-020-2024	3-5-2009	Adopt(T)	4-1-2009
141-089-0560	3-1-2009	Repeal	3-1-2009	166-200-0005	12-10-2008	Amend	1-1-2009
141-089-0565	3-1-2009	Repeal	3-1-2009	166-200-0010	12-10-2008	Amend	1-1-2009

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166-200-0020	12-10-2008	Amend	1-1-2009	177-046-0020	11-23-2008	Amend(T)	1-1-2009
166-200-0025	12-10-2008	Amend	1-1-2009	177-046-0020	3-1-2009	Amend	4-1-2009
166-200-0030	12-10-2008	Amend	1-1-2009	177-046-0020(T)	3-1-2009	Repeal	4-1-2009
166-200-0035	12-10-2008	Amend	1-1-2009	177-046-0150	12-1-2008	Repeal	1-1-2009
166-200-0040	12-10-2008	Amend	1-1-2009	177-050-0025	12-1-2008	Amend	1-1-2009
166-200-0045	12-10-2008	Amend	1-1-2009	177-050-0027	12-1-2008	Amend	1-1-2009
166-200-0050	12-10-2008	Amend	1-1-2009	177-050-0100	12-1-2008	Adopt	1-1-2009
166-200-0055	12-10-2008	Amend	1-1-2009	177-050-0100	3-1-2009	Amend	4-1-2009
166-200-0060	12-10-2008	Amend	1-1-2009	177-069-0000	12-1-2008	Adopt	1-1-2009
166-200-0065	12-10-2008	Amend	1-1-2009	177-069-0010	12-1-2008	Adopt	1-1-2009
166-200-0070	12-10-2008	Amend	1-1-2009	177-069-0020	12-1-2008	Adopt	1-1-2009
166-200-0075	12-10-2008	Amend	1-1-2009	177-069-0030	12-1-2008	Adopt	1-1-2009
166-200-0080	12-10-2008	Amend	1-1-2009	177-069-0040	12-1-2008	Adopt	1-1-2009
166-200-0085	12-10-2008	Amend	1-1-2009	177-069-0050	12-1-2008	Adopt	1-1-2009
166-200-0090	12-10-2008	Amend	1-1-2009	177-075-0010	11-23-2008	Amend(T)	1-1-2009
166-200-0095	12-10-2008	Amend	1-1-2009	177-075-0010	3-1-2009	Amend	4-1-2009
166-200-0100	12-10-2008	Amend	1-1-2009	177-075-0010(T)	3-1-2009	Repeal	4-1-2009
166-200-0105	12-10-2008	Amend	1-1-2009	177-081-0020	11-23-2008	Amend(T)	1-1-2009
166-200-0110	12-10-2008	Amend	1-1-2009	177-081-0020	3-1-2009	Amend	4-1-2009
166-200-0115	12-10-2008	Amend	1-1-2009	177-081-0020(T)	3-1-2009	Repeal	4-1-2009
166-200-0120	12-10-2008	Amend	1-1-2009	177-083-0020	11-23-2008	Amend(T)	1-1-2009
166-200-0125	12-10-2008	Amend	1-1-2009	177-083-0020	3-1-2009	Amend	4-1-2009
166-200-0130	12-10-2008	Amend	1-1-2009	177-083-0020(T)	3-1-2009	Repeal	4-1-2009
166-200-0135	12-10-2008	Amend	1-1-2009	177-083-0030	11-23-2008	Amend(T)	1-1-2009
166-200-0140	12-10-2008	Amend	1-1-2009	177-083-0030	3-1-2009	Amend	4-1-2009
166-200-0145	12-10-2008	Amend	1-1-2009	177-083-0030(T)	3-1-2009	Repeal	4-1-2009
166-300-0025	2-19-2009	Amend	4-1-2009	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
177-040-0017	2-1-2009	Amend	3-1-2009	213-017-0006	1-1-2009	Amend(T)	2-1-2009
177-040-0017(T)	2-1-2009	Repeal	3-1-2009	259-008-0010	1-1-2009	Amend	1-1-2009
177-040-0030	1-1-2009	Amend	2-1-2009	259-008-0011	1-1-2009	Amend	1-1-2009
177-040-0050	1-1-2009	Amend	2-1-2009	259-008-0060	12-29-2008	Amend	2-1-2009
177-040-0052	1-1-2009	Amend	2-1-2009	259-008-0070	1-1-2009	Amend	1-1-2009
177-040-0061	2-1-2009	Amend	3-1-2009	259-020-0010	12-29-2008	Amend(T)	2-1-2009
177-040-0061(T)	2-1-2009	Repeal	3-1-2009	259-020-0010	2-2-2009	Amend	3-1-2009
177-045-0000	1-1-2009	Amend	2-1-2009	259-020-0010(T)	2-2-2009	Repeal	3-1-2009
177-045-0010	1-1-2009	Amend	2-1-2009	259-020-0015	2-2-2009	Amend	3-1-2009
177-045-0030	1-1-2009	Amend	2-1-2009	259-020-0020	2-2-2009	Amend	3-1-2009

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291-022-0115	11-25-2008	Amend(T)	1-1-2009	333-004-0120	3-2-2009	Amend	4-1-2009
291-022-0160	11-25-2008	Amend(T)	1-1-2009	333-004-0140	3-2-2009	Amend	4-1-2009
291-022-0161	11-25-2008	Adopt(T)	1-1-2009	333-004-0150	3-2-2009	Amend	4-1-2009
291-022-0162	11-25-2008	Adopt(T)	1-1-2009	333-004-0160	3-2-2009	Amend	4-1-2009
291-039-0010	12-16-2008	Amend(T)	2-1-2009	333-010-0200	2-13-2009	Adopt	3-1-2009
291-039-0015	12-16-2008	Amend(T)	2-1-2009	333-010-0205	2-13-2009	Adopt	3-1-2009
291-042-0005	1-22-2009	Amend	3-1-2009	333-010-0210	2-13-2009	Adopt	3-1-2009
291-042-0010	1-22-2009	Amend	3-1-2009	333-010-0215	2-13-2009	Adopt	3-1-2009
291-042-0011	1-22-2009	Amend	3-1-2009	333-010-0220	2-13-2009	Adopt	3-1-2009
291-042-0015	1-22-2009	Amend	3-1-2009	333-010-0225	2-13-2009	Adopt	3-1-2009
291-042-0025	1-22-2009	Amend	3-1-2009	333-010-0230	2-13-2009	Adopt	3-1-2009
291-042-0035	1-22-2009	Amend	3-1-2009	333-010-0235	2-13-2009	Adopt	3-1-2009
291-042-0045	1-22-2009	Repeal	3-1-2009	333-010-0240	2-13-2009	Adopt	3-1-2009
291-070-0120	12-16-2008	Amend(T)	2-1-2009	333-010-0245	2-13-2009	Adopt	3-1-2009
291-097-0005	3-10-2009	Amend	4-1-2009	333-010-0250	2-13-2009	Adopt	3-1-2009
291-097-0010	3-10-2009	Amend	4-1-2009	333-010-0255	2-13-2009	Adopt	3-1-2009
291-097-0015	3-10-2009	Amend	4-1-2009	333-010-0260	2-13-2009	Adopt	3-1-2009
291-097-0020	3-10-2009	Amend	4-1-2009	333-010-0265	2-13-2009	Adopt	3-1-2009
291-097-0025	3-10-2009	Amend	4-1-2009	333-010-0270	2-13-2009	Adopt	3-1-2009
291-097-0040	3-10-2009	Amend	4-1-2009	333-010-0275	2-13-2009	Adopt	3-1-2009
291-097-0050	3-10-2009	Amend	4-1-2009	333-010-0280	2-13-2009	Adopt	3-1-2009
291-097-0060	3-10-2009	Amend	4-1-2009	333-010-0285	2-13-2009	Adopt	3-1-2009
291-097-0070	3-10-2009	Amend	4-1-2009	333-010-0290	2-13-2009	Adopt	3-1-2009
291-097-0080	3-10-2009	Amend	4-1-2009	333-565-0000	1-1-2009	Amend	2-1-2009
291-097-0100	3-10-2009	Amend	4-1-2009	333-675-0050	1-1-2009	Amend	2-1-2009
291-097-0110	3-10-2009	Am. & Ren.	4-1-2009	334-001-0000	3-1-2009	Amend	3-1-2009
291-097-0120	3-10-2009	Amend	4-1-2009	334-001-0035	3-1-2009	Amend	3-1-2009
291-127-0260	12-16-2008	Amend(T)	2-1-2009	334-001-0045	3-1-2009	Amend	3-1-2009
291-158-0005	12-26-2008	Amend	2-1-2009	334-001-0060	3-1-2009	Amend	3-1-2009
291-158-0010	12-26-2008	Amend	2-1-2009	334-010-0005	3-1-2009	Amend	3-1-2009
291-158-0015	12-26-2008	Amend	2-1-2009	334-010-0010	3-1-2009	Amend	3-1-2009
291-158-0025	12-26-2008	Amend	2-1-2009	334-010-0012	3-1-2009	Amend	3-1-2009
291-158-0035	12-26-2008	Amend	2-1-2009	334-010-0015	3-1-2009	Amend	3-1-2009
291-158-0045	12-26-2008	Amend	2-1-2009	334-010-0016	3-1-2009	Repeal	3-1-2009
291-158-0055	12-26-2008	Amend	2-1-2009	334-010-0017	3-1-2009	Amend	3-1-2009
291-158-0065	12-26-2008	Amend	2-1-2009	334-010-0025	3-1-2009	Amend	3-1-2009
291-158-0075	12-26-2008	Amend	2-1-2009	334-010-0031	3-1-2009	Repeal	3-1-2009
309-114-0005	1-23-2009	Amend(T)	3-1-2009	334-010-0033	3-1-2009	Amend	3-1-2009
309-114-0010	1-23-2009	Amend(T)	3-1-2009	334-010-0041	3-1-2009	Am. & Ren.	3-1-2009
309-114-0020	1-23-2009	Amend(T)	3-1-2009	334-010-0046	3-1-2009	Amend	3-1-2009
330-061-0005	12-5-2008	Amend	1-1-2009	334-010-0047	3-1-2009	Amend	3-1-2009
330-061-0025	12-5-2008	Amend	1-1-2009	334-010-0050	3-1-2009	Amend	3-1-2009
330-061-0030	12-5-2008	Amend	1-1-2009	334-020-0005	3-1-2009	Amend	3-1-2009
331-030-0000	12-1-2008	Amend(T)	1-1-2009	334-020-0015	3-1-2009	Amend	3-1-2009
331-030-0005	12-1-2008	Adopt(T)	1-1-2009	334-020-0020	3-1-2009	Repeal	3-1-2009
331-030-0010	12-1-2008	Amend(T)	1-1-2009	334-020-0025	3-1-2009	Repeal	3-1-2009
331-810-0038	12-1-2008	Adopt	1-1-2009	334-020-0030	3-1-2009	Repeal	3-1-2009
333-004-0010	3-2-2009	Amend	4-1-2009	334-020-0035	3-1-2009	Repeal	3-1-2009
333-004-0020	3-2-2009	Amend	4-1-2009	334-020-0040	3-1-2009	Repeal	3-1-2009
333-004-0030	3-2-2009	Amend	4-1-2009	334-020-0045	3-1-2009	Repeal	3-1-2009
333-004-0040	3-2-2009	Amend	4-1-2009	334-020-0050	3-1-2009	Amend	3-1-2009
333-004-0050	3-2-2009	Amend	4-1-2009	334-020-0055	3-1-2009	Amend	3-1-2009
333-004-0060	3-2-2009	Amend	4-1-2009	334-020-0060	3-1-2009	Repeal	3-1-2009
333-004-0070	3-2-2009	Amend	4-1-2009	334-020-0065	3-1-2009	Repeal	3-1-2009
333-004-0080	3-2-2009	Amend	4-1-2009	334-020-0070	3-1-2009	Repeal	3-1-2009
333-004-0090	3-2-2009	Repeal	4-1-2009	334-020-0075	3-1-2009	Repeal	3-1-2009
333-004-0100	3-2-2009	Amend	4-1-2009	334-020-0080	3-1-2009	Repeal	3-1-2009

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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
340-228-0610	12-31-2008	Repeal	2-1-2009	340-230-0359	12-31-2008	Adopt	2-1-2009
340-228-0611	12-31-2008	Adopt	2-1-2009	340-232-0070	12-31-2008	Repeal	2-1-2009
340-228-0612	12-31-2008	Repeal	2-1-2009	340-238-0040	12-31-2008	Amend	2-1-2009
340-228-0613	12-31-2008	Adopt	2-1-2009	340-238-0050	12-31-2008	Repeal	2-1-2009
340-228-0614	12-31-2008	Repeal	2-1-2009	340-238-0060	12-31-2008	Amend	2-1-2009
340-228-0615	12-31-2008	Adopt	2-1-2009	340-238-0090	12-31-2008	Amend	2-1-2009
340-228-0616	12-31-2008	Repeal	2-1-2009	340-242-0520	12-31-2008	Amend	2-1-2009
340-228-0617	12-31-2008	Adopt	2-1-2009	340-244-0020	12-31-2008	Amend	2-1-2009
340-228-0618	12-31-2008	Repeal	2-1-2009	340-244-0030	12-31-2008	Amend	2-1-2009
340-228-0619	12-31-2008	Adopt	2-1-2009	340-244-0100	12-31-2008	Amend	2-1-2009
340-228-0620	12-31-2008	Repeal	2-1-2009	340-244-0110	12-31-2008	Repeal	2-1-2009
340-228-0621	12-31-2008	Adopt	2-1-2009	340-244-0120	12-31-2008	Repeal	2-1-2009
340-228-0622	12-31-2008	Repeal	2-1-2009	340-244-0130	12-31-2008	Repeal	2-1-2009
340-228-0623	12-31-2008	Adopt	2-1-2009	340-244-0140	12-31-2008	Repeal	2-1-2009
340-228-0624	12-31-2008	Repeal	2-1-2009	340-244-0150	12-31-2008	Repeal	2-1-2009
340-228-0625	12-31-2008	Adopt	2-1-2009	340-244-0160	12-31-2008	Repeal	2-1-2009
340-228-0626	12-31-2008	Repeal	2-1-2009	340-244-0170	12-31-2008	Repeal	2-1-2009
340-228-0627	12-31-2008	Adopt	2-1-2009	340-244-0180	12-31-2008	Repeal	2-1-2009
340-228-0628	12-31-2008	Repeal	2-1-2009	340-244-0210	12-31-2008	Amend	2-1-2009
340-228-0629	12-31-2008	Adopt	2-1-2009	340-244-0220	12-31-2008	Amend	2-1-2009
340-228-0630	12-31-2008	Repeal	2-1-2009	340-244-0232	12-31-2008	Adopt	2-1-2009
340-228-0631	12-31-2008	Adopt	2-1-2009	340-244-0234	12-31-2008	Adopt	2-1-2009
340-228-0632	12-31-2008	Repeal	2-1-2009	340-244-0236	12-31-2008	Adopt	2-1-2009
340-228-0633	12-31-2008	Adopt	2-1-2009	340-244-0238	12-31-2008	Adopt	2-1-2009
340-228-0634	12-31-2008	Repeal	2-1-2009	340-244-0240	12-31-2008	Adopt	2-1-2009
340-228-0635	12-31-2008	Adopt	2-1-2009	340-244-0242	12-31-2008	Adopt	2-1-2009
340-228-0636	12-31-2008	Repeal	2-1-2009	340-244-0244	12-31-2008	Adopt	2-1-2009
340-228-0637	12-31-2008	Adopt	2-1-2009	340-244-0246	12-31-2008	Adopt	2-1-2009
340-228-0638	12-31-2008	Repeal	2-1-2009	340-244-0248	12-31-2008	Adopt	2-1-2009
340-228-0640	12-31-2008	Repeal	2-1-2009	340-244-0250	12-31-2008	Adopt	2-1-2009
340-228-0642	12-31-2008	Repeal	2-1-2009	340-244-0252	12-31-2008	Adopt	2-1-2009
340-228-0644	12-31-2008	Repeal	2-1-2009	350-040-0020	1-14-2009	Amend(T)	2-1-2009
340-228-0646	12-31-2008	Repeal	2-1-2009	350-040-0040	1-14-2009	Amend(T)	2-1-2009
340-228-0648	12-31-2008	Repeal	2-1-2009	350-050-0020	1-14-2009	Amend(T)	2-1-2009

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407-001-0000	12-5-2008	Amend	1-1-2009	410-121-0040	12-1-2008	Amend	1-1-2009
407-001-0005	12-5-2008	Amend	1-1-2009	410-121-0060	12-1-2008	Amend	1-1-2009
407-001-0010	12-5-2008	Amend	1-1-2009	410-121-0060	1-1-2009	Amend	1-1-2009
407-007-0200	1-1-2009	Amend	2-1-2009	410-121-0140	12-1-2008	Amend	1-1-2009
407-007-0210	1-1-2009	Amend	2-1-2009	410-121-0140	1-1-2009	Repeal	1-1-2009
407-007-0220	1-1-2009	Amend	2-1-2009	410-121-0150	12-1-2008	Amend	1-1-2009
407-007-0230	1-1-2009	Amend	2-1-2009	410-121-0157	12-1-2008	Amend	1-1-2009
407-007-0240	1-1-2009	Amend	2-1-2009	410-121-0185	1-1-2009	Amend	1-1-2009
407-007-0250	1-1-2009	Amend	2-1-2009	410-121-0200	12-1-2008	Amend	1-1-2009
407-007-0260	1-1-2009	Repeal	2-1-2009	410-121-0300	1-1-2009	Amend	1-1-2009
407-007-0270	1-1-2009	Repeal	2-1-2009	410-121-0320	12-1-2008	Amend	1-1-2009
407-007-0280	1-1-2009	Amend	2-1-2009	410-121-0625	1-1-2009	Amend	1-1-2009
407-007-0290	1-1-2009	Amend	2-1-2009	410-122-0040	12-1-2008	Amend	1-1-2009
407-007-0300	1-1-2009	Amend	2-1-2009	410-122-0182	1-1-2009	Amend	1-1-2009
407-007-0310	1-1-2009	Repeal	2-1-2009	410-122-0200	1-1-2009	Amend	1-1-2009
407-007-0320	1-1-2009	Amend	2-1-2009	410-122-0202	1-1-2009	Amend(T)	2-1-2009
407-007-0330	1-1-2009	Amend	2-1-2009	410-122-0203	1-1-2009	Amend	1-1-2009
407-007-0340	1-1-2009	Amend	2-1-2009	410-122-0204	1-1-2009	Amend	1-1-2009
407-007-0350	1-1-2009	Amend	2-1-2009	410-122-0211	1-1-2009	Adopt	1-1-2009
407-007-0355	1-1-2009	Adopt	2-1-2009	410-122-0330	1-1-2009	Amend	1-1-2009
407-007-0360	1-1-2009	Repeal	2-1-2009	410-122-0340	1-1-2009	Amend	1-1-2009
407-007-0370	1-1-2009	Amend	2-1-2009	410-122-0365	1-1-2009	Amend	1-1-2009
407-007-0380	1-1-2009	Repeal	2-1-2009	410-122-0560	1-1-2009	Amend	1-1-2009
407-120-0300	12-27-2008	Amend	2-1-2009	410-122-0580	1-1-2009	Amend	1-1-2009
407-120-0300(T)	12-27-2008	Repeal	2-1-2009	410-122-0630	1-1-2009	Amend	1-1-2009
407-120-0310	12-27-2008	Amend	2-1-2009	410-122-0655	1-1-2009	Amend	1-1-2009
407-120-0310(T)	12-27-2008	Repeal	2-1-2009	410-123-1085	1-1-2009	Amend	1-1-2009
407-120-0320	12-27-2008	Amend	2-1-2009	410-123-1160	1-1-2009	Amend	1-1-2009
407-120-0320(T)	12-27-2008	Repeal	2-1-2009	410-123-1220	1-1-2009	Amend	1-1-2009
407-120-0325	12-27-2008	Adopt	2-1-2009	410-123-1230	1-1-2009	Amend	1-1-2009
407-120-0325(T)	12-27-2008	Repeal	2-1-2009	410-123-1240	1-1-2009	Amend	1-1-2009
407-120-0330	12-27-2008	Amend	2-1-2009	410-123-1260	1-1-2009	Amend	1-1-2009
407-120-0330(T)	12-27-2008	Repeal	2-1-2009	410-123-1490	1-1-2009	Amend	1-1-2009
407-120-0340	12-27-2008	Amend	2-1-2009	410-123-1620	1-1-2009	Amend	1-1-2009
407-120-0340(T)	12-27-2008	Repeal	2-1-2009	410-123-1670	1-1-2009	Amend	1-1-2009
407-120-0350	12-27-2008	Amend	2-1-2009	410-125-0020	1-1-2009	Amend	1-1-2009
407-120-0350(T)	12-27-2008	Repeal	2-1-2009	410-125-0041	1-1-2009	Amend	1-1-2009
407-120-0360	12-27-2008	Amend	2-1-2009	410-125-0045	1-1-2009	Amend	1-1-2009
407-120-0360(T)	12-27-2008	Repeal	2-1-2009	410-125-0080	1-1-2009	Amend	1-1-2009
407-120-0370	12-27-2008	Amend	2-1-2009	410-125-0085	1-1-2009	Amend	1-1-2009
407-120-0370(T)	12-27-2008	Repeal	2-1-2009	410-125-0125	12-1-2008	Amend	1-1-2009
407-120-0380	12-27-2008	Amend	2-1-2009	410-125-0155	1-1-2009	Amend	1-1-2009
407-120-0380(T)	12-27-2008	Repeal	2-1-2009	410-125-0181	1-1-2009	Amend	1-1-2009
407-120-0400	1-12-2009	Adopt(T)	2-1-2009	410-125-0195	1-1-2009	Amend	1-1-2009
410-120-0000	12-1-2008	Amend	1-1-2009	410-125-0210	12-1-2008	Amend	1-1-2009
410-120-0027	1-12-2009	Adopt(T)	2-1-2009	410-125-0220	12-1-2008	Amend	1-1-2009
410-120-0027	1-16-2009	Amend(T)	3-1-2009	410-125-0360	12-1-2008	Amend	1-1-2009
410-120-0027(T)	1-16-2009	Suspend	3-1-2009	410-125-0400	12-1-2008	Amend	1-1-2009
410-120-1140	12-1-2008	Amend	1-1-2009	410-125-0600	12-1-2008	Amend	1-1-2009
410-120-1180	12-1-2008	Amend	1-1-2009	410-125-0640	12-1-2008	Amend	1-1-2009
410-120-1195	12-1-2008	Amend	1-1-2009	410-125-0720	12-1-2008	Amend	1-1-2009
410-120-1260	12-1-2008	Amend	1-1-2009	410-125-1020	1-1-2009	Amend	1-1-2009
410-120-1280	12-1-2008	Amend	1-1-2009	410-125-1070	12-1-2008	Amend	1-1-2009
410-120-1340	12-1-2008	Amend	1-1-2009	410-127-0080	12-1-2008	Amend	1-1-2009
410-120-1340	1-1-2009	Amend	1-1-2009	410-129-0080	12-1-2008	Amend	1-1-2009
410-121-0000	1-1-2009	Amend	1-1-2009	410-130-0180	12-1-2008	Amend	1-1-2009
410-121-0030	1-1-2009	Amend	1-1-2009	410-132-0100	12-1-2008	Amend	1-1-2009

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410-133-0090	12-28-2008	Amend	2-1-2009	410-147-0220	12-1-2008	Amend	1-1-2009
410-133-0100	12-28-2008	Amend	2-1-2009	410-147-0320	12-1-2008	Amend	1-1-2009
410-133-0140	12-28-2008	Amend	2-1-2009	410-147-0340	12-1-2008	Amend	1-1-2009
410-133-0220	12-28-2008	Amend	2-1-2009	410-147-0360	12-1-2008	Amend	1-1-2009
410-133-0280	12-28-2008	Amend	2-1-2009	410-147-0460	12-1-2008	Amend	1-1-2009
410-136-0240	12-1-2008	Amend	1-1-2009	410-147-0480	12-1-2008	Amend	1-1-2009
410-136-0260	12-1-2008	Amend	1-1-2009	410-147-0540	12-1-2008	Amend	1-1-2009
410-136-0300	12-1-2008	Amend	1-1-2009	410-147-0560	12-1-2008	Amend	1-1-2009
410-138-0000	12-28-2008	Amend	2-1-2009	410-147-0610	12-1-2008	Amend	1-1-2009
410-138-0005	12-28-2008	Adopt	2-1-2009	410-147-0620	12-1-2008	Amend	1-1-2009
410-138-0007	12-28-2008	Adopt	2-1-2009	411-001-0010	3-3-2009	Repeal	4-1-2009
410-138-0009	12-28-2008	Adopt	2-1-2009	411-030-0002	1-1-2009	Amend	2-1-2009
410-138-0020	12-28-2008	Amend	2-1-2009	411-030-0020	1-1-2009	Amend	2-1-2009
410-138-0080	12-28-2008	Amend	2-1-2009	411-030-0033	1-1-2009	Amend	2-1-2009
410-138-0300	12-28-2008	Amend	2-1-2009	411-030-0040	1-1-2009	Amend	2-1-2009
410-138-0320	12-28-2008	Amend	2-1-2009	411-030-0050	1-1-2009	Amend	2-1-2009
410-138-0380	12-28-2008	Amend	2-1-2009	411-030-0055	1-1-2009	Amend	2-1-2009
410-138-0500	12-28-2008	Amend	2-1-2009	411-030-0070	1-1-2009	Amend	2-1-2009
410-138-0520	12-28-2008	Amend	2-1-2009	411-030-0080	1-1-2009	Amend	2-1-2009
410-138-0560	12-28-2008	Amend	2-1-2009	411-030-0090	1-1-2009	Amend	2-1-2009
410-138-0600	12-28-2008	Amend	2-1-2009	411-030-0100	1-1-2009	Amend	2-1-2009
410-138-0620	12-28-2008	Amend	2-1-2009	411-054-0005	1-1-2009	Amend	2-1-2009
410-138-0680	12-28-2008	Amend	2-1-2009	411-054-0008	1-1-2009	Repeal	2-1-2009
410-138-0700	12-28-2008	Amend	2-1-2009	411-054-0012	1-1-2009	Amend	2-1-2009
410-138-0720	12-28-2008	Amend	2-1-2009	411-054-0105	1-1-2009	Amend	2-1-2009
410-138-0740	12-28-2008	Amend	2-1-2009	411-054-0125	3-3-2009	Adopt	4-1-2009
410-138-0780	12-28-2008	Amend	2-1-2009	411-054-0125(T)	3-3-2009	Repeal	4-1-2009
410-141-0000	12-1-2008	Amend	1-1-2009	411-350-0010	3-1-2009	Amend	4-1-2009
410-141-0020	12-1-2008	Amend	1-1-2009	411-350-0020	3-1-2009	Amend	4-1-2009
410-141-0120	1-1-2009	Amend	1-1-2009	411-350-0030	3-1-2009	Amend	4-1-2009
410-141-0220	12-1-2008	Amend	1-1-2009	411-350-0040	3-1-2009	Amend	4-1-2009
410-141-0266	1-1-2009	Amend	1-1-2009	411-350-0050	3-1-2009	Amend	4-1-2009
410-141-0425	1-5-2009	Adopt(T)	2-1-2009	411-350-0060	3-1-2009	Am. & Ren.	4-1-2009
410-141-0520	1-1-2009	Amend	1-1-2009	411-350-0070	3-1-2009	Repeal	4-1-2009
410-141-0520	1-30-2009	Amend(T)	3-1-2009	411-350-0080	3-1-2009	Amend	4-1-2009
410-141-0520(T)	1-1-2009	Repeal	1-1-2009	411-350-0090	3-1-2009	Repeal	4-1-2009
410-146-0021	12-1-2008	Amend	1-1-2009	411-350-0100	3-1-2009	Amend	4-1-2009
410-146-0040	1-1-2009	Amend	1-1-2009	411-350-0110	3-1-2009	Amend	4-1-2009
410-146-0060	12-1-2008	Amend	1-1-2009	411-350-0115	3-1-2009	Adopt	4-1-2009
410-146-0080	12-1-2008	Amend	1-1-2009	411-350-0120	3-1-2009	Amend	4-1-2009
410-146-0085	12-1-2008	Amend	1-1-2009	413-050-0000	3-19-2009	Amend	4-1-2009
410-146-0086	12-1-2008	Amend	1-1-2009	413-050-0005	3-19-2009	Amend	4-1-2009
410-146-0100	12-1-2008	Amend	1-1-2009	413-050-0010	3-19-2009	Amend	4-1-2009
410-146-0120	12-1-2008	Amend	1-1-2009	413-050-0020	3-19-2009	Amend	4-1-2009
410-146-0130	12-1-2008	Amend	1-1-2009	413-050-0030	3-19-2009	Amend	4-1-2009
410-146-0140	12-1-2008	Amend	1-1-2009	413-050-0040	3-19-2009	Amend	4-1-2009
410-146-0340	12-1-2008	Amend	1-1-2009	413-050-0050	3-19-2009	Amend	4-1-2009
410-146-0380	12-1-2008	Amend	1-1-2009	413-120-0400	2-2-2009	Amend	3-1-2009
410-146-0440	12-1-2008	Amend	1-1-2009	413-120-0400(T)	2-2-2009	Repeal	3-1-2009
410-147-0020	12-1-2008	Amend	1-1-2009	413-120-0410	2-2-2009	Repeal	3-1-2009
410-147-0040	1-1-2009	Amend	1-1-2009	413-120-0420	2-2-2009	Amend	3-1-2009
410-147-0060	12-1-2008	Amend	1-1-2009	413-120-0420(T)	2-2-2009	Repeal	3-1-2009
410-147-0120	12-1-2008	Amend	1-1-2009	413-120-0440	2-2-2009	Amend	3-1-2009
410-147-0125	12-1-2008	Amend	1-1-2009	413-120-0440(T)	2-2-2009	Repeal	3-1-2009
410-147-0140	12-1-2008	Amend	1-1-2009	413-120-0450	2-2-2009	Amend	3-1-2009
410-147-0160	12-1-2008	Amend	1-1-2009	413-120-0450(T)	2-2-2009	Repeal	3-1-2009
410-147-0180	12-1-2008	Amend	1-1-2009	413-120-0455	2-2-2009	Amend	3-1-2009

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413-120-0455(T)	2-2-2009	Repeal	3-1-2009	436-009-0095	1-1-2009	Adopt	1-1-2009
413-120-0460	2-2-2009	Amend	3-1-2009	436-009-0100	1-1-2009	Amend	1-1-2009
413-120-0460(T)	2-2-2009	Repeal	3-1-2009	436-015-0007	1-1-2009	Adopt	1-1-2009
413-120-0470	2-2-2009	Amend	3-1-2009	436-015-0120	1-1-2009	Amend	1-1-2009
413-120-0470(T)	2-2-2009	Repeal	3-1-2009	436-060-0005	1-1-2009	Amend	1-1-2009
413-200-0270	2-2-2009	Amend	3-1-2009	436-060-0009	1-1-2009	Amend	1-1-2009
413-200-0272	2-2-2009	Amend	3-1-2009	436-060-0010	1-1-2009	Amend	1-1-2009
413-200-0272(T)	2-2-2009	Repeal	3-1-2009	436-060-0015	1-1-2009	Amend	1-1-2009
413-200-0274	2-2-2009	Amend	3-1-2009	436-060-0017	1-1-2009	Amend	1-1-2009
413-200-0274(T)	2-2-2009	Repeal	3-1-2009	436-060-0018	1-1-2009	Amend	1-1-2009
413-200-0276	2-2-2009	Amend	3-1-2009	436-060-0020	1-1-2009	Amend	1-1-2009
413-200-0278	2-2-2009	Amend	3-1-2009	436-060-0025	1-1-2009	Amend	1-1-2009
413-200-0278(T)	2-2-2009	Repeal	3-1-2009	436-060-0035	1-1-2009	Amend	1-1-2009
413-200-0281	2-2-2009	Amend	3-1-2009	436-060-0060	1-1-2009	Amend	1-1-2009
413-200-0281(T)	2-2-2009	Repeal	3-1-2009	436-060-0105	1-1-2009	Amend	1-1-2009
413-200-0283	2-2-2009	Amend	3-1-2009	436-060-0135	1-1-2009	Amend	1-1-2009
413-200-0283(T)	2-2-2009	Repeal	3-1-2009	436-060-0137	1-1-2009	Amend	1-1-2009
413-200-0287	2-2-2009	Amend	3-1-2009	436-060-0147	1-1-2009	Amend	1-1-2009
413-200-0287(T)	2-2-2009	Repeal	3-1-2009	436-060-0150	1-1-2009	Amend	1-1-2009
413-200-0292	2-2-2009	Amend	3-1-2009	436-060-0153	1-1-2009	Adopt	1-1-2009
413-200-0292(T)	2-2-2009	Repeal	3-1-2009	436-060-0155	1-1-2009	Amend	1-1-2009
413-200-0296	2-2-2009	Amend	3-1-2009	436-060-0500	1-1-2009	Amend	1-1-2009
413-200-0301	2-2-2009	Amend	3-1-2009	437-001-0015	2-3-2009	Amend	3-1-2009
413-200-0305	2-2-2009	Amend	3-1-2009	437-001-0160	2-3-2009	Amend	3-1-2009
413-200-0306	2-2-2009	Amend	3-1-2009	437-001-0205	2-3-2009	Amend	3-1-2009
413-200-0306(T)	2-2-2009	Repeal	3-1-2009	437-001-0760	2-3-2009	Amend	3-1-2009
413-200-0308	2-2-2009	Amend	3-1-2009	437-001-1015	2-3-2009	Amend	3-1-2009
413-200-0314	2-2-2009	Amend	3-1-2009	437-001-1020	2-3-2009	Amend	3-1-2009
413-200-0314(T)	2-2-2009	Repeal	3-1-2009	437-002-0187	12-31-2008	Amend	2-1-2009
413-200-0335	2-2-2009	Amend	3-1-2009	437-004-1120	1-26-2009	Amend	3-1-2009
413-200-0354	2-2-2009	Amend	3-1-2009	441-025-0060	2-3-2009	Adopt	3-1-2009
413-200-0358	2-2-2009	Amend	3-1-2009	441-500-0020	2-3-2009	Amend	3-1-2009
413-200-0362	2-2-2009	Amend	3-1-2009	441-730-0030	2-3-2009	Amend	3-1-2009
413-200-0371	2-2-2009	Amend	3-1-2009	441-865-0025	12-10-2008	Adopt	1-1-2009
413-200-0371(T)	2-2-2009	Repeal	3-1-2009	442-001-0000	1-1-2009	Amend	2-1-2009
413-200-0379	2-2-2009	Amend	3-1-2009	442-001-0005	1-1-2009	Amend	2-1-2009
413-200-0383	2-2-2009	Amend	3-1-2009	442-001-0010	1-1-2009	Repeal	2-1-2009
413-200-0383(T)	2-2-2009	Repeal	3-1-2009	442-001-0015	1-1-2009	Repeal	2-1-2009
413-200-0386	2-2-2009	Amend	3-1-2009	442-001-0050	1-1-2009	Adopt	2-1-2009
413-200-0388	2-2-2009	Amend	3-1-2009	442-001-0060	1-1-2009	Adopt	2-1-2009
413-200-0390	2-2-2009	Amend	3-1-2009	442-001-0070	1-1-2009	Adopt	2-1-2009
413-200-0393	2-2-2009	Amend	3-1-2009	442-001-0080	1-1-2009	Adopt	2-1-2009
413-200-0395	2-2-2009	Amend	3-1-2009	442-001-0090	1-1-2009	Adopt	2-1-2009
413-200-0396	2-2-2009	Amend	3-1-2009	442-001-0100	1-1-2009	Adopt	2-1-2009
416-530-0070	2-2-2009	Amend	3-1-2009	442-001-0110	1-1-2009	Adopt	2-1-2009
423-001-0006	12-12-2008	Amend(T)	1-1-2009	442-001-0120	1-1-2009	Adopt	2-1-2009
423-010-0023	12-12-2008	Amend	1-1-2009	442-001-0130	1-1-2009	Adopt	2-1-2009
436-009-0005	1-1-2009	Amend	1-1-2009	442-001-0140	1-1-2009	Adopt	2-1-2009
436-009-0008	1-1-2009	Amend	1-1-2009	442-001-0150	1-1-2009	Adopt	2-1-2009
436-009-0018	1-1-2009	Adopt	1-1-2009	442-001-0160	1-1-2009	Adopt	2-1-2009
436-009-0020	1-1-2009	Amend	1-1-2009	443-002-0070	2-12-2009	Amend(T)	3-1-2009
436-009-0022	1-1-2009	Amend	1-1-2009	459-005-0001	2-12-2009	Amend	3-1-2009
436-009-0030	1-1-2009	Amend	1-1-2009	459-005-0525	11-26-2008	Amend	1-1-2009
436-009-0035	1-1-2009	Amend	1-1-2009	459-005-0535	11-26-2008	Amend	1-1-2009
436-009-0040	1-1-2009	Amend	1-1-2009	459-005-0545	11-26-2008	Amend	1-1-2009
436-009-0070	1-1-2009	Amend	1-1-2009	459-010-0010	11-26-2008	Amend	1-1-2009
436-009-0080	1-1-2009	Amend	1-1-2009	459-011-0100	2-12-2009	Amend	3-1-2009
436-009-0090	1-1-2009	Amend	1-1-2009	459-011-0110	2-12-2009	Amend	3-1-2009

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459-015-0001	2-12-2009	Amend	3-1-2009	461-155-0610	1-1-2009	Amend	2-1-2009
459-030-0011	2-12-2009	Amend	3-1-2009	461-155-0610(T)	1-1-2009	Repeal	2-1-2009
459-030-0025	2-12-2009	Amend	3-1-2009	461-155-0700	1-1-2009	Adopt	2-1-2009
459-030-0030	2-12-2009	Amend	3-1-2009	461-155-0700(T)	1-1-2009	Repeal	2-1-2009
459-050-0037	11-26-2008	Amend	1-1-2009	461-155-0710	1-1-2009	Adopt	2-1-2009
459-050-0075	2-12-2009	Amend	3-1-2009	461-155-0710(T)	1-1-2009	Repeal	2-1-2009
459-070-0001	2-12-2009	Amend	3-1-2009	461-160-0040	4-1-2009	Amend(T)	4-1-2009
459-075-0175	11-26-2008	Adopt	1-1-2009	461-160-0100	1-1-2009	Amend	2-1-2009
459-076-0001	2-12-2009	Amend	3-1-2009	461-160-0410	1-1-2009	Amend	2-1-2009
459-080-0100	2-12-2009	Amend	3-1-2009	461-160-0550	1-1-2009	Amend(T)	2-1-2009
461-001-0000	1-1-2009	Amend	2-1-2009	461-160-0551	1-1-2009	Amend(T)	2-1-2009
461-001-0025	1-1-2009	Amend	2-1-2009	461-160-0580	1-1-2009	Amend	2-1-2009
461-101-0010	1-1-2009	Amend	2-1-2009	461-160-0620	1-1-2009	Amend	2-1-2009
461-110-0330	1-1-2009	Amend	2-1-2009	461-165-0030	1-1-2009	Amend	2-1-2009
461-110-0350	1-1-2009	Amend	2-1-2009	461-170-0010	1-1-2009	Amend	2-1-2009
461-115-0050	1-1-2009	Amend	2-1-2009	461-170-0015	1-1-2009	Am. & Ren.	2-1-2009
461-115-0530	1-1-2009	Amend	2-1-2009	461-170-0020	1-1-2009	Am. & Ren.	2-1-2009
461-120-0110	4-1-2009	Amend(T)	4-1-2009	461-170-0025	1-1-2009	Am. & Ren.	2-1-2009
461-120-0125	1-1-2009	Amend(T)	2-1-2009	461-170-0030	1-1-2009	Am. & Ren.	2-1-2009
461-130-0335	1-1-2009	Amend	2-1-2009	461-170-0035	1-1-2009	Am. & Ren.	2-1-2009
461-135-0010	1-1-2009	Amend	2-1-2009	461-170-0100	1-1-2009	Amend	2-1-2009
461-135-0075	1-1-2009	Amend	2-1-2009	461-170-0101	1-1-2009	Amend	2-1-2009
461-135-0075(T)	1-1-2009	Repeal	2-1-2009	461-170-0102	1-1-2009	Amend	2-1-2009
461-135-0085	1-1-2009	Amend	2-1-2009	461-170-0120	1-1-2009	Amend	2-1-2009
461-135-0089	1-1-2009	Amend	2-1-2009	461-170-0150	1-1-2009	Amend	2-1-2009
461-135-0400	4-1-2009	Amend(T)	4-1-2009	461-170-0160	1-1-2009	Amend	2-1-2009
461-135-0730	1-1-2009	Amend	2-1-2009	461-170-0170	1-1-2009	Repeal	2-1-2009
461-135-0745	1-1-2009	Amend	2-1-2009	461-170-0200	1-1-2009	Amend	2-1-2009
461-135-0780	1-1-2009	Amend	2-1-2009	461-175-0220	1-1-2009	Amend	2-1-2009
461-135-0832	1-1-2009	Amend	2-1-2009	461-175-0240	1-1-2009	Amend	2-1-2009
461-135-1102	1-1-2009	Amend	2-1-2009	461-175-0270	1-1-2009	Amend	2-1-2009
461-135-1195	1-1-2009	Amend	2-1-2009	461-175-0280	1-1-2009	Amend	2-1-2009
461-135-1250	1-1-2009	Amend(T)	2-1-2009	461-175-0305	1-1-2009	Amend	2-1-2009
461-145-0143	3-3-2009	Adopt(T)	4-1-2009	461-180-0005	1-1-2009	Amend	2-1-2009
461-145-0380	1-1-2009	Amend	2-1-2009	461-180-0090	1-1-2009	Amend	2-1-2009
461-145-0540	1-1-2009	Amend	2-1-2009	461-180-0125	1-1-2009	Amend	2-1-2009
461-145-0550	3-3-2009	Amend(T)	4-1-2009	471-010-0025	12-1-2008	Adopt	1-1-2009
461-145-0820	1-1-2009	Amend	2-1-2009	471-010-0045	12-1-2008	Adopt	1-1-2009
461-145-0830	1-1-2009	Amend	2-1-2009	471-031-0072	12-1-2008	Amend	1-1-2009
461-145-0840	1-1-2009	Repeal	2-1-2009	471-031-0151	12-1-2008	Amend	1-1-2009
461-150-0048	1-1-2009	Repeal	2-1-2009	471-031-0190	12-1-2008	Adopt	1-1-2009
461-150-0049	1-1-2009	Amend	2-1-2009	471-031-0195	12-1-2008	Adopt	1-1-2009
461-150-0050	1-1-2009	Amend	2-1-2009	471-031-0200	12-1-2008	Adopt	1-1-2009
461-155-0150	4-1-2009	Amend(T)	4-1-2009	471-031-0205	12-1-2008	Adopt	1-1-2009
461-155-0180	1-27-2009	Amend	3-1-2009	471-031-0210	12-1-2008	Adopt	1-1-2009
461-155-0235	1-27-2009	Amend	3-1-2009	471-031-0215	12-1-2008	Adopt	1-1-2009
461-155-0250	1-1-2009	Amend	2-1-2009	471-031-0220	12-1-2008	Adopt	1-1-2009
461-155-0250	3-1-2009	Amend(T)	4-1-2009	471-031-0225	12-1-2008	Adopt	1-1-2009
461-155-0270	1-1-2009	Amend	2-1-2009	471-031-0230	12-1-2008	Adopt	1-1-2009
461-155-0295	1-1-2009	Amend	2-1-2009	543-060-0000	3-2-2009	Amend	4-1-2009
461-155-0300	1-1-2009	Amend	2-1-2009	543-060-0010	3-2-2009	Amend	4-1-2009
461-155-0320	1-1-2009	Amend	2-1-2009	543-060-0020	3-2-2009	Amend	4-1-2009
461-155-0500	1-1-2009	Amend	2-1-2009	543-060-0030	3-2-2009	Amend	4-1-2009
461-155-0500(T)	1-1-2009	Repeal	2-1-2009	543-060-0040	3-2-2009	Amend	4-1-2009
461-155-0526	1-1-2009	Amend	2-1-2009	543-060-0060	3-2-2009	Amend	4-1-2009
461-155-0526(T)	1-1-2009	Repeal	2-1-2009	543-060-0070	3-2-2009	Adopt	4-1-2009
461-155-0600	1-1-2009	Amend	2-1-2009	574-050-0005	2-13-2009	Amend	3-1-2009

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580-021-0027	3-13-2009	Adopt(T)	4-1-2009	603-052-0360	2-13-2009	Amend	3-1-2009
580-040-0035	1-22-2009	Amend	3-1-2009	603-057-0500	1-23-2009	Amend(T)	3-1-2009
580-040-0040	2-20-2009	Amend(T)	4-1-2009	603-057-0502	1-23-2009	Adopt(T)	3-1-2009
580-040-0040	3-13-2009	Amend(T)	4-1-2009	603-057-0510	1-23-2009	Amend(T)	3-1-2009
580-040-0040(T)	3-13-2009	Suspend	4-1-2009	603-057-0515	1-23-2009	Suspend	3-1-2009
581-001-0100	12-19-2008	Amend	2-1-2009	603-057-0520	1-23-2009	Amend(T)	3-1-2009
581-011-0136	2-24-2009	Adopt(T)	4-1-2009	603-057-0525	1-23-2009	Amend(T)	3-1-2009
581-011-0142	2-24-2009	Adopt(T)	4-1-2009	603-057-0530	1-23-2009	Amend(T)	3-1-2009
581-022-0610	12-19-2008	Amend	2-1-2009	603-057-0532	1-23-2009	Adopt(T)	3-1-2009
581-022-0711	12-19-2008	Adopt	2-1-2009	603-074-0080	1-30-2009	Amend	3-1-2009
582-001-0003	12-19-2008	Amend(T)	2-1-2009	619-005-0010	12-17-2008	Adopt	2-1-2009
582-001-0005	12-19-2008	Amend(T)	2-1-2009	619-005-0020	12-17-2008	Adopt	2-1-2009
582-001-0010	12-19-2008	Amend(T)	2-1-2009	619-005-0030	12-17-2008	Adopt	2-1-2009
582-010-0005	2-11-2009	Suspend	3-1-2009	619-005-0040	12-17-2008	Adopt	2-1-2009
582-010-0010	2-11-2009	Suspend	3-1-2009	619-005-0050	12-17-2008	Adopt	2-1-2009
582-010-0015	2-11-2009	Suspend	3-1-2009	619-005-0060	12-17-2008	Adopt	2-1-2009
582-010-0020	2-11-2009	Suspend	3-1-2009	620-010-0020	3-1-2009	Amend	2-1-2009
582-010-0021	2-11-2009	Suspend	3-1-2009	620-010-0020(T)	3-1-2009	Repeal	2-1-2009
582-010-0022	2-11-2009	Suspend	3-1-2009	629-022-0030	2-1-2009	Amend	2-1-2009
582-010-0025	2-11-2009	Suspend	3-1-2009	629-022-0035	2-1-2009	Adopt	2-1-2009
582-010-0030	2-11-2009	Suspend	3-1-2009	629-022-0040	2-1-2009	Amend	2-1-2009
582-070-0010	2-11-2009	Amend(T)	3-1-2009	629-022-0050	2-1-2009	Adopt	2-1-2009
582-070-0020	2-11-2009	Amend(T)	3-1-2009	629-022-0060	2-1-2009	Adopt	2-1-2009
582-080-0010	2-11-2009	Amend(T)	3-1-2009	629-022-0070	2-1-2009	Adopt	2-1-2009
582-080-0020	2-11-2009	Amend(T)	3-1-2009	629-022-0080	2-1-2009	Adopt	2-1-2009
582-080-0030	2-11-2009	Amend(T)	3-1-2009	629-022-0100	2-1-2009	Repeal	2-1-2009
582-080-0040	2-11-2009	Amend(T)	3-1-2009	629-022-0110	2-1-2009	Amend	2-1-2009
582-080-0050	2-11-2009	Amend(T)	3-1-2009	629-022-0120	2-1-2009	Amend	2-1-2009
582-085-0004	2-11-2009	Suspend	3-1-2009	629-022-0130	2-1-2009	Amend	2-1-2009
582-100-0040	12-19-2008	Amend(T)	2-1-2009	629-022-0140	2-1-2009	Amend	2-1-2009
584-036-0010	3-12-2009	Amend	4-1-2009	629-022-0150	2-1-2009	Amend	2-1-2009
584-036-0015	3-12-2009	Amend	4-1-2009	629-022-0160	2-1-2009	Amend	2-1-2009
584-036-0055	2-27-2009	Amend(T)	4-1-2009	629-022-0200	2-1-2009	Amend	2-1-2009
584-036-0080	3-12-2009	Amend	4-1-2009	629-022-0210	2-1-2009	Amend	2-1-2009
584-036-0083	3-12-2009	Adopt	4-1-2009	629-022-0220	2-1-2009	Amend	2-1-2009
584-050-0004	3-12-2009	Am. & Ren.	4-1-2009	629-022-0230	2-1-2009	Amend	2-1-2009
584-050-0040	3-12-2009	Amend	4-1-2009	629-022-0250	2-1-2009	Amend	2-1-2009
584-050-0042	3-12-2009	Am. & Ren.	4-1-2009	629-022-0300	2-1-2009	Amend	2-1-2009
584-050-0043	3-12-2009	Am. & Ren.	4-1-2009	629-022-0320	2-1-2009	Amend	2-1-2009
584-050-0100	3-12-2009	Adopt	4-1-2009	629-022-0380	2-1-2009	Amend	2-1-2009
584-052-0027	3-12-2009	Amend	4-1-2009	629-022-0390	2-1-2009	Amend	2-1-2009
584-052-0030	3-12-2009	Amend	4-1-2009	629-022-0400	2-1-2009	Amend	2-1-2009
584-052-0031	3-12-2009	Amend	4-1-2009	629-022-0410	2-1-2009	Amend	2-1-2009
584-052-0032	3-12-2009	Amend	4-1-2009	629-022-0500	2-1-2009	Repeal	2-1-2009
584-052-0033	3-12-2009	Amend	4-1-2009	629-022-0600	2-1-2009	Repeal	2-1-2009
584-060-0040	3-12-2009	Repeal	4-1-2009	629-022-0700	2-1-2009	Repeal	2-1-2009
584-060-0091	3-12-2009	Repeal	4-1-2009	629-022-0800	2-1-2009	Adopt	2-1-2009
584-060-0171	3-12-2009	Amend	4-1-2009	629-022-0810	2-1-2009	Adopt	2-1-2009
584-060-0181	3-12-2009	Amend	4-1-2009	629-022-0820	2-1-2009	Adopt	2-1-2009
584-060-0182	3-12-2009	Adopt	4-1-2009	629-022-0830	2-1-2009	Adopt	2-1-2009
584-060-0210	3-12-2009	Amend	4-1-2009	629-022-0840	2-1-2009	Adopt	2-1-2009
584-100-0006	3-12-2009	Amend	4-1-2009	629-022-0850	2-1-2009	Adopt	2-1-2009
589-020-0225	12-29-2008	Amend	2-1-2009	635-001-0050	1-14-2009	Amend(T)	2-1-2009
603-052-0129	2-13-2009	Amend	3-1-2009	635-003-0004	3-15-2009	Amend(T)	4-1-2009
603-052-0153	2-13-2009	Amend	3-1-2009	635-004-0014	11-21-2008	Amend	1-1-2009
603-052-0160	2-13-2009	Amend	3-1-2009	635-004-0016	1-1-2009	Amend(T)	2-1-2009
603-052-0201	2-13-2009	Amend	3-1-2009	635-004-0016	2-23-2009	Amend(T)	4-1-2009

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635-004-0016(T)	2-23-2009	Suspend	4-1-2009	635-006-0810	11-21-2008	Amend	1-1-2009
635-004-0019	12-4-2008	Amend(T)	1-1-2009	635-006-0850	12-17-2008	Amend	2-1-2009
635-004-0019	1-5-2009	Amend(T)	2-1-2009	635-006-0910	12-17-2008	Amend	2-1-2009
635-004-0019(T)	12-4-2008	Suspend	1-1-2009	635-006-1035	11-21-2008	Amend	1-1-2009
635-004-0020	11-21-2008	Amend	1-1-2009	635-006-1035	12-17-2008	Amend	2-1-2009
635-004-0027	1-1-2009	Amend(T)	2-1-2009	635-006-1075	11-21-2008	Amend	1-1-2009
635-004-0033	1-1-2009	Amend(T)	2-1-2009	635-006-1085	12-17-2008	Amend	2-1-2009
635-004-0033	3-1-2009	Amend(T)	4-1-2009	635-006-1085	2-26-2009	Amend(T)	4-1-2009
635-004-0033(T)	3-1-2009	Suspend	4-1-2009	635-008-0145	1-15-2009	Amend	2-1-2009
635-004-0035	11-21-2008	Amend	1-1-2009	635-008-0147	3-11-2009	Amend(T)	4-1-2009
635-004-0048	11-21-2008	Amend	1-1-2009	635-010-0170	12-9-2008	Amend(T)	1-1-2009
635-004-0050	11-21-2008	Amend	1-1-2009	635-011-0100	1-1-2009	Amend	2-1-2009
635-004-0060	11-21-2008	Amend	1-1-2009	635-013-0003	1-1-2009	Amend	2-1-2009
635-004-0090	1-1-2009	Amend(T)	2-1-2009	635-013-0004	1-1-2009	Amend	2-1-2009
635-004-0135	11-21-2008	Amend	1-1-2009	635-013-0009	3-15-2009	Amend(T)	4-1-2009
635-004-0170	11-21-2008	Amend	1-1-2009	635-014-0080	1-1-2009	Amend	2-1-2009
635-005-0001	11-21-2008	Amend	1-1-2009	635-014-0090	1-1-2009	Amend	2-1-2009
635-005-0005	11-21-2008	Amend	1-1-2009	635-016-0080	1-1-2009	Amend	2-1-2009
635-005-0005	12-17-2008	Amend	2-1-2009	635-016-0090	1-1-2009	Amend	2-1-2009
635-005-0016	11-21-2008	Amend	1-1-2009	635-017-0080	1-1-2009	Amend	2-1-2009
635-005-0045	11-21-2008	Amend	1-1-2009	635-017-0090	1-1-2009	Amend	2-1-2009
635-005-0047	11-21-2008	Amend	1-1-2009	635-017-0090	2-25-2009	Amend	4-1-2009
635-005-0048	11-21-2008	Amend	1-1-2009	635-017-0090	3-1-2009	Amend(T)	3-1-2009
635-005-0055	11-21-2008	Amend	1-1-2009	635-017-0090(T)	2-25-2009	Repeal	4-1-2009
635-005-0055	12-1-2008	Amend(T)	1-1-2009	635-017-0095	1-1-2009	Amend	2-1-2009
635-005-0064	12-17-2008	Amend	2-1-2009	635-017-0095	1-1-2009	Amend(T)	2-1-2009
635-005-0065	11-21-2008	Amend	1-1-2009	635-017-0095	2-25-2009	Amend	4-1-2009
635-005-0065	12-17-2008	Amend	2-1-2009	635-017-0095(T)	2-25-2009	Repeal	4-1-2009
635-005-0067	12-17-2008	Amend	2-1-2009	635-018-0080	1-1-2009	Amend	2-1-2009
635-005-0068	12-17-2008	Adopt	2-1-2009	635-018-0090	1-1-2009	Amend	2-1-2009
635-005-0069	12-17-2008	Adopt	2-1-2009	635-018-0090	4-15-2009	Amend(T)	4-1-2009
635-005-0084	11-21-2008	Amend	1-1-2009	635-019-0080	1-1-2009	Amend	2-1-2009
635-005-0090	11-21-2008	Amend	1-1-2009	635-019-0090	1-1-2009	Amend	2-1-2009
635-005-0095	11-21-2008	Amend	1-1-2009	635-021-0080	1-1-2009	Amend	2-1-2009
635-005-0100	11-21-2008	Amend	1-1-2009	635-021-0090	1-1-2009	Amend	2-1-2009
635-005-0135	11-21-2008	Amend	1-1-2009	635-023-0080	1-1-2009	Amend	2-1-2009
635-005-0140	11-21-2008	Amend	1-1-2009	635-023-0090	1-1-2009	Amend	2-1-2009
635-005-0145	11-21-2008	Amend	1-1-2009	635-023-0095	1-1-2009	Amend	2-1-2009
635-005-0180	11-21-2008	Amend	1-1-2009	635-023-0095	1-1-2009	Amend(T)	2-1-2009
635-006-0001	11-21-2008	Amend	1-1-2009	635-023-0095	2-26-2009	Amend	4-1-2009
635-006-0132	11-21-2008	Amend	1-1-2009	635-023-0095(T)	2-26-2009	Repeal	4-1-2009
635-006-0133	11-21-2008	Amend	1-1-2009	635-023-0125	1-1-2009	Amend	2-1-2009
635-006-0145	11-21-2008	Amend	1-1-2009	635-023-0125	2-26-2009	Amend	4-1-2009
635-006-0150	11-21-2008	Amend	1-1-2009	635-023-0125	3-1-2009	Amend(T)	3-1-2009
635-006-0165	11-21-2008	Amend	1-1-2009	635-023-0128	1-1-2009	Amend	2-1-2009
635-006-0200	11-21-2008	Amend	1-1-2009	635-023-0130	1-1-2009	Amend	2-1-2009
635-006-0205	11-21-2008	Amend	1-1-2009	635-023-0134	1-1-2009	Amend	2-1-2009
635-006-0207	11-21-2008	Amend	1-1-2009	635-023-0195(T)	2-26-2009	Repeal	4-1-2009
635-006-0210	11-21-2008	Amend	1-1-2009	635-039-0080	1-1-2009	Amend	2-1-2009
635-006-0211	11-21-2008	Amend	1-1-2009	635-039-0085	1-1-2009	Amend	2-1-2009
635-006-0213	11-21-2008	Amend	1-1-2009	635-039-0090	1-1-2009	Amend	2-1-2009
635-006-0215	11-21-2008	Amend	1-1-2009	635-039-0090	2-2-2009	Amend(T)	3-1-2009
635-006-0225	11-21-2008	Amend	1-1-2009	635-041-0005	11-21-2008	Amend	1-1-2009
635-006-0230	11-21-2008	Amend	1-1-2009	635-041-0010	11-21-2008	Amend	1-1-2009
635-006-0232	1-13-2009	Amend	2-1-2009	635-041-0030	11-21-2008	Amend	1-1-2009
635-006-0235	11-21-2008	Amend	1-1-2009	635-041-0030	2-26-2009	Amend	4-1-2009
635-006-0412	11-21-2008	Amend	1-1-2009	635-041-0040	11-21-2008	Amend	1-1-2009
635-006-0425	11-21-2008	Amend	1-1-2009	635-041-0045	11-21-2008	Amend	1-1-2009

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635-041-0061	11-21-2008	Amend	1-1-2009	635-073-0065	2-3-2009	Amend	3-1-2009
635-041-0061	2-26-2009	Amend	4-1-2009	635-073-0070	2-3-2009	Amend	3-1-2009
635-041-0063	11-21-2008	Amend	1-1-2009	635-080-0050	1-1-2009	Amend	2-1-2009
635-041-0063	2-26-2009	Amend	4-1-2009	635-080-0051	1-1-2009	Amend	2-1-2009
635-041-0065	11-21-2008	Amend	1-1-2009	635-080-0062	1-1-2009	Amend	2-1-2009
635-041-0065	2-2-2009	Amend(T)	3-1-2009	635-080-0063	1-1-2009	Amend	2-1-2009
635-041-0065	2-16-2009	Amend(T)	3-1-2009	635-195-0000	11-24-2008	Adopt	1-1-2009
635-041-0065	3-6-2009	Amend(T)	4-1-2009	635-195-0010	11-24-2008	Adopt	1-1-2009
635-041-0065(T)	2-16-2009	Suspend	3-1-2009	660-033-0120	1-2-2009	Amend	2-1-2009
635-041-0065(T)	3-6-2009	Suspend	4-1-2009	660-033-0130	1-2-2009	Amend	2-1-2009
635-041-0510	11-21-2008	Amend	1-1-2009	690-200-0050	1-2-2009	Amend	2-1-2009
635-041-0520	11-21-2008	Amend	1-1-2009	690-205-0200	1-2-2009	Amend	2-1-2009
635-041-0600	11-21-2008	Amend	1-1-2009	690-205-0205	1-2-2009	Adopt	2-1-2009
635-042-0001	11-21-2008	Amend	1-1-2009	690-215-0005	1-2-2009	Amend	2-1-2009
635-042-0007	11-21-2008	Amend	1-1-2009	690-215-0006	1-2-2009	Adopt	2-1-2009
635-042-0022	11-21-2008	Amend	1-1-2009	690-215-0025	1-2-2009	Adopt	2-1-2009
635-042-0110	11-21-2008	Amend	1-1-2009	690-215-0030	1-2-2009	Amend	2-1-2009
635-042-0130	1-1-2009	Amend(T)	2-1-2009	690-215-0035	1-2-2009	Adopt	2-1-2009
635-042-0130	2-26-2009	Amend	4-1-2009	690-215-0040	1-2-2009	Amend	2-1-2009
635-042-0130(T)	2-26-2009	Repeal	4-1-2009	690-220-0030	1-2-2009	Amend	2-1-2009
635-042-0133	2-26-2009	Amend	4-1-2009	690-220-0040	1-2-2009	Amend	2-1-2009
635-042-0135	1-1-2009	Amend(T)	2-1-2009	690-220-0050	1-2-2009	Amend	2-1-2009
635-042-0135	2-2-2009	Amend(T)	3-1-2009	690-220-0060	1-2-2009	Repeal	2-1-2009
635-042-0135(T)	2-2-2009	Suspend	3-1-2009	690-220-0070	1-2-2009	Amend	2-1-2009
635-042-0145	2-15-2009	Amend(T)	3-1-2009	690-220-0080	1-2-2009	Amend	2-1-2009
635-042-0145	3-11-2009	Amend(T)	4-1-2009	690-220-0115	1-2-2009	Adopt	2-1-2009
635-042-0145(T)	3-11-2009	Suspend	4-1-2009	690-240-0010	1-2-2009	Amend	2-1-2009
635-042-0160	2-15-2009	Amend(T)	3-1-2009	690-240-0035	1-2-2009	Amend	2-1-2009
635-042-0170	2-15-2009	Amend(T)	3-1-2009	690-240-0375	1-2-2009	Amend	2-1-2009
635-042-0180	2-15-2009	Amend(T)	3-1-2009	690-240-0385	1-2-2009	Adopt	2-1-2009
635-042-0180	3-6-2009	Amend(T)	4-1-2009	734-059-0015	2-20-2009	Amend	4-1-2009
635-042-0180(T)	3-6-2009	Suspend	4-1-2009	734-060-0010	2-20-2009	Amend	4-1-2009
635-045-0000	1-1-2009	Amend	2-1-2009	734-060-0105	2-20-2009	Amend	4-1-2009
635-045-0002	1-1-2009	Amend	2-1-2009	734-060-0175	2-20-2009	Amend	4-1-2009
635-049-0205	11-24-2008	Amend	1-1-2009	734-060-0185	2-20-2009	Amend	4-1-2009
635-049-0210	1-1-2009	Repeal	2-1-2009	734-071-0010	12-15-2008	Amend	1-1-2009
635-049-0235	1-1-2009	Adopt	2-1-2009	734-073-0110	12-15-2008	Amend	1-1-2009
635-055-0035	1-1-2009	Amend	2-1-2009	734-073-0120	12-15-2008	Repeal	1-1-2009
635-055-0035	5-15-2009	Amend(T)	4-1-2009	735-010-0130	1-1-2009	Amend	1-1-2009
635-055-0037	1-1-2009	Adopt	2-1-2009	735-010-0130(T)	1-1-2009	Repeal	1-1-2009
635-060-0000	1-1-2009	Amend	2-1-2009	735-032-0036	2-20-2009	Adopt	4-1-2009
635-060-0009	1-1-2009	Amend	2-1-2009	735-062-0005	1-1-2009	Amend	1-1-2009
635-060-0055	1-1-2009	Amend	2-1-2009	735-062-0014	1-1-2009	Adopt	1-1-2009
635-065-0001	1-1-2009	Amend	2-1-2009	735-062-0014(T)	1-1-2009	Repeal	1-1-2009
635-065-0401	1-1-2009	Amend	2-1-2009	735-062-0015	1-1-2009	Amend	1-1-2009
635-065-0625	1-1-2009	Amend	2-1-2009	735-062-0015(T)	1-1-2009	Repeal	1-1-2009
635-065-0740	1-1-2009	Amend	2-1-2009	735-062-0020	1-1-2009	Amend	1-1-2009
635-065-0760	1-1-2009	Amend	2-1-2009	735-062-0020(T)	1-1-2009	Repeal	1-1-2009
635-065-0765	1-9-2009	Amend	2-1-2009	735-062-0040	2-20-2009	Amend	4-1-2009
635-066-0000	1-1-2009	Amend	2-1-2009	735-062-0078	2-20-2009	Adopt	4-1-2009
635-066-0010	1-1-2009	Amend	2-1-2009	735-062-0080	2-20-2009	Amend	4-1-2009
635-066-0020	1-1-2009	Amend	2-1-2009	735-062-0140	2-20-2009	Amend	4-1-2009
635-067-0000	1-1-2009	Amend	2-1-2009	735-063-0000	2-20-2009	Adopt	4-1-2009
635-067-0004	1-1-2009	Amend	2-1-2009	735-063-0050	2-20-2009	Amend	4-1-2009
635-068-0000	3-1-2009	Amend	4-1-2009	735-063-0055	2-20-2009	Repeal	4-1-2009
635-069-0000	2-3-2009	Amend	3-1-2009	735-063-0060	2-20-2009	Amend	4-1-2009
635-072-0000	1-1-2009	Amend	2-1-2009	735-063-0065	2-20-2009	Amend	4-1-2009

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735-063-0075	2-20-2009	Amend	4-1-2009	741-110-0040	2-20-2009	Amend	4-1-2009
735-064-0110	12-15-2008	Amend	1-1-2009	741-110-0050	2-20-2009	Amend	4-1-2009
735-070-0043	1-26-2009	Adopt	3-1-2009	741-110-0060	2-20-2009	Amend	4-1-2009
735-070-0043(T)	1-26-2009	Repeal	3-1-2009	741-110-0070	2-20-2009	Amend	4-1-2009
735-160-0010	2-20-2009	Amend	4-1-2009	741-110-0080	2-20-2009	Amend	4-1-2009
735-160-0011	2-20-2009	Amend	4-1-2009	741-110-0090	2-20-2009	Amend	4-1-2009
735-160-0012	2-20-2009	Repeal	4-1-2009	741-115-0030	2-20-2009	Amend	4-1-2009
735-160-0013	2-20-2009	Repeal	4-1-2009	741-115-0040	2-20-2009	Amend	4-1-2009
735-160-0075	2-20-2009	Amend	4-1-2009	741-115-0060	2-20-2009	Amend	4-1-2009
735-160-0080	2-20-2009	Amend	4-1-2009	741-115-0070	2-20-2009	Amend	4-1-2009
735-160-0085	2-20-2009	Repeal	4-1-2009	741-120-0020	2-20-2009	Amend	4-1-2009
735-160-0093	2-20-2009	Repeal	4-1-2009	741-120-0040	2-20-2009	Amend	4-1-2009
735-160-0125	2-20-2009	Amend	4-1-2009	741-125-0020	2-20-2009	Repeal	4-1-2009
736-004-0062	12-15-2008	Amend	1-1-2009	741-200-0010	2-20-2009	Amend	4-1-2009
736-010-0040	12-15-2008	Amend	1-1-2009	741-200-0040	2-20-2009	Amend	4-1-2009
736-010-0055	12-15-2008	Amend	1-1-2009	741-200-0065	2-20-2009	Adopt	4-1-2009
736-015-0020	2-10-2009	Amend	3-1-2009	800-010-0020	2-5-2009	Amend	3-1-2009
736-015-0040	2-10-2009	Amend	3-1-2009	800-010-0025	2-5-2009	Amend	3-1-2009
736-018-0045	2-1-2009	Amend	2-1-2009	800-010-0030	2-5-2009	Amend	3-1-2009
736-018-0045	4-1-2009	Amend	4-1-2009	800-010-0040	2-5-2009	Amend	3-1-2009
736-146-0010	12-15-2008	Amend	1-1-2009	800-010-0041	2-5-2009	Amend	3-1-2009
736-146-0012	12-15-2008	Amend	1-1-2009	800-010-0042	2-5-2009	Amend	3-1-2009
736-146-0015	12-15-2008	Amend	1-1-2009	800-015-0005	2-5-2009	Amend	3-1-2009
736-146-0020	12-15-2008	Amend	1-1-2009	800-015-0010	2-5-2009	Amend	3-1-2009
736-146-0025	12-15-2008	Repeal	1-1-2009	800-015-0015	2-5-2009	Amend	3-1-2009
736-146-0030	12-15-2008	Repeal	1-1-2009	800-015-0020	2-5-2009	Amend	3-1-2009
736-146-0040	12-15-2008	Repeal	1-1-2009	800-015-0030	2-5-2009	Amend	3-1-2009
736-146-0050	12-15-2008	Amend	1-1-2009	800-020-0015	2-5-2009	Amend	3-1-2009
736-146-0060	12-15-2008	Amend	1-1-2009	800-020-0020	2-5-2009	Amend	3-1-2009
736-146-0070	12-15-2008	Amend	1-1-2009	800-020-0025	2-5-2009	Amend	3-1-2009
736-146-0080	12-15-2008	Amend	1-1-2009	800-020-0030	2-5-2009	Amend	3-1-2009
736-146-0090	12-15-2008	Amend	1-1-2009	800-020-0035	2-5-2009	Amend	3-1-2009
736-146-0100	12-15-2008	Amend	1-1-2009	800-025-0020	2-5-2009	Amend	3-1-2009
736-146-0110	12-15-2008	Amend	1-1-2009	800-025-0023	2-5-2009	Amend	3-1-2009
736-146-0120	12-15-2008	Amend	1-1-2009	800-025-0025	2-5-2009	Amend	3-1-2009
736-146-0130	12-15-2008	Amend	1-1-2009	800-025-0027	2-5-2009	Amend	3-1-2009
736-146-0140	12-15-2008	Amend	1-1-2009	800-025-0030	2-5-2009	Amend	3-1-2009
736-147-0010	12-15-2008	Amend	1-1-2009	800-025-0040	2-5-2009	Amend	3-1-2009
736-147-0020	12-15-2008	Repeal	1-1-2009	800-025-0050	2-5-2009	Amend	3-1-2009
736-147-0030	12-15-2008	Amend	1-1-2009	800-025-0060	2-5-2009	Amend	3-1-2009
736-147-0040	12-15-2008	Adopt	1-1-2009	800-025-0070	2-5-2009	Amend	3-1-2009
736-147-0050	12-15-2008	Amend	1-1-2009	800-030-0025	2-5-2009	Amend	3-1-2009
736-147-0060	12-15-2008	Amend	1-1-2009	800-030-0050	2-5-2009	Amend	3-1-2009
736-147-0070	12-15-2008	Adopt	1-1-2009	801-001-0035	1-1-2009	Amend	2-1-2009
736-148-0010	12-15-2008	Amend	1-1-2009	801-010-0010	1-1-2009	Amend	2-1-2009
736-148-0020	12-15-2008	Amend	1-1-2009	801-010-0050	1-1-2009	Amend	2-1-2009
736-149-0010	12-15-2008	Amend	1-1-2009	801-010-0115	1-1-2009	Amend	2-1-2009
740-015-0020	12-15-2008	Amend	1-1-2009	801-010-0345	1-1-2009	Amend	2-1-2009
740-015-0040	12-15-2008	Amend	1-1-2009	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

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812-002-0420	11-20-2008	Amend	1-1-2009	836-043-0046	1-1-2009	Amend	1-1-2009
812-003-0140	2-1-2009	Amend	3-1-2009	836-043-0048	1-1-2009	Amend	1-1-2009
812-003-0141	2-1-2009	Adopt	3-1-2009	836-043-0050	1-1-2009	Amend	1-1-2009
812-003-0450	11-20-2008	Repeal	1-1-2009	836-043-0053	1-1-2009	Amend	1-1-2009
812-005-0280	11-20-2008	Amend	1-1-2009	836-043-0060	1-1-2009	Amend	1-1-2009
812-005-0800	11-20-2008	Amend	1-1-2009	836-043-0062	1-1-2009	Amend	1-1-2009
812-005-0800	2-1-2009	Amend	3-1-2009	836-043-0064	1-1-2009	Amend	1-1-2009
812-006-0100	11-20-2008	Amend	1-1-2009	836-043-0066	1-1-2009	Amend	1-1-2009
812-006-0200	11-20-2008	Amend	1-1-2009	836-043-0068	1-1-2009	Amend	1-1-2009
812-020-0050	11-20-2008	Adopt	1-1-2009	836-043-0070	1-1-2009	Repeal	1-1-2009
812-020-0055	11-20-2008	Adopt	1-1-2009	836-043-0071	1-1-2009	Adopt	1-1-2009
812-020-0060	11-20-2008	Adopt	1-1-2009	836-043-0076	1-1-2009	Amend	1-1-2009
812-020-0062	11-20-2008	Adopt	1-1-2009	836-043-0079	1-1-2009	Amend	1-1-2009
812-020-0065	11-20-2008	Adopt	1-1-2009	836-043-0082	1-1-2009	Amend	1-1-2009
812-020-0070	11-20-2008	Adopt	1-1-2009	836-043-0086	1-1-2009	Repeal	1-1-2009
812-020-0070	2-1-2009	Amend	3-1-2009	836-043-0087	1-1-2009	Adopt	1-1-2009
812-020-0072	11-20-2008	Adopt	1-1-2009	836-043-0089	1-1-2009	Amend	1-1-2009
812-020-0080	11-20-2008	Adopt	1-1-2009	836-051-0106	12-9-2008	Amend	1-1-2009
812-020-0082	11-20-2008	Adopt	1-1-2009	836-051-0750	12-9-2008	Adopt	1-1-2009
812-020-0085	11-20-2008	Adopt	1-1-2009	836-051-0755	12-9-2008	Adopt	1-1-2009
812-020-0087	11-20-2008	Adopt	1-1-2009	836-051-0760	12-9-2008	Adopt	1-1-2009
812-020-0090	11-20-2008	Adopt	1-1-2009	836-051-0765	12-9-2008	Adopt	1-1-2009
813-110-0010	2-9-2009	Amend(T)	3-1-2009	836-051-0770	12-9-2008	Adopt	1-1-2009
817-030-0005	12-1-2008	Amend(T)	1-1-2009	836-051-0775	12-9-2008	Adopt	1-1-2009
817-030-0015	12-1-2008	Amend(T)	1-1-2009	836-072-0001	12-10-2008	Adopt	1-1-2009
817-030-0020	12-1-2008	Amend(T)	1-1-2009	836-072-0005	12-10-2008	Adopt	1-1-2009
817-030-0040	12-1-2008	Amend(T)	1-1-2009	836-072-0010	12-10-2008	Adopt	1-1-2009
817-030-0045	12-1-2008	Amend(T)	1-1-2009	836-072-0015	12-10-2008	Adopt	1-1-2009
817-030-0065	12-1-2008	Amend(T)	1-1-2009	836-072-0020	12-10-2008	Adopt	1-1-2009
817-030-0100	12-1-2008	Suspend	1-1-2009	836-072-0025	12-10-2008	Adopt	1-1-2009
817-035-0030	12-1-2008	Amend(T)	1-1-2009	836-072-0030	12-10-2008	Adopt	1-1-2009
820-010-0215	12-12-2008	Amend	1-1-2009	836-072-0035	12-10-2008	Adopt	1-1-2009
833-020-0050	12-26-2008	Amend	2-1-2009	836-072-0040	12-10-2008	Adopt	1-1-2009
833-020-0164	12-26-2008	Amend	2-1-2009	836-072-0045	12-10-2008	Adopt	1-1-2009
833-025-0050	12-26-2008	Amend	2-1-2009	837-040-0001	12-31-2008	Amend	2-1-2009
833-030-0001	12-26-2008	Amend	2-1-2009	837-040-0015	12-31-2008	Adopt	2-1-2009
833-030-0010	12-26-2008	Amend	2-1-2009	837-040-0020	12-31-2008	Amend	2-1-2009
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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
833-060-0001	12-26-2008	Am. & Ren.	2-1-2009	839-003-0040	12-5-2008	Amend	1-1-2009
833-060-0001	12-26-2008	Am. & Ren.	2-1-2009	839-003-0045	12-5-2008	Amend	1-1-2009
833-060-0001	12-26-2008	Am. & Ren.	2-1-2009	839-003-0050	12-5-2008	Amend	1-1-2009
836-011-0000	1-29-2009	Amend	3-1-2009	839-003-0055	12-5-2008	Amend	1-1-2009
836-042-0045	1-1-2009	Amend	2-1-2009	839-003-0060	12-5-2008	Amend	1-1-2009
836-043-0005	1-1-2009	Amend	1-1-2009	839-003-0065	12-5-2008	Amend	1-1-2009
836-043-0009	1-1-2009	Amend	1-1-2009	839-003-0070	12-5-2008	Amend	1-1-2009
836-043-0017	1-1-2009	Amend	1-1-2009	839-003-0080	12-5-2008	Amend	1-1-2009
836-043-0021	1-1-2009	Amend	1-1-2009	839-003-0085	12-5-2008	Amend	1-1-2009
836-043-0024	1-1-2009	Amend	1-1-2009	839-003-0090	12-5-2008	Amend	1-1-2009
836-043-0028	1-1-2009	Amend	1-1-2009	839-003-0095	12-5-2008	Amend	1-1-2009
836-043-0032	1-1-2009	Amend	1-1-2009	839-003-0100	12-5-2008	Amend	1-1-2009
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836-043-0036	1-1-2009	Repeal	1-1-2009	839-003-0205	12-5-2008	Amend	1-1-2009
836-043-0037	1-1-2009	Repeal	1-1-2009	839-003-0210	12-5-2008	Amend	1-1-2009
836-043-0041	1-1-2009	Amend	1-1-2009	839-003-0215	12-5-2008	Amend	1-1-2009

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839-003-0230	12-5-2008	Amend	1-1-2009	851-062-0020	11-26-2008	Amend	1-1-2009
839-003-0235	12-5-2008	Amend	1-1-2009	855-007-0010	1-5-2009	Adopt(T)	2-1-2009
839-003-0240	12-5-2008	Amend	1-1-2009	855-007-0020	1-5-2009	Adopt(T)	2-1-2009
839-003-0245	12-5-2008	Amend	1-1-2009	855-007-0030	1-5-2009	Adopt(T)	2-1-2009
839-005-0000	12-5-2008	Amend	1-1-2009	855-007-0040	1-5-2009	Adopt(T)	2-1-2009
839-005-0003	12-5-2008	Amend	1-1-2009	855-007-0050	1-5-2009	Adopt(T)	2-1-2009
839-005-0010	12-5-2008	Amend	1-1-2009	855-007-0060	1-5-2009	Adopt(T)	2-1-2009
839-005-0016	12-5-2008	Amend	1-1-2009	855-007-0080	1-5-2009	Adopt(T)	2-1-2009
839-005-0026	12-5-2008	Amend	1-1-2009	855-007-0090	1-5-2009	Adopt(T)	2-1-2009
839-005-0195	12-5-2008	Amend	1-1-2009	855-007-0100	1-5-2009	Adopt(T)	2-1-2009
839-005-0200	12-5-2008	Amend	1-1-2009	855-007-0110	1-5-2009	Adopt(T)	2-1-2009
839-005-0205	12-5-2008	Amend	1-1-2009	855-007-0120	1-5-2009	Adopt(T)	2-1-2009
839-005-0220	12-5-2008	Amend	1-1-2009	856-010-0015	2-10-2009	Amend(T)	3-1-2009
839-020-0050	1-12-2009	Amend	2-1-2009	859-040-0010	12-17-2008	Amend(T)	2-1-2009
839-025-0700	12-1-2008	Amend	1-1-2009	859-040-0015	12-17-2008	Amend(T)	2-1-2009
839-025-0700	12-29-2008	Amend	2-1-2009	860-024-0010	12-29-2008	Amend	2-1-2009
839-025-0700	1-1-2009	Amend	2-1-2009	860-027-0400	2-5-2009	Adopt	3-1-2009
839-025-0700	1-6-2009	Amend	2-1-2009	863-014-0000	1-1-2009	Adopt	1-1-2009
839-025-0700	1-12-2009	Amend	2-1-2009	863-014-0003	1-1-2009	Adopt	1-1-2009
839-025-0700	2-11-2009	Amend	3-1-2009	863-014-0038	1-1-2009	Adopt	1-1-2009
839-025-0750	3-1-2009	Amend	4-1-2009	863-014-0042	1-1-2009	Adopt	1-1-2009
845-010-0154	12-20-2008	Adopt	2-1-2009	863-015-0000	1-1-2009	Adopt	1-1-2009
845-020-0025	1-1-2009	Amend	2-1-2009	863-015-0005	1-1-2009	Am. & Ren.	1-1-2009
845-020-0035	1-1-2009	Amend	2-1-2009	863-015-0010	1-1-2009	Am. & Ren.	1-1-2009
847-005-0005	1-22-2009	Amend	3-1-2009	863-015-0015	1-1-2009	Am. & Ren.	1-1-2009
847-008-0020	1-22-2009	Amend	3-1-2009	863-015-0020	1-1-2009	Am. & Ren.	1-1-2009
847-008-0040	1-22-2009	Amend	3-1-2009	863-015-0025	1-1-2009	Repeal	1-1-2009
847-008-0070	1-22-2009	Adopt	3-1-2009	863-015-0030	1-1-2009	Am. & Ren.	1-1-2009
847-010-0054	1-22-2009	Repeal	3-1-2009	863-015-0035	1-1-2009	Am. & Ren.	1-1-2009
847-010-0055	1-22-2009	Repeal	3-1-2009	863-015-0040	1-1-2009	Am. & Ren.	1-1-2009
847-010-0100	1-22-2009	Amend	3-1-2009	863-015-0045	1-1-2009	Am. & Ren.	1-1-2009
847-020-0130	1-22-2009	Amend	3-1-2009	863-015-0050	1-1-2009	Am. & Ren.	1-1-2009
847-070-0019	1-22-2009	Amend	3-1-2009	863-015-0055	1-1-2009	Am. & Ren.	1-1-2009
847-070-0020	1-22-2009	Amend	3-1-2009	863-015-0060	1-1-2009	Am. & Ren.	1-1-2009
847-070-0045	1-22-2009	Amend	3-1-2009	863-015-0061	1-1-2009	Am. & Ren.	1-1-2009
848-010-0015	1-2-2009	Amend	2-1-2009	863-015-0062	1-1-2009	Am. & Ren.	1-1-2009
848-010-0020	1-2-2009	Amend	2-1-2009	863-015-0063	1-1-2009	Am. & Ren.	1-1-2009
848-010-0022	1-2-2009	Adopt	2-1-2009	863-015-0065	1-1-2009	Am. & Ren.	1-1-2009
848-010-0026	1-2-2009	Amend	2-1-2009	863-015-0070	1-1-2009	Am. & Ren.	1-1-2009
848-010-0044	1-2-2009	Amend	2-1-2009	863-015-0075	1-1-2009	Am. & Ren.	1-1-2009
848-015-0030	1-2-2009	Amend	2-1-2009	863-015-0076	1-1-2009	Am. & Ren.	1-1-2009
848-020-0030	1-2-2009	Amend	2-1-2009	863-015-0080	1-1-2009	Am. & Ren.	1-1-2009
848-020-0060	1-2-2009	Amend	2-1-2009	863-015-0085	1-1-2009	Am. & Ren.	1-1-2009
848-035-0020	1-2-2009	Amend	2-1-2009	863-015-0095	1-1-2009	Am. & Ren.	1-1-2009
848-035-0030	1-2-2009	Amend	2-1-2009	863-015-0100	1-1-2009	Am. & Ren.	1-1-2009
848-035-0035	1-2-2009	Adopt	2-1-2009	863-015-0120	1-1-2009	Am. & Ren.	1-1-2009
848-035-0040	1-2-2009	Amend	2-1-2009	863-015-0130	1-1-2009	Amend	1-1-2009
848-040-0100	1-2-2009	Amend	2-1-2009	863-015-0135	1-1-2009	Amend	1-1-2009
848-040-0117	1-2-2009	Amend	2-1-2009	863-015-0140	1-1-2009	Amend	1-1-2009
848-040-0145	1-2-2009	Amend	2-1-2009	863-015-0145	1-1-2009	Amend	1-1-2009
848-040-0160	1-2-2009	Amend	2-1-2009	863-015-0150	1-1-2009	Amend	1-1-2009
848-040-0175	1-2-2009	Adopt	2-1-2009	863-015-0155	1-1-2009	Amend	1-1-2009
848-045-0020	1-2-2009	Amend	2-1-2009	863-015-0160	1-1-2009	Am. & Ren.	1-1-2009
850-060-0225	12-8-2008	Amend	1-1-2009	863-015-0165	1-1-2009	Repeal	1-1-2009
850-060-0226	12-8-2008	Amend	1-1-2009	863-015-0175	1-1-2009	Amend	1-1-2009
851-050-0138	11-26-2008	Amend	1-1-2009	863-015-0180	1-1-2009	Repeal	1-1-2009

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863-015-0188	1-1-2009	Adopt	1-1-2009	863-050-0035	1-1-2009	Amend	1-1-2009
863-015-0190	1-1-2009	Amend	1-1-2009	863-050-0040	1-1-2009	Repeal	1-1-2009
863-015-0195	1-1-2009	Repeal	1-1-2009	863-050-0050	1-1-2009	Amend	1-1-2009
863-015-0200	1-1-2009	Amend	1-1-2009	863-050-0052	1-1-2009	Adopt	1-1-2009
863-015-0205	1-1-2009	Amend	1-1-2009	863-050-0055	1-1-2009	Amend	1-1-2009
863-015-0210	1-1-2009	Amend	1-1-2009	863-050-0060	1-1-2009	Amend	1-1-2009
863-015-0215	1-1-2009	Amend	1-1-2009	863-050-0065	1-1-2009	Amend	1-1-2009
863-015-0220	1-1-2009	Repeal	1-1-2009	863-050-0066	1-1-2009	Amend	1-1-2009
863-015-0225	1-1-2009	Am. & Ren.	1-1-2009	863-050-0100	1-1-2009	Amend	1-1-2009
863-015-0230	1-1-2009	Am. & Ren.	1-1-2009	863-050-0105	1-1-2009	Amend	1-1-2009
863-015-0250	1-1-2009	Amend	1-1-2009	863-050-0115	1-1-2009	Amend	1-1-2009
863-015-0255	1-1-2009	Amend	1-1-2009	863-050-0150	1-1-2009	Amend	1-1-2009
863-015-0260	1-1-2009	Amend	1-1-2009	863-050-0151	1-1-2009	Repeal	1-1-2009
863-015-0265	1-1-2009	Amend	1-1-2009	863-050-0205	1-1-2009	Repeal	1-1-2009
863-015-0275	1-1-2009	Amend	1-1-2009	863-050-0210	1-1-2009	Repeal	1-1-2009
863-024-0000	1-1-2009	Adopt	1-1-2009	863-050-0215	1-1-2009	Repeal	1-1-2009
863-024-0003	1-1-2009	Adopt	1-1-2009	863-050-0220	1-1-2009	Repeal	1-1-2009
863-024-0005	1-1-2009	Adopt	1-1-2009	863-050-0225	1-1-2009	Repeal	1-1-2009
863-024-0010	1-1-2009	Adopt	1-1-2009	863-050-0230	1-1-2009	Repeal	1-1-2009
863-024-0015	1-1-2009	Adopt	1-1-2009	863-050-0235	1-1-2009	Repeal	1-1-2009
863-024-0020	1-1-2009	Adopt	1-1-2009	863-050-0240	1-1-2009	Amend	1-1-2009
863-024-0030	1-1-2009	Adopt	1-1-2009	875-010-0090	12-15-2008	Amend	1-1-2009
863-024-0050	1-1-2009	Adopt	1-1-2009	875-020-0005	12-15-2008	Amend	1-1-2009
863-024-0055	1-1-2009	Adopt	1-1-2009	875-030-0010	12-15-2008	Amend	1-1-2009
863-024-0060	1-1-2009	Adopt	1-1-2009	875-030-0050	12-15-2008	Amend	1-1-2009
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863-024-0062	1-1-2009	Adopt	1-1-2009	918-008-0080	1-1-2009	Amend	2-1-2009
863-024-0063	1-1-2009	Adopt	1-1-2009	918-008-0085	1-1-2009	Amend	2-1-2009
863-024-0065	1-1-2009	Adopt	1-1-2009	918-008-0090	1-1-2009	Amend	2-1-2009
863-024-0070	1-1-2009	Adopt	1-1-2009	918-008-0095	1-1-2009	Amend	2-1-2009
863-024-0075	1-1-2009	Adopt	1-1-2009	918-008-0110	1-1-2009	Amend	2-1-2009
863-024-0076	1-1-2009	Adopt	1-1-2009	918-008-0115	1-1-2009	Amend	2-1-2009
863-024-0085	1-1-2009	Adopt	1-1-2009	918-020-0370	1-1-2009	Adopt	2-1-2009
863-024-0095	1-1-2009	Adopt	1-1-2009	918-050-0000	1-1-2009	Amend	1-1-2009
863-024-0100	1-1-2009	Adopt	1-1-2009	918-050-0010	1-1-2009	Amend	1-1-2009
863-025-0005	1-1-2009	Amend	1-1-2009	918-050-0020	1-1-2009	Amend	1-1-2009
863-025-0010	1-1-2009	Amend	1-1-2009	918-050-0030	1-1-2009	Amend	1-1-2009
863-025-0015	1-1-2009	Amend	1-1-2009	918-050-0100	1-1-2009	Amend	1-1-2009
863-025-0020	1-1-2009	Amend	1-1-2009	918-050-0110	1-1-2009	Amend	1-1-2009
863-025-0025	1-1-2009	Amend	1-1-2009	918-050-0120	1-1-2009	Amend	1-1-2009
863-025-0030	1-1-2009	Amend	1-1-2009	918-050-0130	1-1-2009	Amend	1-1-2009
863-025-0035	1-1-2009	Amend	1-1-2009	918-050-0140	1-1-2009	Amend	1-1-2009
863-025-0040	1-1-2009	Amend	1-1-2009	918-050-0150	1-1-2009	Amend	1-1-2009
863-025-0045	1-1-2009	Amend	1-1-2009	918-050-0160	1-1-2009	Amend	1-1-2009
863-025-0050	1-1-2009	Amend	1-1-2009	918-050-0170	1-1-2009	Amend	1-1-2009
863-025-0055	1-1-2009	Amend	1-1-2009	918-225-0430	1-1-2009	Amend	2-1-2009
863-025-0060	1-1-2009	Amend	1-1-2009	918-225-0435	1-1-2009	Amend	2-1-2009
863-025-0065	1-1-2009	Amend	1-1-2009	918-225-0445	1-1-2009	Adopt	2-1-2009
863-025-0070	1-1-2009	Amend	1-1-2009	918-225-0450	1-1-2009	Amend	2-1-2009
863-025-0080	1-1-2009	Amend	1-1-2009	918-225-0570	1-1-2009	Amend	2-1-2009
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863-027-0005	1-1-2009	Adopt	1-1-2009	918-261-0015(T)	1-1-2009	Repeal	2-1-2009
863-050-0000	1-1-2009	Amend	1-1-2009	918-311-0065	1-1-2009	Adopt	2-1-2009
863-050-0015	1-1-2009	Amend	1-1-2009	918-311-0065(T)	1-1-2009	Repeal	2-1-2009
863-050-0020	1-1-2009	Amend	1-1-2009	918-400-0455	1-1-2009	Amend	2-1-2009
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918-480-0150	1-1-2009	Adopt	2-1-2009				
918-480-0150(T)	1-1-2009	Repeal	2-1-2009				